

CALIFORNIA COASTAL COMMISSION

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W14b

Date: September 30, 2021

To: **COMMISSIONERS AND INTERESTED PERSONS**

From: **KARL SCHWING, DEPUTY DIRECTOR, SOUTH COAST DISTRICT
AMBER DOBSON, DISTRICT MANAGER, SOUTH COAST DISTRICT
LILIANA ROMAN, COASTAL PLANNER, SOUTH COAST DISTRICT**

Subject: **STAFF RECOMMENDATION ON CITY OF NEWPORT BEACH MAJOR
AMENDMENT NO. LCP-5-NPB-20-0070-3 (Short-Term Lodging) for
Commission Meeting of October 13, 2021**

SUMMARY OF LCP AMENDMENT REQUEST

The City of Newport Beach is requesting that the Commission certify an amendment to the Implementing Plan (IP) portion of the Newport Beach certified Local Coastal Program (LCP). Amendment Request No. LCP-5-NPB-20-0070-3 is a major amendment that would revise the existing regulations in the IP regarding short-term lodgings in the coastal zone. The LCP would amend Section 21.48.115 (Short-Term Lodging) of the IP to incorporate by reference the regulatory framework for short-term rentals contained in the Newport Beach Municipal Code (NBMC) Title 20 Chapter 5.95 as modified by the most recent City Council Ordinance No. 2020-26, including a maximum cap of 1,550 short-term lodging permits and impose a 3-night minimum short-term lodging stay.

The City's primary detailed regulatory framework for short-term rentals is contained in the Newport Beach Municipal Code (NBMC) Title 20 Chapter 5.95 which is currently not part of the IP (NBMC Title 21), instead IP Section 21.48.115 provides general basic standards affecting the regulation of short-term lodging program in the coastal zone. On October 27, 2020, the City Council approved Ordinance No. 2020-26 (**Exhibit 2**) amending Chapter 5.95 short-term lodging regulations to implement a 3-night minimum stay, cap the number of short-term lodging permits to 1,550 permits and set up a wait list for new permits, make revisions clarifying the transferability of permits and establishing when a permit is deemed abandoned, prohibit the rental to user that is under the age of 25, and allowance for the owner of the short-term rental unit to be cited if a user receives a parking ticket while utilizing a short-term lodging unit. On November 2, 2020, the City submitted the subject LCP amendment request to the short-term lodging permit program certified in the IP with City Council Resolution 2021-91 (**Exhibit 1**). The proposed IP amendment would result in no change to IP Section 21.48.115(A) and (B) but would modify subsection (C) and add

subsection (D); the resulting proposed new IP language incorporates the short-term lodging permit conditions set forth in the NBMC Title 20 Chapter 5.95, thereby incorporating NBMC Title 20, Chapter 5.95 as modified by City Council Ordinance No. 2020-26 into the certified LCP.

The Coastal Commission certified the City of Newport Beach LCP on January 13, 2017. As early as the 1900s, the Newport Beach was known as a summer beach resort type of town. The City began regulating short-term lodging in 1992 to address code enforcement issues and increasing demands on City services from short-term lodging users. In 1992, the City established a prohibition on short-term lodging in single-family residential districts (with the exception of 211 properties which were allowed to retain their existing short-term lodging permits), and continued to permit short-term lodging in all other residential zoning districts throughout the City. When the IP was certified by the Commission in 2017, the IP included provisions implementing LUP Policy 2.3.3-6 and certifying the City's short-term lodging program in all residential zoning districts except single-family. The IP provides standards for the operation of hosted or un-hosted short-term lodging units intended to prevent overburdening City services, adverse impacts on residential neighborhoods, and on coastal access and coastal resources. Currently, the City's LCP does not include a cap on the number of short-term rental permits that may be issued citywide, nor does it require a minimum night stay rental period for the short-term rental unit.

In 2017, when the IP was approved and the City's LCP became fully certified, there were approximately 1,070 active short-term lodging permits; all but nine of which were located in West Newport, Balboa Peninsula, Balboa Island, and Corona del Mar, the most publicly accessible visitor-serving beach and harbor neighborhoods in the City. Thus, the Commission found that the City's 1992 prohibition on short-term lodging in single-family residential districts, did not have an adverse impact on the possible availability of short-term rentals throughout the City. Currently, based on the most recent data provided to the Commission in 2021, the City has 1,477 active short-term permits, 1,414 of which are in the coastal zone, the highest number of active short-term rental permits of any coastal city in Southern California.

