

**CALIFORNIA COASTAL COMMISSION**

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# Th11a, b, & c

February 18, 2021

**TO:** Commissioners and Interested Persons

**FROM:** Steve Hudson, Deputy Director, South Coast District  
Zach Rehm, District Supervisor  
Dani Ziff, Coastal Program Analyst

**SUBJECT:** Amendment Request Nos. LCP-5-LOB-19-0167-2, LCP-5-LOB-19-0168-3, and LCP-5-LOB-20-0169-4 (Omnibus Zoning Code Amendments) of the City of Long Beach Certified Local Coastal Program, for Public Hearing and Commission Action at the March 10-12, 2021 virtual meeting.

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## **SUMMARY OF LCP AMENDMENT REQUEST NOS. LCP-5-LOB-19-0167-2, LCP-5-LOB-19-0168-3, & LCP-5-LOB-20-0169-4**

The City of Long Beach submitted three “Omnibus” Local Coastal Program (LCP) amendment requests on December 30, 2019 (Nos. LCP-5-LOB-19-0167-2 and LCP-5-LOB-19-0168-3) and December 30, 2020 (No. LCP-5-LOB-20-0169-4) to modify the certified Implementation Plan (IP) to revise, add, and delete miscellaneous zoning code regulations as follows:

**Omnibus 1 (LCPA No. LCP-5-LOB-19-0167-2)**—Amend the IP to: 1) update the definition for townhomes and eliminate zoning restrictions on side-by-side units; 2) eliminate references to commercial districts no longer in use; 3) eliminate size restrictions for single-family garages and update lot coverage and floor area calculations in single-family districts; 4) update roofing material requirements for residential districts; 5) revise screening requirements for mechanical equipment in low-density residential districts; 6) provide guidelines to determine curb cut closures and require underground utilities in new projects; 7) define the standing required and timeline for land use decision appeals; 8) update school siting requirements; and 9) eliminate the zoning code restriction on the maximum number of zoning regulation amendments per year.

**Omnibus 2 (LCP-5-LOB-19-0168-3)**—Amend the IP to: 1) add definitions and provide regulations for currently undefined land uses; 2) modify development standards for distances between multiple structures on a single property within residential zoning districts, parking requirements for non-conforming historic landmarks, the definition of gross floor area, fence regulations, and rooftop solar collector height exceptions; and 3) update noticing requirements.

**Omnibus 3 (LCP-5-LOB-20-0169-4)**—Amend the IP to clarify regulations for commercial, industrial, and temporary land uses; modify development standards for attics, rooftop canopies, and post-secondary educational uses; and add provisions to specify administrative procedures.

LCP-5-LOB-19-0167-2, LCP-5-LOB-19-0168-3, and LCP-5-LOB-20-0169-4  
Omnibus Zoning Code Amendments (City of Long Beach)

The submittals were filed as complete on January 15, 2020 (Omnibus 1 and 2) and January 14, 2021 (Omnibus 3). On March 13, 2020 the Commission extended the deadline for action on LCPA Nos. LCP-5-LOB-19-0167-2 and LCP-5-LOB-19-0168-3 by one year. The date by which the Commission must take action on Omnibus 1 and Omnibus 2 is March 15, 2021. For LCPA No. LCP-5-LOB-20-0169-4 (Omnibus 3), the Commission must take action by April 14, 2021.

The Omnibus zoning code amendments would make the IP regulations more specific by clarifying calculations of development areas, updating commercial use zones, and adding development regulations and standards. However, some of the changes contained within LCP Amendment Request No. LCP-5-LOB-19-0168-3 (Omnibus 2), as proposed, are in conflict with or do not adequately support the policies of the certified Land Use Plan (LUP), which is the standard of review. Specifically, there are conflicts with the proposed amendments to sections of the IP that regulate nonconforming historic structures, commercial uses, and exceptions to height standards.

### **SUMMARY OF STAFF RECOMMENDATION**

Staff recommends that the Commission certify LCP Amendment Request Nos. LCP-5-LOB-19-0167-2 and LCP-5-LOB-20-0169-4, as submitted, and LCPA No. LCP-5-LOB-19-0168-3 with suggested modifications necessary to protect coastal resources, including public views of the beach and ocean, and make the City's LCP amendment consistent with the City's certified LUP. The four motions and resolutions to carry out the staff recommendation are on **pages five through seven**. The suggested modifications to the LCP amendment request are included under Section III of this staff report.

