

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
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W14c

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-21-0036-1 Part C (Newport Island 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-21-0036-1 Part C is a major amendment that would revise the existing regulations in the IP regarding short-term lodgings specifically for Newport Island. The LCP would amend Section 21.48.115 (Short-Term Lodging) of the IP to incorporate additional short-term lodging permit and operation requirements specifically for Newport Island to cap the number of permits at 20, require owner-occupancy and owner-management, maintain a maximum one rental booking per week, an overnight occupancy limit, a daytime occupancy limit, and a minimum parking requirement. The amendment would also revise IP Section 21.70.020 (Definitions of Specialized Terms and Phrases) to include a definition of "Owner-Occupied Dwelling Unit" and amend the IP Section 21.80.010 (Area Maps) to include Map A-16 specifically identifying Newport Island in the IP.

On November 2, 2020, the City submitted LCP Amendment No. LCP-5-NPB-0070-3 requesting changes to the entire short-term lodging permit program certified in the IP. This subject LCP Amendment No. LCP-5-NPB-21-0036-1 Part C request was submitted to the Coastal Commission on April 29, 2021, and after a request for additional information, was filed as complete on June 8, 2021. The subject LCP Amendment requests additional restrictions to the short-term lodging program specific to Newport Island and would also modify revisions proposed under LCP-5-NPB-20-0070-3. Both LCP amendments, the subject LCP-5-NPB-21-0036-1 Part C and LCP-5-NPB-20-0070-3, are scheduled for Commission action at this October 13, 2021 meeting.

The Coastal Commission certified the City of Newport Beach LCP on January 13, 2017. However, the City began regulating short-term lodging as early as 1992 to address code enforcement issues and demands on City services. 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 and 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. In 2017, the City had approximately 1,070 active short-term lodging permits; all but nine 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. 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 Newport Beach Planning Commission held a public hearing on this item on December 3, 2020. The Newport Beach City Council held a public hearing on October 13, 2020 to initiate the LCP Amendment and on April 13, 2021 adopted City Council Resolution No. 2021-30 (**Exhibit 1**) authorizing City staff to submit the LCP Amendment to the Coastal Commission. This subject LCP Amendment request was submitted to the Coastal Commission on April 29, 2021. Amendment Request No. LCP-5-NPB-21-0036-1 Part A through Part D was filed complete on June 8, 2021 and is the City's first major LCP amendment submittal for this year. Pursuant to Section 30517 of the Coastal Act, the Commission granted a one-year time extension for Part C and Part D at its July 7, 2021 meeting until October 18, 2022. This report addresses Part C of the submittal. Parts A and B were approved at the Commission's July 7, 2021 meeting and Part D is still pending. The City's submittal is consistent with the procedural requirements of the Coastal Act and the regulations which govern such proposals (Sections 30510 and 30514 of the Coastal Act, and Sections 13551, 13552 and 13553 of Title 14 of the California Code of Regulations).

SUMMARY OF STAFF RECOMMENDATION

The subject LCP amendment involves the Implementation Plan (IP) portion of the certified LCP. Staff recommends that the Commission, after public hearing, **approve** Amendment Request No. LCP-5-NPB-21-0036-1 Part C 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. Staff recommends two

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suggested modifications to ensure the proposed changes to existing IP procedures implementing LUP Policy 2.3.3-6 and Policy 2.7-3 (pertaining to the certified Short-Term Lodging program) adequately carry out the intent of the LUP policies regulating short-term lodging permits. The regulations must be focused enough to provide lower-cost overnight visitor accommodations, while continuing to prevent conditions leading to increased demands for City services, prevent adverse impacts in residential areas, prevent adverse impacts to coastal resources, and ensure that the rentals will not interfere with public access and enjoyment of coastal resources. **Suggested Modification #1** is a minor point of clarification that a proposed parking requirement for a short-term lodging unit refers to existing on-site parking availability and does not require creation of new on-site parking. **Suggested Modification #2** serves to clarify that the Commission's action on LCP Amendment No. LCP-5-NPB-0070-3 at this same October 13, 2021 meeting proposing modifications to IP Section 21.48.115, if approved by the Commission are hereby accepted.