The City held numerous meetings including community meetings, town hall sessions, City Council study sessions throughout 2019 and a Planning Commission hearing on July 23, 2020 and a City Council hearing on October 13, 2020 approving City Council Resolution No. 2020-91 (**Exhibit 1**) authorizing City staff to submit the subject LCP amendment to the Coastal Commission. This single-issue LCP Amendment request was first submitted to the Coastal Commission on November 2, 2020 and was filed complete on December 26, 2020 and was the City's third major LCP amendment submittal for 2020. Pursuant to Section 30517 of the Coastal Act, the Commission granted a one-year time extension at its February 2021 meeting until February 24, 2022. The City's submittal is consistent with the procedural requirements of the Coastal Act and the regulations which govern such

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proposals (Sections 30510 and 30514 of the Coastal Act, and Sections 13551, 13552 and 13553 of Title 14 of the California Code of Regulations).

Furthermore, following the submittal of the subject LCP Amendment request, on April 29, 2021, the City submitted a subsequent LCP Amendment (LCP Amendment No. LCP-5-NPB-21-0036-1 Parts A through D) with Part C requesting to incorporate additional short-term lodging restrictions to IP Section 21.48.115, specific to Newport Island only and would also result in the reformatting/renumbering of revisions proposed via this subject LCP Amendment No. LCP-5-NPB-20-0070-3. Both LCP amendments, the subject LCP-5-NPB-20-0070-3 and LCP-5-NPB-21-0036-1 Part C, are scheduled for Commission action at this October 13, 2021 meeting.

SUMMARY OF STAFF RECOMMENDATION

The subject LCP amendment involves only the Implementation Plan (IP) portion of the certified LCP. Staff recommends that the Commission, after public hearing, **approve** Amendment Request No. LCP-5-NPB-20-0070-3 with suggested modifications. The IP amendment must first be denied as submitted, then the Commission can approve the IP amendments if modified as suggested in this staff report. The amendment as proposed attempts to strike a reasonable balance between ensuring availability of short-term lodgings for overnight coastal visitors and preserving neighborhood character and long-term housing for local residents. However, the proposed amendment does not adequately protect short-term lodgings as a valuable visitor-serving accommodation (that can often be lower-cost than other accommodations) within the City's coastal zone. Nor does it adequately protect public recreational and access opportunities, particularly in relation to the role that overnight accommodations play in providing such opportunities. The proposed 3-night minimum stay restriction would result in reduced lodging options for the people who most need the economies of scale that short-term lodgings offer to groups and families on more affordable short weekend vacations throughout the year and not just longer summer vacationing along the coast. Therefore, the Commission finds that a suggested modification is necessary to modify the proposed 3-night minimum stay to a less prohibitive 2-night. A second suggested modification is necessary to ensure that availability of long-term housing for local residents is also protected. These two (2) suggested modifications are necessary to ensure the proposed changes to existing IP procedures implementing LUP policies pertaining to the Short-Term Lodging program adequately carries out the intent of LUP policies to continue the issuance of short-term lodging permits for the rental of dwelling units as a means of providing lower-cost overnight visitor accommodations while attempting to mitigate increased demands for City services,

protect housing stocks, prevent adverse impacts in residential areas, impacts to coastal resources, and ensure that the rentals will not interfere with public access and enjoyment of coastal resources.

If modified as suggested, the Commission finds that the City's IP Ordinances conform with, and are adequate to carry out, the requirements of the certified LUP. The resolutions and motions begin on **Page 7**. The suggested modifications begin on **Page 8**. The findings for approval of the LCP amendment, if modified, begin on **Page 10**.

ADDITIONAL INFORMATION

PLEASE NOTE THAT THIS WILL BE A VIRTUAL MEETING. As a result of the COVID-19 emergency, California Assembly Bill 361, and the Governor's Executive Orders N-15-21, N-29-20, and N-33-20, this Coastal Commission meeting will occur virtually through video and teleconference. Please see the Coastal Commission's Virtual Hearing Procedures posted on the Coastal Commission's webpage at www.coastal.ca.gov for details on the procedures of this hearing. If you would like to receive a paper copy of the Coastal Commission's Virtual Hearing Procedures, please call 415-904-5202.