Therefore, staff recommends that the Commission, after public hearing:

- 1. Certify LCP Amendment Request Nos. LCP-5-LOB-19-0167-2 and LCP-5-LOB-20-0169-4 as submitted;**
- 2. Deny LCP Amendment Request No. LCP-5-LOB-19-0168-3 as submitted; and,**
- 3. Certify, only if modified, LCP Amendment Request No. LCP-5-LOB-19-0168-3.**

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**EXHIBITS**

- Exhibit 1 – Omnibus 1 Resolutions & Ordinances
- Exhibit 2 – Omnibus 2 Resolutions & Ordinances
- Exhibit 3 – Omnibus 3 Resolutions & Ordinances

## **I. Procedural History**

### **A. Standard of Review**

The standard of review for the proposed amendments to the LCP Implementation Plan (IP), is whether the proposed IP amendment is in conformance with, and adequate to carry out, the provisions of the certified LUP.

### **B. Local Review and Deadline for Commission Action**

Section 30503 of the Coastal Act requires public input in Local Coastal Program development. It states:

During the preparation, approval, certification, and amendment of any local coastal program, the public, as well as all affected governmental agencies, including special districts, shall be provided maximum opportunities to participate. Prior to submission of a local coastal program for approval, local governments shall hold a public hearing or hearings on that portion of the program which has not been subjected to public hearings within four years of such submission.

The City of Long Beach Planning Commission and the City Council held public hearings on the proposed amendments, as summarized below:

#### **Omnibus 1**

The proposed changes to the City's LCP are contained in City Council Ordinance No. ORD-19-0011 (**Exhibit 1**). The LCP Amendment Request was submitted for Coastal Commission certification by City Council Resolution No. RES-19-0072. The City Planning Commission held a public hearing for the ordinance on March 21, 2019. ORD-19-0011 was read and adopted by the City Council on May 7, 2019 and May 14, 2019. On December 30, 2019, the City of Long Beach submitted a request to the Coastal Commission to amend its certified IP. On January 15, 2020, the proposed LCP amendment was found to be in proper order and legally adequate to comply with the submittal requirements of the Coastal Act and the California Code of Regulations. Therefore, LCP Amendment Request No. LCP-5-LOB-19-0167-2 has been deemed complete pursuant to the requirements of Section 30510 of the Coastal Act. On March 13, 2020, the Commission extended for one year the deadline for Commission action on this LCP amendment. The deadline for Commission action on the proposed amendment request is March 15, 2021.

#### **Omnibus 2**

The proposed changes to the City's LCP are contained in City Council Ordinance No. ORD-19-0028 (**Exhibit 2**). The LCP Amendment Request was submitted for Coastal Commission certification by City Council Resolution No. RES-19-0164. The City Planning Commission held a public hearing for the ordinance on September 5, 2019; two individuals provided public testimony. ORD-19-0028 was read and adopted by the City Council on October 22, 2019 and November 5, 2019. On December 30, 2019, the City of Long Beach submitted a request to the Coastal Commission to amend its certified IP. On January 15, 2020, the proposed LCP amendment was found to be in proper order and legally adequate to comply with the submittal requirements of the Coastal Act and the California Code of Regulations. Therefore, LCP

Amendment Request No. LCP-5-LOB-19-0168-3 has been deemed complete pursuant to the requirements of Section 30510 of the Coastal Act. On March 13, 2020, the Commission extended for one year the deadline for Commission action on this LCP amendment. The deadline for Commission action on the proposed amendment request is March 15, 2021.

### **Omnibus 3**

The proposed changes to the City's LCP are contained in City Council Ordinance No. ORD-20-0018 (**Exhibit 3**). The LCP Amendment Request was submitted for Coastal Commission certification by City Council Resolution No. RES-20-0060. The City Planning Commission held a public hearing for the ordinance on February 20, 2020. ORD-20-0018 was read and adopted by the City Council on May 12, 2020 and May 19, 2020. On December 30, 2020, the City of Long Beach submitted a request to the Coastal Commission to amend its certified IP. On January 14, 2021, the proposed LCP amendment was found to be in proper order and legally adequate to comply with the submittal requirements of the Coastal Act and the California Code of Regulations. Therefore, LCP Amendment Request No. LCP-5-LOB-20-0169-4 has been deemed complete pursuant to the requirements of Section 30510 of the Coastal Act. The deadline for Commission action on the proposed amendment request is April 14, 2021.

### **For Additional Information**

The files are available for review at the South Coast District office located at 301 East Ocean Boulevard, Suite 300, Long Beach, CA 90802. The staff report can be viewed on the Commission's website: <http://www.coastal.ca.gov/mtgcurr.html>. For additional information, contact Dani Ziff at [dani.ziff@coastal.ca.gov](mailto:dani.ziff@coastal.ca.gov).