If modified as suggested, the City's IP Ordinances will conform with, and will be adequate to carry out, the requirements of the certified LUP. The resolutions and motions begin on **Page 6**. The suggested modifications begin on **Page 7**. The findings for approval of the LCP amendment, if modified as suggested, begin on **Page 8**.

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 N15-21, 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-21-0036-1 Part C 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. 2021-30

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 Newport Beach's 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 an LCP amendment prior to submittal to the Commission for review. The Newport Beach Planning Commission held a public hearing on this item on December 3, 2020. The Newport Beach City Council held a public hearing on October 13, 2020 to initiate the LCP Amendment and on April 13, 2021 adopted City Council Resolution No. 2021-30 (**Exhibit 1**) authorizing City staff to submit the LCP Amendment to the Coastal Commission. 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 30517. 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. 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-21-0036-1 Part C 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-21-0036-1 Part C 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-21-0036-1 Part C 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-21-0036-1 Part C 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 and language

proposed to be deleted is in ~~single-strikethrough~~. The Commission's proposed new text added by suggested modification is shown in **bold and double-underline** and text suggested to be deleted is shown in ~~double-strikethrough~~.

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)4 as follows:

4. Each short-term lodging unit on Newport Island shall provide a minimum of one parking space in an **existing** garage or carport. Occupancy shall be limited to a maximum of five overnight guests for a short-term lodging unit **that provides** only one parking space. The parking required by this subsection shall be free of obstructions and available for use by the short-term lodging user.

Suggested Modification #2 – Clarification regarding changes to IP Section 21.48.115 approved by the Commission under LCP Amendment No. LCP-5-NPB-20-0070-3:

Amendments to the language of IP Section 21.48.115 approved by the Commission under LCP Amendment No. LCP-5-NPB-20-0070-3 at its October 13, 2021 meeting shall be reflected in this subject LCP Amendment No. LCP-5-NPB-21-0036-1 Part C.

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 above.

The Commission hereby finds and declares as follows:

A. LCP AMENDMENT DESCRIPTION

The proposed amendment would add a new subsection (D) to the end of IP Section 21.48.115 (Short-Term Lodgings). This new sub-section introduces the "owner-occupied"

short-term rental concept, thus the amendment also includes a definition of “owner-occupied dwelling unit” to IP Section 21.70.020 (Definitions of Specialized Terms and Phrases). Additionally, as the proposed new sub-section would only apply to Newport Island, the amendment would also add Map A-16, a map of Newport Island to IP Section 21.80.010 (Area Maps).

Additionally, the subject LCP Amendment would also modify revisions proposed to Section 21.48.115 under LCP-5-NPB-20-0070-3 by changing the enumeration of the subsections, renaming subsections, and placing existing certified language and new language (as modified under LCP-5-NPB-20-0070-3) under new subsections.

The proposed new IP language is as follows:

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 and adverse impacts on residential neighborhoods and on 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.~~

~~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).~~

B. Permits.

1. 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 to Chapter 5.95.
2. An owner shall be permitted to renew, reinstate, or transfer a valid permit in accordance with the provisions of Chapter 5.95.
3. As set forth in Section 5.95.042, of Chapter 5.95, the maximum number of short-term lodging permits shall be limited to one thousand five hundred and fifty (1,550) permits at any time. If there are more than one thousand five hundred and fifty (1,550) valid permits that have been issued as of [EFFECTIVE DATE OF ORDINANCE NO. 2020-26], no new permit shall be issued to anyone on the waiting list, as described in Section 5.95.042 (D), until the total number of permits does not exceed the one thousand five hundred and fifty (1,550) limit.
4. No short-term lodging unit shall be permitted on any lot in the R-1 (Single-Unit Residential) Coastal Zoning District or any lot 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.

C. 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, or any other person(s) or entity(ies) that hold(s) legal and/or equitable title to the lodging unit, shall:

1. By written agreement, limit overnight occupancy of the short-term lodging unit to the maximum permitted by the Building Code and Fire Code.

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 or any state or federal law pertaining to noise, disorderly conduct, the consumption of alcohol, or the use of illegal drugs.

3. Upon notification that any transient user, occupant and/or guest of his or her short term lodging unit has created unreasonable noise or disturbances, engaged in disorderly conduct or committed violations of this Code or any state or federal law pertaining to noise, disorderly conduct, the consumption of alcohol or the use of illegal drugs, promptly

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use best efforts to prevent a recurrence of such conduct by 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. 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.