Further information on the City of Newport Beach LCP Amendment LCP-5-NPB-20-0070-3 may be obtained from Liliana Roman, Coastal Program Analyst, at (562) 590-5071. If you wish to comment on the proposed amendment, please do so via regular mail (directed to the South Coast District Office) or email (by emailing southcoast@coastal.ca.gov) by 5pm on Friday, October 8, 2021.

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EXHIBITS

Exhibit 1 – City of Newport Beach Resolution No. 2020-91

Exhibit 2 – City of Newport Beach Resolution No. 2020-26

Exhibit 3 – Certified IP language Section 21.48.115

I. PROCEDURAL ISSUES

A. STANDARD OF REVIEW

The standard of review for the proposed amendment to the LCP Implementing Ordinances (IP), pursuant to Sections 30513 and 30514(b) of the Coastal Act, is that the proposed IP amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan (LUP).

B. PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in LCP development. It states: “During the preparation, approval, certification, and amendment of any LCP, the public, as well as all affected governmental agencies, including special districts, shall be provided maximum opportunities to participate. Prior to submission of an LCP for approval, local governments shall hold a public hearing or hearings on that portion of the program, which has not been subjected to public hearings within four years of such submission.”

Section 30503 of the Coastal Act requires local governments to provide the public with the maximum amount of opportunities to participate in the development of the LCP amendment prior to submittal to the Commission for review. The City held numerous meetings including community meetings, town hall sessions, City Council study sessions throughout 2019 and a Planning Commission hearing on July 23, 2020 and City Council hearing on October 13, 2020 with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

C. PROCEDURAL REQUIREMENTS

Pursuant to Section 13551 of Title 14 of the California Code of Regulations, the City resolution for submittal may specify that an LCP Amendment will either require formal local government adoption after the Commission approval, or that it is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513, and 30519. Here, if the Commission certifies the LCP amendment as submitted, no further City Council action will be necessary. The City's submittal resolution indicates that the ordinance will only become final after certification by the Commission, but no formal action is required. Should the Commission deny the LCP amendment, as submitted, without suggested modifications, no further action is required by either the Commission or the City, and the LCP amendment is not effective. Should the Commission deny the LCP amendment, as submitted, but then approve it with suggested modifications, then the City Council may consider accepting the suggested modifications and submitting them by resolution to the Executive Director for a determination that the City's acceptance is consistent with the Commission's action. The modified LCP amendment will become final at a subsequent Commission meeting if the Commission

concurs with the Executive Director's Determination that the City's action in accepting the suggested modifications approved by the Commission for LCP Amendment LCP-5-NPB-21-0036-1 Part C is legally adequate. If the City does not accept the suggested modifications within six months of the Commission's action, then the LCP amendment remains uncertified and not effective within the coastal zone.

D. DEADLINE FOR COMMISSION ACTION

The City submitted the LCP amendment request on April 29, 2021. After a request for additional information, the amendment request was deemed by staff to be complete on June 8, 2021 and the Commission granted a one-year extension at its July 7, 2021 meeting. As such, the last date for Commission action on this item is October 18, 2022. (See Pub. Res. Code § 30511(a).)

II. MOTION AND RESOLUTIONS

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings.

A. DENY THE IP AMENDMENT AS SUBMITTED

Motion III: *I move that the Commission reject the Implementation Plan Amendment No. LCP-5-NPB-20-0070-3 for the City of Newport Beach as submitted.*

Staff recommends a **YES** vote. Passage of this motion will result in rejection of the Implementation Plan Amendment and adoption of the following resolution and findings. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Resolution to Deny as Submitted:

The Commission hereby denies certification of Amendment No. LCP-5-NPB-20-0070-3 to the Implementation Plan for the City of Newport Beach certified LCP as submitted by the City of Newport Beach and adopts the findings set forth below on grounds that the Amendment to the Implementation Plan as submitted does not conform with and is not adequate to carry out the provisions of the certified Land Use Plan. Certification of the Amendment to the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the

significant adverse impacts on the environment that will result from certification of the Amendment to the Implementation Program as submitted.