## **II. Motions and Resolutions**

### **A. Approval of IP Amendment as Submitted (LCP-5-LOB-19-0167-2)**

#### **Motion I:**

I move that the Commission **reject** Implementation Plan Amendment No. LCP-5-LOB-19-0167-2 to the City of Long Beach certified LCP as submitted.

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Plan Amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

#### **Resolution to Certify as Submitted:**

The Commission hereby certifies the Amendment to the Implementation Plan submitted for the City of Long Beach certified LCP and adopts the findings set forth below on grounds that the Amendment to the Implementation Plan as submitted conform with and is adequate to carry out the provisions of the certified Land Use Plan. Certification of the Amendment to the Implementation Program complies with the California Environmental Quality Act because either 1) feasible alternatives and/or mitigation measures have

been incorporated to substantially lessen any significant adverse impacts of the Implementation Program 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.

**B. Approval of IP Amendment as Submitted (LCP-5-LOB-20-0169-4)**

**Motion II:**

I move that the Commission **reject** Implementation Plan Amendment No. LCP-5-LOB-20-0169-4 to the City of Long Beach certified LCP as submitted.

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Plan Amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

**Resolution to Certify as Submitted:**

The Commission hereby certifies the Amendment to the Implementation Plan submitted for the City of Long Beach certified LCP and adopts the findings set forth below on grounds that the Amendment to the Implementation Plan as submitted conform with and is adequate to carry out the provisions of the certified Land Use Plan. Certification of the Amendment to the Implementation Program complies with the California Environmental Quality Act because either 1) feasible alternatives and/or mitigation measures have been incorporated to substantially lessen any significant adverse impacts of the Implementation Program 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.

**C. Denial of IP Amendment as Submitted (LCP-5-LOB-19-0168-3)**

**Motion III:**

I move that the Commission **reject** Implementation Plan Amendment No. LCP-5-LOB-19-0168-3 to the City of Long Beach certified LCP as submitted.

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

**Resolution to Deny as Submitted:**

The Commission hereby denies certification of the Amendment to the Implementation Plan submitted for the City of Long Beach certified LCP and adopts the findings set forth below on grounds that the Amendment to the Implementation Plan as submitted does not conform with and is not adequate

to carry out the provisions of the certified Land Use Plan, as amended. 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.

#### **D. Approval of IP Amendment with Suggested Modifications (LCP-5-LOB-19-0168-3)**

##### **Motion IV:**

I move that the Commission **certify** Implementation Plan Amendment No. LCP-5-LOB-19-0168-3 to the City of Long Beach certified LCP if modified in conformance with the suggested changes recommended by staff.

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

##### **Resolution to Certify if Modified:**

The Commission hereby certifies the Amendment to the Implementation Plan for the City of Long 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 conforms with and is adequate to carry out the provisions of the certified Land Use Plan, as amended. 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 (LCP-5-LOB-19-0168-3)**

For the following suggested modifications:

Language of the currently certified LCP is shown in plain text.

The City's proposed additions are shown in underline text.

The City's proposed deletions are shown in ~~strike-out text~~.

The Commission's suggested additions are shown in **bold, underline text**.

The Commission's suggested deletions are shown in **~~bold, underline, strike-out text~~**.

The Commission's suggested directions are shown in ***bold, italicized text***.

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

**Suggested Modification 1:** Prevent expansions of nonconforming historic buildings, structures, or contributing buildings, structures, or lots if such an improvement would increase the size or degree of nonconformity as to coastal resource protection and shoreline development policies of the certified LCP.

*Section 21.27.130 Historic landmark and landmark district exemption.*

Any building or structure designated as an historic landmark or contributing building, structure, or lot located within a designated landmark district established under Chapter 2.63 of this Code, shall be exempted from restrictions of this Chapter relating to restoration (Section 21.27.090), interior alteration to residential uses with nonconforming parking to create additional bedrooms (21.27.065), expansion (21.27.060), and maintenance (Section 21.27.040), provided that any use or construction plans are approved with a certificate of appropriateness issued by the Cultural Heritage Commission. **Such a building, structure, or contributing building, structure, or lot located in the coastal zone and on a beach, in a wetland, stream, or lake, seaward of the mean high tide line, in an area designated as highly scenic, or within 50 feet of a coastal bluff edge, may not be expanded or altered so as to increase the size or degree of non-conformity with a coastal resource protection or shoreline development policy of the LCP. Replacement or rebuild of such a structure in the coastal zone, including replacement or alterations of 50% or more of any major structural components, shall be permitted only if the replacement or rebuilt structure conforms to all policies of the LCP.**

**Suggested Modification 2:** Ensure that uses proposed to be allowed by right in the IP are consistent with allowable uses in the LUP.