D. Additional Permit and Operational Standards for Newport Island (Map A-16). To the extent there is any conflict between this subsection and other provisions of the Code related to short-term rentals on Newport Island (Map A-16), this subsection shall govern and control.

1. In addition to the restriction set forth in Section 5.95.042 and subsection (B)(3), the maximum number of short-term lodging permits issued for units located on Newport Island, shall be limited to twenty (20) short-term lodging permits at any one time. If there are more than twenty (20) valid short-term lodging permits that have been issued as of the [EFFECTIVE DATE OF ORDINANCE], 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 unless: (a) permits are available for issuance pursuant to Section 5.95.042 and subsection (B)(3); and (b) the total number of permits for units located on Newport Island does not exceed twenty (20). If the City has issued the maximum number of permits available for units on Newport Island, the City shall maintain a waiting list and follow the same procedures as set forth in Section 5.95.042 (D). For purposes of this subsection, the maximum number permits available will be calculated in the same manner as set forth in Chapter 5.95.

2. An owner, agent, or other person shall only be allowed to rent a dwelling unit on Newport Island for a short-term if the dwelling unit is located on a lot with an owner-occupied dwelling unit that is managed by the owner of the owner-occupied dwelling unit.
3. The owner and/or agent shall limit the overnight occupancy of the short-term lodging unit on Newport Island to the lesser of: (a) the number of occupants that can be accommodated consistent with the on-site parking requirement set forth in subsection (D)(4) below, or (b) two persons per bedroom plus two additional persons, up to a maximum of ten persons. Additional daytime guests are allowed between the hours of 7:00 a.m. and 10:00 p.m. with the maximum daytime occupancy limited to a number equal to maximum overnight occupancy plus six additional persons. The occupancy restrictions set forth in this subsection shall be set forth in a written rental agreement.
4. Each short-term lodging unit on Newport Island shall provide a minimum of one parking space in a garage or carport. Occupancy shall be limited to a maximum of five overnight guests for a short-term lodging unit providing only one parking space. The parking required by this subsection shall be free of obstructions and available for use by the short-term lodging user.
5. Any existing permit holder of a dwelling unit that is not located on an owner-occupied lot per subsection (D)(2) or does not meet the parking requirements of subsection (D)(4) will be permitted to retain their permit until [ONE YEAR AFTER EFFECTIVE DATE OF ORDINANCE].
6. No owner, agent, or other person shall rent or let a short-term lodging unit on Newport Island more than once in any seven (7) consecutive day period.