B. CERTIFY THE IP AMENDMENT WITH SUGGESTED MODIFICATIONS

Motion IV: *I move that the Commission certify the Implementation Plan Amendment No. LCP-5-NPB-20-0070-3 to the City of Newport Beach certified LCP if modified as suggested in this staff report.*

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

Resolution to Certify if Modified:

The Commission hereby certifies Amendment No. LCP-5-NPB-20-0070-3 to the Implementation Plan for the City of Newport Beach certified LCP if modified as suggested and adopts the findings set forth below on grounds that the Amendment to the Implementation Plan with the suggested modifications will be in conformance with and adequate to carry out the provisions of the certified Land Use Plan. Certification of the Amendment to the Implementation Program if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

III. SUGGESTED MODIFICATIONS

Certification of the LCP amendment is subject to the following modifications. The City's proposed new LCP language is shown as underlined text, deleted language shown in ~~single strikethrough~~. The Commission's proposed new text added by suggested modification is shown **bold and underlined**, and text suggested to be deleted is shown in ~~strikethrough~~.

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The following suggested modifications are necessary to carry out the provisions of the certified LUP:

Suggested Modification #1 – Modify proposed new IP Section 21.48.115(D)6 as follows:

6. Not rent, let, advertise for rent, or enter into an agreement for the rental of any lodging unit, for less than ~~three (3)~~ **two (2)** consecutive nights.

Suggested Modification #2 – Add the following language to the end of the proposed new IP Section 21.48.115(C) as follows:

C. Permits. No owner of a short term lodging unit shall advertise for rent or rent a lodging unit located within a residential district for a short term without a valid short term lodging permit for that unit issued pursuant Chapter 5.95. As set forth in Section 5.95.042, of Chapter 5.95, the maximum number of short term lodging permits shall be limited to fifteen hundred and fifty (1,550) permits at any time. If there are more than fifteen hundred and fifty (1,550) valid permits that have been issued as of the effective date of this section, an owner shall be permitted to renew, reinstate, or transfer a valid permit in accordance with the provisions of Chapter 5.95; however, no new permit shall be issued to anyone on the waiting list, as described in Section 5.95.043 (D), until the total number of permits does not exceed the fifteen hundred and fifty (1,550). **To avoid wholesale conversion of existing and new housing complexes into short-term lodgings, multi-unit developments with five or fewer units may only permit a maximum of one unit for short-term lodging use. Multi-unit developments with more than five units may permit a maximum of twenty percent (20%) of the total number of units into short-term lodgings (rounded down to the nearest whole number).**

IV. FINDINGS AND DECLARATIONS FOR DENIAL AS SUBMITTED, AND APPROVAL OF THE AMENDMENT IF MODIFIED AS SUGGESTED

The following findings support the Commission’s denial of the proposed LCP Amendment as submitted and approval if modified as suggested in Section III (Suggested Modifications) above.

The Commission hereby finds and declares as follows:

A. LCP AMENDMENT DESCRIPTION AND BACKGROUND

LCP Amendment Description

The proposed LCP Amendment request would amend Table 21.18-1 (Allowed Uses) in Section 21.18.020(C) of the IP and IP Section 21.48.115 (Short-Term Lodging) to incorporate by reference the regulatory framework for short-term rentals contained in the Newport Beach Municipal Code (NBMC) Title 20 Chapter 5.95 as modified by the most recent City Council Ordinance No. 2020-26, including a maximum cap of 1,550 short-term lodging permits and impose a 3-night minimum short-term lodging stay. The City’s proposed new language is shown in underline and proposed language to be deleted shown in ~~strike through~~ as follows:

Table 21.18-1 (Allowed Uses) in Section 21.18.020(C)

Land Use	R-A	R-1 R-1- 6,000	R-BI R-2 R-2- 6,000	RM RM- 6,000	Specific Use Regulations
Residential Uses					
Short-Term Lodging	—	—	A	A	<u>Chapter 5.95 and Section 21.48.115</u>

21.48.115 Short-Term Lodging.

A. **Purpose.** This section provides standards for the operation of short-term lodging units to prevent over-burdening City services, adverse impacts on residential neighborhoods, and impacts to coastal access and resources.

B. **Zoning Districts and Planned Communities.** No short-term lodging unit shall be permitted on any parcel in the R-1 (Single-Unit Residential) Coastal Zoning District or any parcel designated for single-unit dwelling land use as part of a planned community development plan, unless the short-term lodging unit was legally established on or before June 1, 2004.