*Table 32-1 Uses in all other commercial zoning districts.*

***Add a note to Table 32-1 that requires uses in commercial zoning districts to also be consistent with the certified Long Beach Land Use Plan (LUP) and where there may be discrepancies, use limitations in the LUP shall prevail.***

**Suggested Modification 3:** Prevent rooftop solar collectors from adversely impacting public views of the beach, bay, or ocean that are preserved in the certified LCP.

*Table 32-1 & 32-2A Uses in all other commercial zoning districts, Table 34-2, and Section 21.33.130.E*

**Rooftop solar collectors and associated supporting structures may exceed the applicable height limit only if necessary for the sole purpose of solar collection, and not otherwise installed on any occupiable areas of the roof, and when located in the coastal zone, public views of the beach, bay, or ocean (as identified in the certified Local Coastal Program) are not adversely impacted.**



**Suggested Modification 4:** Clarify that the development standards for accessory dwelling units do not apply in the coastal zone.

*Table 51.276-1 Accessory dwelling unit development standards.*

***Add a note to Table 51.276-1 that states that the development standards included in the table do not apply in the coastal zone.***

## **IV. FINDINGS**

### **A. Amendment Description**

The City of Long Beach is proposing to amend its certified zoning code [part of the City's Implementing Ordinances (IP)] to address internal conflicts and outdated provisions by revising, adding, and deleting miscellaneous zoning regulations. These miscellaneous changes are included in three "Omnibus" Local Coastal Program (LCP) amendment requests from the City and are described in more detail in the following subsections.

#### **Omnibus 1 (LCP-5-LOB-19-0167-2)**

As proposed, Omnibus 1 includes amendments to the IP that would update the definition for townhomes and eliminate zoning restrictions on side-by-side units, eliminate references to commercial districts no longer in use, eliminate size restrictions for single-family garages and update lot coverage and floor area calculations in single-family districts, update roofing material requirements for residential districts, revise screening requirements for mechanical equipment in low-density residential districts, provide guidelines to determine curb cut closures and require underground utilities in new projects, define the standing required and timeline for land use decision appeals, update school siting requirements, and eliminate the zoning code restriction on the maximum number of zoning regulation amendments per year. Specifically, Chapter 21.15 of the certified zoning code (*Definitions*) would be amended to specify that side-by-side units can be considered "townhouses." Chapter 21.21 (*Administrative Procedures*) would be modified to: (a) clarify who may appeal a decision on a publicly heard project, (b) specify that decisions that are recommendations are not appealable, and (c) allow for the Director of Development Services to extend the appeal period for up to 90 days.

In addition, the *Specific Procedures* (Chapter 21.25) would be modified to eliminate regulations that identify a maximum number of zoning code amendments allowed per year. Chapter 21.31 (*Residential Districts*) would be amended to add details about lot coverage and floor area calculations, include design standards for large single-family residences, and clarify requirements for screening mechanical equipment. Furthermore, new regulations requiring all new development or rebuilds provide for future undergrounding of utilities in Chapter 21.32 (*Commercial Districts*) and Chapter 21.41 (*Off-Street Parking and Loading Requirements*) would change by clarifying under what circumstances unused curb cuts may remain. Finally, Chapter 21.52 (*Conditional Uses*) would be revised to update elementary and secondary school regulations, including by adding an exception to conformance with the locational requirements for schools if certain findings are made.

#### **Omnibus 2 (LCP-5-LOB-19-0168-3)**

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Omnibus Zoning Code Amendments (City of Long Beach)