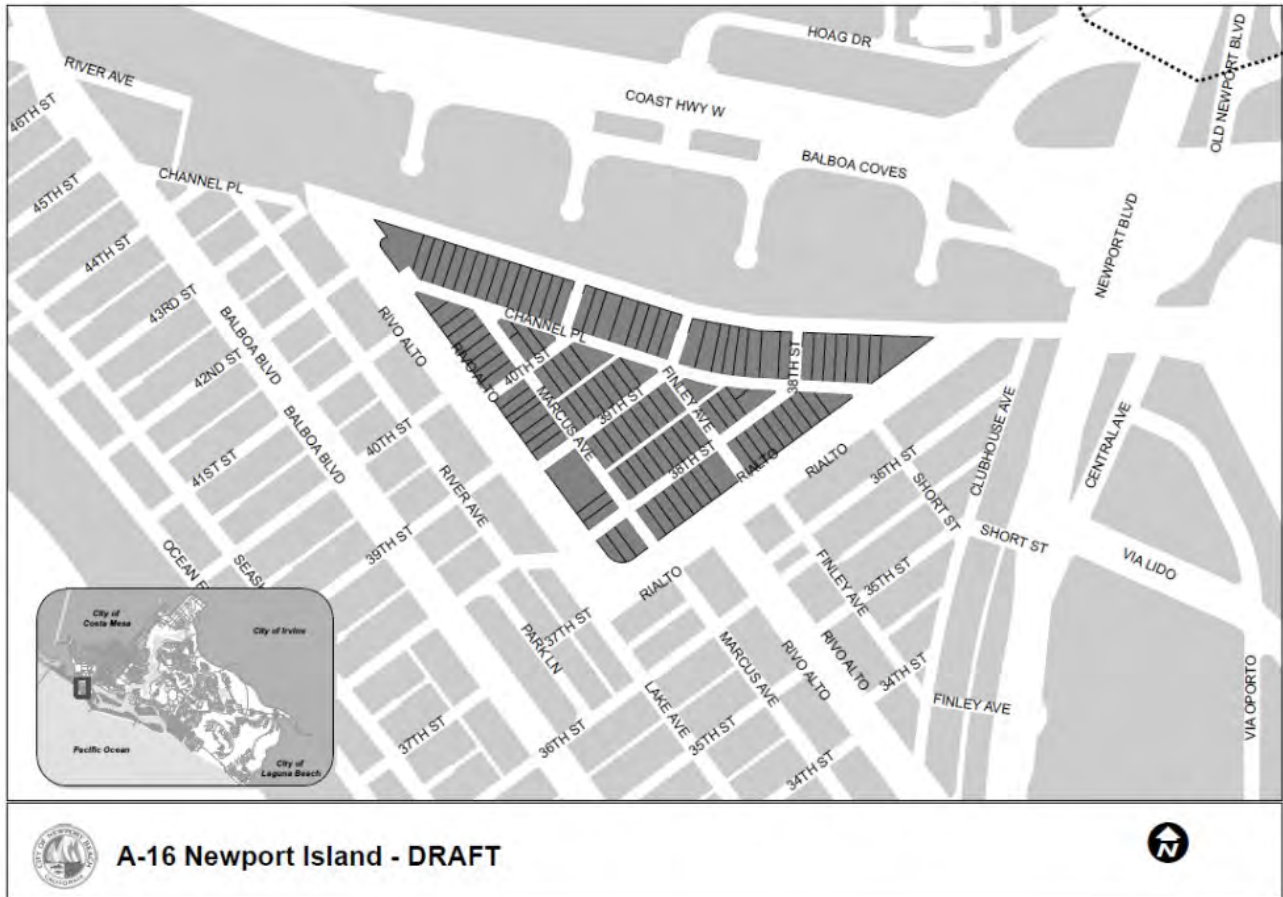
IP Section 21.70.020 (Definitions of Specialized Terms and Phrases)

“Dwelling unit, owner-occupied” means a dwelling unit that is occupied by a natural person who has at least a twenty-five percent ownership interest in the lot where one or more dwelling units are located or a twenty five percent ownership interest in the entity that owns the lot where one or more of the dwelling units are located and who resides in a dwelling unit on the same lot, which is the person’s legal domicile and permanent residence.

“Owner-occupied dwelling unit”. See “Dwelling unit, owner-occupied”.

IP Section 21.80.010 (Area Maps)

A-16 – Newport Island



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.

LUP Policy 2.3.3-6 provides for the continuation of a short-term lodging permit program as an additional means of providing lower-cost overnight visitor accommodations in the coastal zone and allows for restrictions to protect residential areas. In the early 20th century, 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 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 properties which were allowed to retain their existing short-term lodging permits), and continued to permit in all other residential zoning districts. When the IP was certified by the Commission in 2017, the IP included provisions implementing LUP Policy 2.3.3-6. The IP focused on preserving the short-term lodging prohibition in single-family residential districts (retaining all permits issued to single-family properties) and providing standards for the operation of short-term lodging units, intending to prevent overburdening City services and adverse impacts on residential neighborhoods and on coastal access and coastal resources. In 2017, the City had approximately 1,070 active short-term lodging permits in two-unit (R2) and multi-family (RM) residential zoning districts, all but nine 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.