~~G. Operational Standards. The owner, or any other person(s) or entity(ies) that hold(s) legal and/or equitable title to the lodging unit, shall:~~

C. Permits. No owner of a short term lodging unit shall advertise for rent or rent a lodging unit located within a residential district for a short term without a valid short term lodging permit for that unit issued pursuant Chapter 5.95. As set forth in Section 5.95.042, of Chapter 5.95, the maximum number of short term lodging permits shall be limited to fifteen hundred and fifty (1,550) permits at any time. If there are more than fifteen hundred and fifty (1,550) valid permits that have been issued as of the effective date of this section, an owner shall be permitted to renew, reinstate, or transfer a valid permit in accordance with the provisions of Chapter 5.95; however, no new permit shall be issued to anyone on the waiting list, as described in Section 5.95.043 (D), until the total number of permits does not exceed the fifteen hundred and fifty (1,550).

D. Operational Standards. The owner, or any other person(s) or entity(ies) that hold(s) legal and/or equitable title to the lodging unit, shall: comply with all federal, state, and local laws, rules, regulations and conditions of approval including, but not limited to, all short term lodging permit conditions set forth in Chapter 5.95. In addition, the owner, any other person(s) or entity(ies) that hold(s) legal and/or equitable title to the lodging unit, shall:

1. ~~By written or oral agreement, limit overnight occupancy of the short-term lodging unit to a specific number of occupants, with the number of occupants not to exceed the the maximum permitted by the Building Code and Fire Code occupancy limits.~~

2. Use best efforts to ensure that the transient user, occupants and/or guests of the short-term lodging unit do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of this ~~code~~Code or any ~~State~~state or federal law pertaining to noise, disorderly conduct, the consumption of alcohol, or the use of illegal drugs.

3. Upon notification that ~~occupants~~any transient user, occupant and/or guests~~guest~~ of his or her short-term lodging unit ~~have~~has created unreasonable noise or disturbances, engaged in disorderly conduct or committed violations of this ~~code~~Code or any ~~State~~state or federal law pertaining to noise, disorderly conduct, the consumption of alcohol or the use of illegal drugs, promptly use best efforts to prevent a recurrence of such conduct by ~~these occupants or guests~~any transient user, occupant or guest.

4. Use best efforts to ensure compliance with applicable health and sanitation regulations relating to waste disposal.

5. Post a copy of any applicable permits and conditions in a conspicuous place within the unit.

~~6.~~ 6. Not rent, let, advertise for rent, or enter into an agreement for the rental of any lodging unit, for less than three (3) consecutive nights.

7. The City Manager shall have the authority to impose additional standard conditions, applicable to all short-term lodging units, as necessary to achieve the objectives of this section.

Background/Setting

The City of Newport Beach is a major visitor destination. Over 63% of the City is in the coastal zone. The City has over 30 miles of bay and ocean waterfront. Short-term lodging rentals are popular with the public in Newport Beach because of its proximity to the coast and because of the City's reputation as a popular coastal-resort community. Online platforms in the last few years have changed the dynamics of short term lodging in residential neighborhoods and local residents have raised issues with the presence of short-term lodging rentals causing disruptions (e.g. parking impacts, noise, disorderly conduct, large parties, excessive trash, etc.) that negatively impact residents and communities, reduce the long-term rental housing stock, and unduly burden City services. The City has indicated that the intent of the proposed LCP Amendment is to limit these conflicts by imposing additional regulations to short-term lodging permit holders, capping the number of permits to 1,550 and imposing a 3-night minimum stay.

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Short-term rentals provide a significant supplement to traditional visitor-serving overnight accommodations, promoting public access and visitor-serving opportunities to coastal communities. The provision of overnight visitor-serving accommodations, such as short-term lodgings, serves a significant purpose as a subset of visitor-serving uses that promotes public coastal access and provides California residents and visitors opportunities to access and recreate along the coast. Overnight visitor-serving accommodations allow public members who do not reside within a day's journey to the coast an opportunity to enjoy the coastline. Depending on site-specific circumstances, short-term lodging units, provide a lower cost option than a traditional hotel. The certified LUP contains Policy 2.3.3-6 allowing for the issuance of short-term lodging permits for the rental of dwelling units as a means of providing lower-cost overnight visitor accommodations.