The changes proposed in Omnibus 2 add definitions and provide regulations for currently undefined land uses, modify development standards for distances between multiple structures on a single property within residential zoning districts, parking requirements for non-conforming historic landmarks, the definition of gross floor area, fence regulations, and rooftop solar collector height exceptions, and update noticing requirements. As proposed, Chapters 21.15 (*Definitions*), 21.21 (*Administrative Procedures*), 21.25 (*Specific Procedures*), 21.27 (*Nonconformities*), 21.31 (*Residential Districts*), 21.32 (*Commercial Districts*), and 21.42 (*Landscaping Standards*), 21.43 (*Fences and Garden Walls*), and 21.44 (*On-premises Signs*) and Tables 31-7 (*Garages in R-3 and R-4 Zone Districts*), 32-1 (*Uses in Commercial Districts*), 32-2 and 32-2A (*Commercial Development Standards*), 41-1C (*Required Number of Parking Spaces for Commercial, Industrial/Manufacturing and all other uses*), and 43-1 (*Fence and Garden Wall Height Limits*) would be amended; Sections 21.31.260 (*Distance between buildings*) and 21.52.286 (*Veterinary uses*) would be repealed, and Table 51.276-1 (*Accessory Dwelling Unit Development Standards*) and Sections 21.15.165 (*Amusement/entertainment facilities*), 21.15.195 (*Animal boarding*), 21.15.196 (*Animal daycare*), 21.15.197 (*Animal lounge*), 21.15.3151 (*Tutoring center*), 21.33.130.E (*Maximum building and structure height*), 21.45.115.5 (*Amusement/entertainment facilities*), 21.45.133 (*Indoor animal adoption and boarding special development standards*), 21.45.134 (*Outdoor animal daycare development standards*), and 21.52.280 (*Tutoring center*) would be added.

The definitions chapter and other related certified zoning regulations would be changed to specify the dimensions of a “corner cutoff,” clarify that for “floor area ratio” and “lot coverage” calculations, certain garage, parking, and open areas may be excluded, and add terms and regulations for “amusement/entertainment facilities,” “animal boarding,” “animal daycare,” “animal lounge,” and “tutoring center.” Regarding public noticing requirements, Omnibus 2 would revise the administrative procedures by exempting hearings that are continued to a date certain and removing the explicit allowance for conditions on development to be attached to decisions. Additionally, a modification to Section 21.25.206 (*Permitted structures*) is proposed that would allow subterranean parking to extend into setback areas if approved by the City Engineer.

As proposed, the height limits for fences and garden walls would be revised to specify where fence heights should be measured from, including specific requirements for fences in flood hazard zones to be measured from the top of the flood plain. Furthermore, rooftop solar panels would be allowed to exceed height limits, if necessary, for the sole purpose of solar collection. In addition, the City proposes to add a table that includes accessory dwelling unit development standards. Lastly, the City seeks to exempt nonconforming historic landmarks and landmark districts from requirements associated with interior alterations that add bedrooms, expansions, and maintenance.

**Omnibus 3 – LCP-5-LOB-20-0169-4**

Omnibus 3 also includes miscellaneous changes to the certified zoning code proposed by the City to clarify regulations for commercial, industrial, and temporary land uses, modify development standards for attics, rooftop canopies, and post-secondary educational uses, and add provisions to specify administrative procedures. Specifically, LCP-5-LOB-20-0169-4 would repeal Table 32-1A (*Uses in Commercial Zoning Districts*) and add Table

32-0 (*CO, CH, and CT Uses in other Commercial Districts*) to transition from older zoning district uses to newer use equivalents. It would also add definitions and regulations for publicly run post-secondary schools (Sections 21.15.2395 and Section 21.45.151) and temporary activating uses (21.15.3005 and Section 21.53.115). Further, as proposed, the City requests to amend Chapters 21.21 (*Administrative Procedures*), 21.31 (*Residential Districts*), 21.32 (*Commercial Districts*), and 21.37 (*Planned Development Districts*) to identify administrative processes for Temporary Activating Use Permits and determining the applicability of uses and development standards in specific plans and planned development districts, clarify regulations relating to attics, transition between new and old commercial zones, update and specify how zoning code regulations apply in planned development districts. These changes are also reflected in the proposed changes to Tables 21-1 (*Discretionary Review Responsibilities*), 31-1 (*Uses in Residential Zones*), 31-2A (*Residential Development Standards*), 31-7 (*Garages in R-3 and R-4 Zone Districts*), 32-1 (*Uses in Commercial Districts*), 33-2 (*Uses in Industrial Districts*), and 41-1C (*Required Number of Parking Spaces for Commercial, Industrial/Manufacturing and all other uses*) along with the proposed addition of aerospace uses in industrial zones, regulations for patio covers in residential districts, and self-storage uses and standards.

## **B. Consistency with the Certified Land Use Plan**

The standard of review for the proposed amendments to the IP, pursuant to Sections 30513 and 30514(b) of the Coastal Act, is whether the proposed IP amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan (LUP). The certified LUP contains policies that maximize shoreline access, protect public views and recreation and visitor-serving facilities, preserve open space and residential density, and balance human use of coastal resources with ecological concerns. Some of the proposed changes to the certified IP, such as format updates and revisions to City procedures, raise no questions as to the consistency of the LCP amendment requests with the certified LUP. Other changes that modify development standards and regulations are discussed in more detail in the following subsections.