The subject LCP amendment request would amend the IP to add a new subsection to IP Section 21.48.115 (Short-Term Lodging) to incorporate additional restrictions and standards to the existing Short-Term Lodging program, specifically for Newport Island, add a new Area Map A-16 of Newport Island to IP Section 21.80.010 (Area Maps), and add a definition of "owner-occupied dwelling unit" to IP Section 21.70.020 (Definitions of Specialized Terms and Phrases). The proposed new Area Map simply identifies Newport Island and all of the residential lots within it that would be subject to these proposed new Short-Term Lodging restrictions. The existing citywide Short-Term Lodging program was

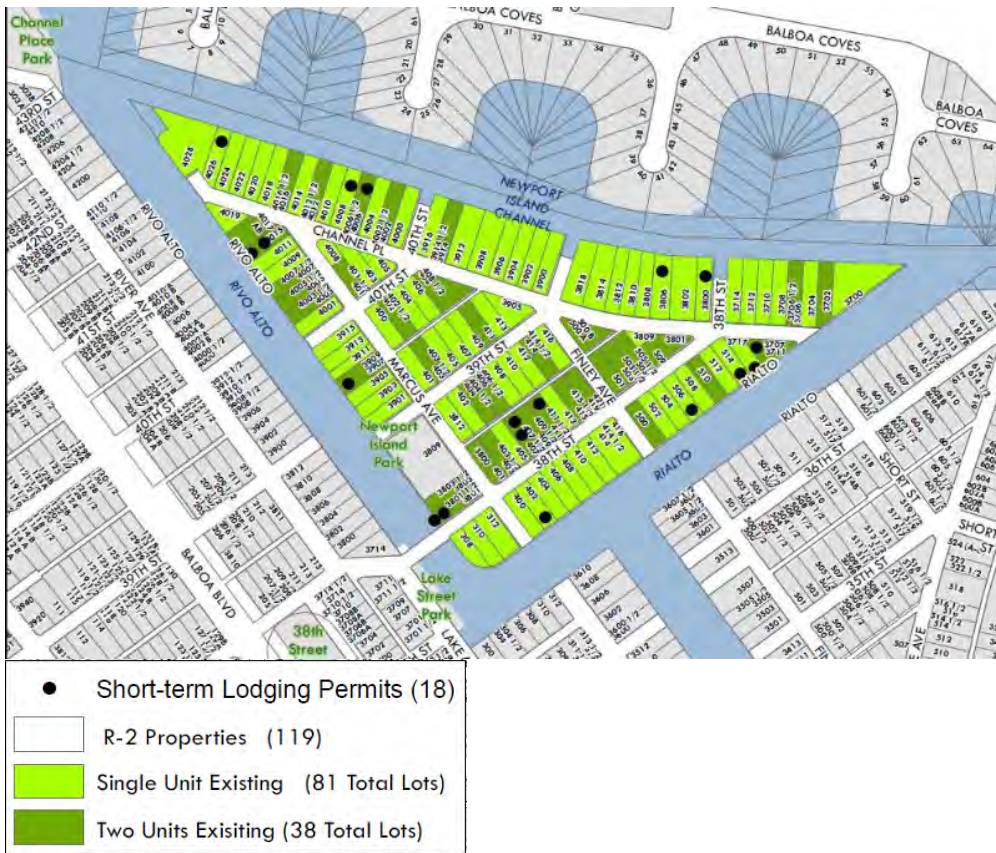
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previously approved by the Commission when the IP was originally certified in 2017. This LCP amendment would only apply to Newport Island to address the unique setting and characteristics of operating STLs on the island, which has created adverse impacts in this residential area.

Newport Island is a triangular-shaped island community surrounded by water channels on all sides and accessible via a single bridge. Newport Island is an isolated residential neighborhood entirely zoned R-2 with one City Park parcel (zoned PR for Public Recreation) providing bay water views and an approximately 120 ft. stretch of sandy beach access to the Rivo Also Channel. Public access to bay waters is also available along nine street ends within the community, where one could launch a kayak or paddleboard; however, aside from Newport Island Park, there are no recreational ocean-fronting beaches. Newport Island does not have visitor-serving amenities such as restaurants, shops, or significant recreational opportunities. The Newport Island community consists of a total of 119 parcels zoned Two-Unit Residential (R-2), which could potentially allow up to two dwelling units per lot. There are a total of 157 dwelling units, 81 lots developed with single-unit residences and 38 lots developed with two units. On-street parking is heavily impacted due to the era in which the community was planned, as it was originally subdivided in 1907. Many of the existing parking garages are small and do not conform to current standard garage dimensions. Public transit does not serve the Island and there currently are no bikeshare stations. Newport Island primarily consists of narrow streets with older residences, many of which are nonconforming to current parking standards. Such narrow streets (20-ft. wide) result in the need for single-loaded parking on one side of the street to allow vehicular travel. Additionally, due to the unique shape and size of the Island, most lots do not have alley access, thus resulting in the need for curb cuts along the streets for vehicular access to garages. As a result, there is very limited on-street parking available for residents, their guests, and the public.