The existing short-term lodging program was approved by the Commission when the IP was originally certified on January 13, 2017. As early as the 1900s, Newport Beach was known as a summer beach resort town. The City began regulating short-term lodging in 1992 to address code enforcement issues and increasing demands on City services from short-term lodging users. In 1992, the City established a prohibition on short-term lodging in single-family residential districts (with the exception of 211 "grandfathered" properties), and permitted short-term lodging in two-unit (R2) and multi-family (RM) residential zoning districts throughout the City. When the IP was certified by the Commission in 2017, the IP included provisions implementing LUP Policy 2.3.3-6 and certifying the City's short-term lodging program in R2 and RM zoning districts and the prohibition in single-family residential districts. The IP provides standards for the operation of hosted or un-hosted short-term lodging units intended to prevent overburdening City services and adverse impacts on residential neighborhoods and on coastal access and coastal resources. However, the City's primary detailed regulatory framework for short-term rentals is contained in the Newport Beach Municipal Code (NBMC) Title 20 Chapter 5.95 which is currently not part of the IP (NBMC Title 21). Instead, IP Section 21.48.115 provides general basic standards affecting the regulation of short-term lodging program in the coastal zone. On October 27, 2020, the City Council approved Ordinance No. 2020-26 (**Exhibit 2**) amending Chapter 5.95 short-term lodging regulations to implement a 3-night minimum stay, cap the number of short-term lodging permits to 1,550 permits citywide, and set up a wait list for new permits, make revisions clarifying the transferability of permits and establishing when a permit is deemed abandoned, prohibit the rental to a user under the age of 25, and allowance for the owner of the short-term rental unit to be cited if a user receives a parking ticket while utilizing a short-term lodging unit. On November 2, 2020, the City submitted the subject LCP amendment request to the short-term lodging permit program certified in the IP with City Council Resolution 2021-91 (**Exhibit 1**). The proposed IP amendment would result in no change to IP Section 21.48.115(A) and (B) but would

modify subsection (C) and add subsection (D); the resulting proposed new IP language incorporates all short-term lodging permit conditions set forth in the NBMC Title 20 Chapter 5.95, thereby incorporating NBMC Title 20 into the certified LCP.

Furthermore, after submittal of the subject LCP Amendment request, the City submitted a subsequent LCP Amendment (LCP Amendment No. LCP-5-NPB-21-0036-1 Parts A through D) with Part C requesting to incorporate additional short-term lodging restrictions to IP Section 21.48.115 specific to Newport Island only and would also result in the reformatting/renumbering of revisions proposed via this subject LCP Amendment No. LCP-5-NPB-20-0070-3. Both LCP amendments, the subject LCP-5-NPB-20-0070-3 and LCP-5-NPB-21-0036-1 Part C, are scheduled for Commission action at this October 13, 2021 meeting.

B. CONSISTENCY ANALYSIS

Under Sections 30513 and 30514(b) of the Coastal Act, the Commission shall certify a proposed amendment to an IP unless it does not conform with, or is inadequate to carry out, the provisions of the certified LUP. Thus, the standard of review for an amendment to the IP is the LUP. The proposed IP amendment must conform with, and be adequate to carry out, the provisions of the certified LUP.

LUP Policies Pertaining to Short-Term Lodgings

Policy 2.3.3-6 Continue to issue short-term lodging permits for the rental of dwelling units as a means of providing lower-cost overnight visitor accommodations while continuing to prevent conditions leading to increase demand for City services and adverse impacts in residential areas and coastal resources.

Policy 2.7-3 Continue to authorize short-term rental of dwelling units pursuant to permits and standard conditions that ensure the rentals will not interfere with public access and enjoyment of coastal resources.

Chapter 3 policies of the Coastal Act are also incorporated by reference into the City's certified LUP.

Section 30213 states (in part):

Lower cost visitor and recreational facilities shall be protected,

encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

LUP Policy 2.3.3-6 provides for using short-term lodging permits as a means of providing lower-cost overnight visitor accommodations and includes restrictions to protect residential areas. In the early 20th century, the City was known as a summer beach resort type of town. The City began regulating short-term lodging in 1992 to address code enforcement issues and demands on City services. At that time, the City established a prohibition on short-term lodging in single-family residential districts, with the exception of 211 “grandfathered” properties and allowed short-term lodging in two-unit (R2) and multi-family (RM) residential zoning districts. When the IP was certified by the Commission in 2017, the IP included provisions implementing LUP Policy 2.3.3-6, though preserving the short-term lodging prohibition in single-family residential districts, retaining all grandfathered single-family properties and providing standards for the operation of short-term lodging units intended to prevent overburdening City services and adverse impacts on residential neighborhoods and on coastal access and coastal resources. At that time, the City had approximately 1,070 active short-term lodging permits; all but nine of which were located in West Newport, Balboa Peninsula, Balboa Island, and Corona del Mar, the most publicly accessible visitor-serving beach and harbor neighborhoods in the City. This subject LCP Amendment is the first amendment to the short-term lodging permit program in the certified LCP.