### **Omnibus 1**

LCP-5-LOB-19-0167-2 would amend the IP to clarify and make more specific how lot coverage and floor area are calculated by specifying that certain garage areas are not included in such calculations. The certified LUP includes requirements regarding lot coverage (including Area A, Area B, Area C, and Area E development standards), but does not dictate how it should be calculated. Thus, the proposed modifications to the IP would make it adequate to carry out the development standards included in the LUP.

In addition, as proposed, new design requirements for single-family residences over 5,000 square feet in size, such as requirements that large residences be articulated, are added to the IP. These changes would not conflict with or affect LUP requirements for new residential development to be in harmony with the surrounding development and maintain the protected character of certain residential neighborhoods (Area C development standards and Area D residential development policies) because they would prevent larger homes from appearing significantly more massive than other existing single-family residential developments. The certified LUP also has policies that generally preserve the visual quality of the coast (open space policies, Area C design standards, Southeast Area Specific Plan visual resource policies) and specifically require screening of various

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Omnibus Zoning Code Amendments (City of Long Beach)

structures to improve aesthetics (Downtown Shoreline development policies). Thus, the City's proposal to clarify that screening devices for outdoor mechanical equipment in residential districts must be at least as high as the equipment itself, is consistent with these policies. The City also proposes new regulations to provide for future undergrounding of utilities, which will also enhance the visual quality of coastal areas. The Southeast Area Specific Plan, as certified by the Commission with modifications in October 2020 that are in the process of being accepted by the City, includes policies (General Standards, Section p) that protect tribal, cultural, archeological, and paleontological resources that might be adversely impacted from development that involves ground disturbance. The proposed change to the IP does not affect such LUP policies because developments with potential to impact such resources in the southeast area of Long Beach would still be required to adhere to those policies.

The certified LUP also protects public access to the coast by providing for and protecting parking resources in the coastal zone (Transportation and Access policy 3, parking management strategies, and general policies, General Strand recommendations, and development and use standards for each community plan in the certified LCP document). The City's proposed amendment to curb cut requirements would clarify under which specific circumstances unused curb cuts may remain. While the Downtown Shoreline policies require abandonment of curb cuts along Ocean Boulevard when the structure served by the curb cut is removed and addition of curb area could increase curb-side parking availability in parking impacted areas within the coastal zone, the proposed IP amendment only allows for unused curb cuts to remain in very limited circumstances, including for historic districts and properties with nonconforming uses.

Finally, the IP would update elementary and secondary school regulations, including by adding an exception to conformance with the locational requirements for schools if certain findings are made. This change is proposed to reflect requirements in the certified Mobility Element, which is part of the certified LUP, that encourage safe and efficient access to schools. The LUP also allows for institutional uses and schools in some commercial areas in the coastal zone. Thus, the proposed amendments to the school regulations are not in conflict with and are included in the subject LCPA to support the LUP policies.

Therefore, the proposed changes included in LCP-5-LOB-19-0167-2 (Omnibus 1) conform with, and are adequate to carry out, the provisions of the certified LUP.

### **Omnibus 2**

As proposed, Omnibus 2 (LCP-5-LOB-19-0168-3) also includes clarifications relating to the specific calculations for floor area ratio, lot coverage, and corner cutoffs. For the same reasons as described in the previous subsection, these amendments are not in conflict with and support clear interpretation of the certified LUP. Additionally, terms and regulations for "amusement/entertainment facilities," "animal boarding," "animal daycare," "animal lounge," and "tutoring center" are added to the IP. Entertainment uses are explicitly allowed in the Downtown Shoreline area of Long Beach, which is generally reserved for visitor-serving and coastal-dependent uses. The additional definition and clarification of uses and parking requirements for entertainment facilities, generally, make the IP more specific and are not in conflict with the LUP. While there are no explicit LUP policies

regarding the animal uses or tutoring centers in the LUP, the LUP does allow for commercial uses and development in portions of the coastal zone, including in Planned Development Areas like the Downtown Shoreline area, the Belmont Heights/Belmont Park Communities Area, and the Southeast Area Communities area. The new policies for these uses are not in conflict with these policies or any other policy in the certified LUP because they regulate indoor and outdoor uses that are required to implement best practices and minimize impacts to surrounding development and are not expected to impact coastal resources.