Over the years, two-unit duplexes on Newport Island have converted to single-unit residences. The island currently supports 157 total dwelling units on 119 lots and 68 percent of the lots (81 lots) are developed with single-unit residences. As such, the community is relatively low density and is more single-family in character than the underlying R-2 zoning would suggest. Prior to 2018, only three parcels on Newport Island had short term lodging permits. In the last three years, there has been a significant increase (475 %) in properties used for short term lodging with a total of 18 permits issued on Newport Island.

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Adverse impacts associated with short-term lodging are exacerbated on Newport Island. Newport Island dwelling units are primarily occupied by the property owner or long-term tenants, and these more permanent residents have testified at local government meetings that they are adversely impacted by the noise, traffic, refuse and demand for parking resulting from occupancy of short-term lodging units. With the increase in the number of short-term lodging units on the island over the last three years, the increased number of vehicles from the short-term lodgers and their guests have overburdened on-street parking that is in short supply on Newport Island. This adverse impact on on-street parking negatively impacts public safety and interferes with emergency vehicle access (e.g., when vehicles are parked in red zones, in front of fire hydrants, and in front of driveways blocking access to adjacent homes).

Due to the unique setting of Newport Island and the more intensified impacts short-term lodging units appear to have on the residents of the small island, the City proposes to revise IP Section 21.48.115 (Short-Term Lodging) to include additional short-term lodging regulations and standards on Newport Island as delineated in the section above and further discussed here:

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- Max Number of Permits – 20 Permits
- Owner-Occupancy and Owner-Management Requirement
- Maximum One Rental Booking Per Week
- Overnight Occupancy Limits
- Daytime Occupancy Limits
- Minimum Parking Requirements

Newport Island Cap on Number of Permits – 20 Permits

The proposed IP amendment would limit the number of short-term lodging permits to a maximum of 20 (12.7% of the total 157 units). Newport Island currently has 18 active short-term lodging permits. The proposed 20-unit cap would allow for two additional new short-term rental permits on the island beyond the current number of issued permits and would safeguard against an increase in future adverse community impacts and coastal access impacts while continuing to provide overnight visitor-serving accommodations in a neighborhood of the City's coastal zone without traditional overnight accommodations such as a hotel, motel, or campground. The City asserts that the 20 permit cap requested for Newport Island will serve to limit short-term lodging use to a level that this small island neighborhood can safely accommodate.

Currently, the City has 1,454 active short-term rental permits on R2 and RM zoned properties, of which 1,398 are for coastal zone properties (96%) and 56 on non-coastal zone properties (4%). Compared to other similar nearby coastal cities, Newport Beach has the most active short-term lodging permits (e.g., San Clemente: 162, Dana Point: 134, Huntington Beach: 867, Carlsbad: 347 active permits). Newport Beach has 68% more active short-term lodging units than Huntington Beach and 288% more short-term lodging than Carlsbad. Short-term lodging in the R2 zoned areas of the City account for a significant amount (28%) of the overall visitor accommodations within the City which include 4,086 hotel/motel rooms and approximately 471 campground/RV spaces throughout the City.

The proposed 20-permit limit on Newport Island would not result in a significant impact to public access as it would allow for a small expansion above the current 18-permit level and the limit would only be applicable to a very small geographic area within the City. Within the coastal zone of Newport Beach, there are 4,737 properties located in R2 and Rm coastal zoning districts that are eligible to apply for short-term rental permits; outside the coastal zone there are 1,350 eligible properties in R2 and RM zoning districts. The current proposal to limit permits on Newport Island would negligibly affect only 2.5% of the eligible properties in the coastal zone.

Furthermore, capping short-term lodging permits to a maximum of 20 (12.7% of the total 157 units) on Newport Island would also help alleviate the increased demand for on-street parking that short-term lodging creates in this somewhat isolated neighborhood, resulting in additional public parking opportunities for visitors accessing the coast from the nine street ends and the Newport Island Park that provide public access to bay waters from Newport Island.