Coastal Access and Recreation

A core goal of the Coastal Act is to protect the public’s ability to recreate in and enjoy the coastal zone. This is particularly important for those not fortunate enough to live in coastal cities. The Coastal Act and certified LUP access and recreation policies provide significant direction regarding not only protecting existing public recreational access opportunities, but also ensuring that such access opportunities are provided and maximized. Public recreational access, particularly as it relates to the specific needs of the visiting public, is of critical importance and must be protected and maximized.

Overnight accommodations are a necessary part of providing public access and recreational opportunities for the many visitors that live further from the coast, including those from inland areas, where a coastal trip requires a lengthy car ride. For many low- and moderate-income visitors, lower cost overnight accommodations are essential to being able to access the California coast at all. These access issues are perhaps now more apparent than ever, as coastal visitors are increasingly priced out of the overnight accommodations market, particularly low- and middle-income households and people of color. The Commission has previously found short-term rentals to be an important source

of visitor accommodations in the coastal zone. Short-term lodgings provide amenities that distinguish them from other types of overnight lodging and often make them the most affordable option for overnight stays on the coast, particularly for groups and families when restaurant meal and parking cost savings are considered. For example, unlike traditional hotels, a short-term rental typically includes a kitchen/kitchenette, common spaces such as yard areas, and many allow pets. While these amenities can be obtained at some hotels, the cost of extra space and rooms, a room with a kitchen, or for pet-friendly lodging is often much higher than the price of a short-term lodging unit. For instance, when traveling with extended family or other larger groups, renting a single residence would be less expensive than renting multiple traditional hotel rooms. Since many short-term lodgings contain multiple bedrooms, it is often possible to spread the cost of additional shared amenities among more visitors, and the opportunity to prepare food on-site saves visitors the significant costs associated with dining out. Short-term lodgings also provide a visitor experience that is unique and different from a standard hotel/motel, as the vast majority are situated directly adjacent to the beach or the bay along in West Newport, Balboa Peninsula, Balboa Island, and Corona del Mar, the most publicly accessible visitor-serving beach and harbor neighborhoods in the City. Short-term lodgings are, in many ways, complementary alternatives that can help coastal visitors enjoy coastal zone opportunities.

The subject LCP Amendment proposes to cap the number of short-term rental permits citywide (both in and out of the coastal zone) to 1,550 permits. There are 6,087 properties in coastal zoning districts that allow short-term lodgings (4,737 properties within the coastal zone and 1,350 outside the coastal zone). As of the date of the LCP Amendment submittal in October 2020, there were 1,479 active short-term lodging permits (24.3% of eligible properties). Of these active short-term lodging permits, 1,416 permits are for properties in the coastal zone (95.7%) and 63 permits issued to properties outside the coastal zone (4.3%). The proposed 1,550 permit cap would result in 25.5% of R2 and RM properties permitted to operate a short-term lodging on their property.

Furthermore, the City of Newport has a variety of styles for visitor overnight accommodations in different price ranges. The City has approximately 4,086 hotel/motel/inn/timeshare rooms and 471 campground/RV spaces in addition to the 1,479 active short-term lodging permits. Overall, currently, short-term lodging accounts for approximately 28% of overnight visitor accommodations in the City. The City provided the following table comparing the number of active short-term lodging permits in Newport Beach with nearby communities.

City	Active STL Permits¹
San Clemente*	172
Carpinteria*	215

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Huntington Beach*	266
Anaheim	277
Dana Point*	307
Santa Monica*	340
Carlsbad*	690
Newport Beach*	1,477

* = coastal community

¹ Permits as of August 25, 2020 (NB as of October 29, 2020)

The proposed 1,550 permit cap would allow for a small increase in the issuance of short-term rental permits above current conditions and would maintain that constant level long-term (should there be a waiting list for short-term rental permits). Assuming the current demand for short-term lodging in the Newport Beach is around this number, the proposed LCP amendment would continue to provide enough short-term lodging units to accommodate visitor demand. LUP Policy 2.3.3-6 supports the issuance of short-term lodging permits for the rental of dwelling units as a means of providing lower-cost overnight visitor accommodations while continuing to prevent conditions leading to increased demand for City services and adverse impacts in residential areas and coastal resources. Thus, the proposed cap on the issuance of short-term rental permits to 25.5% of eligible properties conforms with and adequately carries out the LUP policy as it allows for the continuation permit issuance and would protect the City from the overburdening of resources that the demand for these uses often results in.