Regarding public noticing requirements, Omnibus 2 would revise the administrative procedures by exempting hearings that are continued to a date certain from local noticing requirements that apply to the original hearing. Omnibus 2 would also remove language from the same certified zoning code section that states “reasonable and necessary conditions on development may be attached to all decisions to ensure their consistency with the Zoning Regulations.” There are no LUP policies that relate to public noticing or engagement in coastal development processes, thus this proposed change is not inconsistent with the City’s certified LUP. However, public participation and engagement are cornerstones of the Coastal Act. The Commission’s regulations (Sections 13560-13573) provide minimum standards of notice and hearing requirements for local governments and the Commission in reviewing development projects following certification of an LCP. Section 1367 provides that if a decision on a development permit is continued by the local government to a time that was neither 1) previously stated in the notice, or 2) announced at the hearing as being continued to a time certain, the local government shall provide notice of the further hearings in the same manner as required by Section 1365 of the Commission’s regulations. Here, the City’s proposed modification to the exemption only applies to City decisions that are continued to a date that is certain at the time of the continuance, which is consistent with the minimum standards for public noticing and hearing of development projects in the Commission’s regulations.

Furthermore, modifications to subterranean parking allowances and fence height limits are proposed by the City. As proposed, subterranean parking would be allowed to extend into setback areas, if approved by the City Engineer. This change would not affect visual resources or open space protections included in the LUP (described in the previous subsection and included in the open space policies and Open Space and Recreational Element, respectively). As a general matter, subterranean development could, however, have the potential to impact tribal, cultural, archeological or paleontological resources and, if not properly analyzed, could be inappropriately sited or designed in hazardous areas. While the certified LUP does not explicitly address these issues, the LUP portions of Southeast Area Specific Plan, which was certified with modifications by the Commission and is in the process of being accepted by the City, includes policies that would ensure that such impacts are avoided and new development is sited and designed to minimize risks to life and property. Regardless, setback requirements are generally imposed to maintain the quality of visual resources, which would not be affected with subterranean reductions in setbacks. In any case, projects are only exempt from local coastal development permit requirements if they are consistent with all zoning code provisions, which would include the proposed change, and with the certified LCP (Section 21.25.906).

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Therefore, projects with subterranean parking could extend into setback areas (as proposed) and would still be required to conform with the certified LUP.

Additionally, the proposed IP amendment clarifies how fence heights must be calculated and includes specific requirements for fences in flood hazard zones to be measured from the top of the flood plain. While the LUP does not include policies specifically related to fence heights, these changes make the IP regulations more specific and are not in conflict with any LUP policies regarding the protection of visual resources or allowable heights of accessory structures. Thus, the changes described thus far in this subsection conform with, and are adequate to carry out, the provisions of the certified LUP.

However, some of the proposed changes submitted with the Omnibus 2 LCP amendment request are not consistent with the LUP, as proposed. As described in more detail in the following section (Section C), the City's proposed changes to IP sections relating to nonconforming historic landmarks, commercial uses, rooftop solar panels, and accessory dwelling units could conflict with certified LUP policies relating to shoreline development and coastal resource protection, including the preservation of public views of the beach, bay, and ocean, could allow for land uses by right in commercial areas of the coastal zone where only specific uses are permitted, and could be interpreted in a way that is inconsistent with the LUP. Therefore, modifications are suggested to ensure LCP-5-LOB-19-0168-3 conforms with the certified LUP (Section D).

### **Omnibus 3**

The proposed changes to the IP included in Omnibus 3 serve to facilitate use of the IP by transitioning from older zoning district uses to newer use equivalents, make the IP more specific by adding definitions and/or regulations for publicly run post-secondary schools, temporary activating uses, aerospace uses, patio covers, and self-storage uses, clarify regulations relating to attics, and specify how zoning code regulations apply in planned development districts and specific plan areas. Regarding changes to commercial uses, the proposed modifications do not include specific changes to the locations or types of allowable uses, but rather identify the equivalent newer commercial zones for any remaining old zone designations in City zoning maps. Thus, the proposed changes do not conflict with LUP policies.

The proposed changes do not raise any coastal resource issues under the certified LUP. The LUP does allow for institutional, temporary, industrial, and residential uses in portions of the coastal zone. The proposed IP amendment adds specificity to these broad uses and is not in conflict with these policies or any other policy in the certified LUP. The new regulations for publicly run post-secondary schools waive parking requirements for changes in use within a half-mile of public transit, which is consistent with the Transportation and Access policies and Mobility Element of the LUP that encourage the use of public transportation within the coastal zone. In addition, temporary activating uses allows community-based partners to hold special events or temporary services that offer community benefits pursuant to a Temporary Activating Use permit, which as a discretionary action, would trigger a local CDP and be required to conform with the LCP. Aerospace and self-storage uses would be allowed in some industrial areas, which generally do not contain blue water or beach views or other sensitive coastal resources