Newport Island Owner-Occupancy and Owner-Management Requirement

The proposed amendment would require short-term lodging permit holders to be property owners that live on-site and directly manage the short-term lodging unit(s). This includes property owners that rent rooms for a short-term duration within their respective single-unit dwellings, or owners of a duplex that reside in one unit and rent out the second unit for a short-term duration. The intent of requiring owners to live on-site and directly manage the rental units is to encourage greater responsibility from short-term renters and provide the ability to quickly respond to neighbor complaints and disturbances from short-term renters without requiring assistance from City Police Department personnel. Limiting short-term lodging use to owner-occupied units only is not anticipated to displace full-time renters or impact their ability to afford to rent on Newport Island for the following reasons: a) over 85% of the Island will remain strictly residential, with a mix of owner-occupied and rental residents; and b) the cap and restrictions would help ensure that less rental units are being used for short-term lodging rentals, and would help maintain duplex units in the rental market. Also, allowing an owner to rent out rooms or units in their home or duplex provides additional income for property owners to better afford a mortgage on the property. Therefore, maintaining owner-occupancy of the unit would also serve to protect the housing stock for full-time City residents and prevent a substantial alteration of the residential character of this small island community.

Newport Island Maximum One Rental Booking Per Week

The City also proposes to restrict a short-term rental permit holder on Newport Island from renting a unit more than once in any 7-consecutive-day period as a means to address the disruptions related to traffic and noise that adversely impact neighbors of a short-term rental unit that would otherwise be permitted to have constant turnover and possible multiple reservations within a single week. This limitation will also help ensure that STLs are properly used as a supplemental property benefit and not turned into full-time hotels.

Newport Island Overnight and Daytime Occupancy Restrictions

The amendment would restrict overnight occupancy to 2 persons per bedroom, plus 2 additional persons, with a maximum overnight occupancy of 10 persons. For example, a 2-bedroom unit would be allowed an overnight occupancy of 6 persons. A 5-bedroom unit would be restricted to a maximum of 10 persons.

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The amendment would also limit daytime occupancy (between 7:00 a.m. and 10:00 p.m.) to the overnight occupancy limit plus 6 additional persons. This would allow renters to invite a reasonable number of additional guests during daytime hours and mitigate against large parties or gatherings during the day, with the intent of minimizing on-street public parking impacts.

Minimum Parking Requirements

To ensure short-term rental units minimize impacts to limited on-street public parking, the amendment requires that at minimum, a rental unit shall provide one free and unobstructed parking space for renter use in a garage, carport or driveway. Furthermore, if only one space is available for use by the overnight guest, overnight occupancy shall be restricted to a maximum of 5 overnight guests. This additional requirement (only applicable to Newport Island) would also help alleviate the increased demand for on-street parking that short-term lodging creates in this somewhat isolated neighborhood, resulting in additional public parking opportunities for visitors accessing the coast from the nine street ends and the Newport Island Park that provide public access to bay waters from Newport Island.

However, a minor suggested modification is necessary to clarify that the proposed parking requirement refers to existing parking on the site and is not a requirement to create new on-site parking, unless there is no existing parking on site in which case at least one new covered or uncovered parking space would need to be created. **Suggested Modification #1** is needed to make this distinction clear.

Furthermore, **Suggested Modification #2** ensures that the suggested modifications to IP Section 21.48.115(D)6 and IP Section 21.48.115(C) in LCP Amendment No. LCP-5-NPB-20-0070-3 (Short-Term Lodging for the entire City) if approved by the Commission at this same October 13, 2021 meeting, are hereby accepted. Consequently, the 2-night minimum stay requirement would also be applicable to Newport Island as would the restriction to the number of units in a RM zoned property that may be issued a short-term lodging permit. However, currently there are no RM zoned properties on Newport Island.

Conclusion

Thus, as modified, the proposed additional restrictions and standards for the short-term lodging permit program on Newport Island conform with and are adequate to carry out LUP Policy 2.3.3-6 which provides for the continuation of a short-term lodging permit program 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, and Policy 2.7-3 which aims to

ensure that the short-term lodging rentals will not interfere with public access and enjoyment of coastal resources.

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, as approved herein, 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 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.