The proposed amendment also establishes a variety of regulations for STRs intended to limit neighborhood impacts from parties, noise, trash disposal, parking, and other related issues that are often raised in terms of STRs and community character. These proposed operational standards are generally similar to other standards the Commission has approved for other communities and are reasonable regulations to address potential issues associated with short-term lodgings. However, among the additional regulations proposed to permit holders, the proposed LCP Amendment includes a minimum 3-night stay for the rental of short-term lodging units. Currently, the City’s certified short-term lodging permit programs does not require a minimum night stay per visit/use. Short-term lodging is simply defined in the IP as “a dwelling unit that is rented or leased as a single housekeeping unit for a period of less than thirty (30) days.” The City has indicated that a 3-night minimum would discourage the use of short-term lodging units for non-residential purposes such as large gatherings, weddings, and commercial filming. However, a 3-night minimum would be prohibitive for weekend low- to moderate-income visitors. Although the City does not lack overnight accommodations, there is a shortage of lower-cost affordable

overnight accommodations aside from outdoor camping. A 3-night stay requirement would significantly increase the cost of the visit (generally by 50%) and would in many instances make the entire visit unaffordable for lower income overnight visitors. Some STL customers set online browsing settings to only view rental listings without minimum-night stays, seeking the least expensive options. A 3-night minimum would deter many folks from coming to Newport and staying in STLs. In order to ensure that the issuance of short-term lodging permits for the rental of dwelling units as a means of providing lower-cost overnight visitor accommodations continues to be provided, protected, and encouraged, the Commission finds it necessary to modify the City's proposed 3-night minimum stay requirement. Acknowledging the City's intent in providing a minimum-night stay to prevent single-day rentals for non-residential uses such as large parties, gatherings, weddings, and film shoots, **Suggested Modification 1** maintains a minimum-night stay requirement but reduces it to a 2-night minimum stay.

Additionally, a suggested modification is recommended to Section 21.48.115(B) adding language to help preserve the long-term rental housing stock and avoid wholesale conversion of existing and new housing complexes into short-term lodgings. **Suggested Modification 2** requires RM zoned properties with five or fewer units to only convert a maximum of one unit into a short-term lodging listing. RM zoned properties with more than five units may convert a maximum of twenty percent (20%) of the total number of units into short-term lodgings (rounded down to the nearest whole number). Multi-unit properties are necessary to preserve housing stock for lower-income level people in the coastal zone of Newport Beach. The City is composed of districts/corridors uniquely identifiable by their common functional role, mix of uses, density/intensity, physical form and character and environmental setting. The LUP Land Use Map identifies land use categories and residential neighborhood made up of single-unit, two-unit, and multiple-unit zoned neighborhoods. Historically, these land use zones are intended to preserve the residential housing stock in those areas. Suggested Modification 2 would ensure preservation of long-term rental housing stock by regulating conversion of existing and new multi-unit housing complexes into short-term lodgings.

Conclusion

If approved with the suggested modifications described above, the Commission finds that the City's IP would conform with, and is adequate to carry out, the requirements of the certified LUP, consistent with Section 30513 of the Coastal Act.

C. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

As set forth in Section 21080.9 of the California Public Resources Code, the California Environmental Quality Act (CEQA) exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with its activities and

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approvals necessary for the preparation and adoption of a local coastal program (LCP). The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. (14 CCR § 15251(f).) Nevertheless, the Commission is required in approving an LCP submittal to find that the LCP conforms with the provisions of CEQA, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

The Commission finds that, for the reasons discussed in this report, the proposed IP amendment, with adoption of the suggested modifications listed in Section III of this report, is in conformity with, and adequate to carry out the land use policies of the certified LUP. The Commission finds that approval of the LCP Amendment with suggested modifications will not result in significant adverse environmental impacts within the meaning of CEQA. Certification of the LCP if modified as suggested complies with CEQA because: 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, and 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts which the LCP Amendment may have on the environment. The Commission finds that the proposed LCP amendment if modified as suggested will be consistent with Section 21080.5(d)(2)(A) of the Public Resources Code.