within the coastal zone. If sensitive resources or blue water view do exist where an aerospace or self-storage project is proposed (for example, in the southeast area of Long Beach), the development would still need to conform with the LCP policies (Section 21.25.905) if allowed by right, or if not allowed by right, a local CDP would be required and the development would need to be consistent with LCP policies that regulate the location and design of such facilities to minimize or avoid impacts to coastal resources. Finally, regarding patio covers, the proposed amendment would allow such structures to exceed height limitations in residential zones only if it does not obstruct public views of the beach, bay, ocean, or tidelands in the coastal zone. Thus, the proposed changes will not result in any adverse impacts to coastal resources, including visitor-serving commercial development, biological resources, residential character, visual resources, or coastal access and recreation.

Therefore, the proposed changes included in LCP-5-LOB-20-0169-4 (Omnibus 3) conform with, and are adequate to carry out, the provisions of the certified LUP.

### **C. Rejection of LCP Amendment as Submitted (LCP-5-LOB-19-0168-3)**

For the reasons enumerated below, LCP-5-LOB-19-0168-3 is inadequate to carry out and does not conform with the provisions of the certified LUP, as submitted.

First, as proposed by the City (Section 21.27.130), nonconforming historic landmarks and landmark districts would be exempt from certified IP policies including Section 21.27.060, which prohibits nonconforming uses or structures from being expanded or altered in any way that increases its nonconformity with coastal resource protection and shoreline development policies (with some exceptions including for development that has been issued an Administrative or Conditional Use Permit and nonconforming residential uses and parking). The certified LUP includes policies related to nonconforming development, including two Downtown Shoreline District policies that apply to nonconforming structures on Ocean Boulevard. Those policies require conformance with LCP provisions at the time of demolition or reconstruction of structures or particular vehicular access routes. The certified LUP also include a policy for Area D, Second Street Shopping District, that requires existing non-conforming uses to be removed as soon as legally possible. In addition, the LUP includes policies that protect open space, marine resources, public access, recreational opportunities, and open views of the coast (certified open space policies and Open Space & Recreation Element), require additional parking for expansions or changes of use, limit expansion of Belmont Pier (Belmont Pier Planned Development District, Specific Development and Use Plans, Subarea III, 3C), and prohibit buildings at beach property lines from extending further toward the beach than the toe of a bluff or than existing development onsite (Ocean Boulevard Planned Development Plan, General Development and Use Standard 3.B.1.d). Thus, allowing expansions of nonconforming historic buildings, structures, or contributing structures or lots (some of which are located on or adjacent to the beach and coastal waters), as proposed by the subject IP amendment request, could conflict with the LUP policies and potentially adversely impact public views of the coast, beach access and recreation opportunities, and sensitive habitat.

Secondly, in transitioning from old to new commercial zones, the City proposes numerous changes to the types of commercial uses allowed in certain commercial zones and what

type of permit is required or if the use is allowed by right. For example, as proposed, personal services like dry cleaners, catering, and fitness centers would be allowed by right in community and regional commercial zones. However, in support of the Coastal Act policies that prioritize coastal-dependent and visitor-serving uses along the coast, the LUP includes limitations on what types of uses are allowed in certain coastal areas. One such limitation is for the Tidelands are located in the southwest corner of Long Beach, which includes commercial areas, where uses are restricted to recreation, retail, restaurant, entertainment, display, educational, hotel, and coastally related or dependent offices. Therefore, changes in use to commercial uses allowed by right in the IP to include personal services like dry cleaners, catering, and fitness centers, as proposed, are not consistent with LUP use restrictions.

As proposed, the subject LCPA also includes new provisions that allow rooftop solar collectors to exceed certified height limits. While the use of renewable energy supports Coastal Act requirements to minimize energy consumption and minimize adverse environmental impacts associated with new development, the Long Beach LUP includes policies that protect views of the beach, bay, and ocean from public view points (e.g. Belmont Pier Planned Development District design standards, open space policy goals, and Scenic Route Element policies), restrict allowable heights to minimize impacts to such views (Downtown Shoreline and Area C development standards), and designate specific view corridors (Scenic Routes Element, Ocean Boulevard Planned Development Plan, Downtown Shoreline Planned Development District, and Southeast Area Specific Plan). Thus, exceedance of development heights currently allowed in the certified LCP would allow development that is inconsistent with these policies.

The City also included Table 51.276-1 (*Accessory Dwelling Unit Development Standards*) in LCP Amendment Request No. LCP-5-LOB-19-0168-3, which contains development standards such as required setbacks, lot standards like minimum lot sizes, and height limitations. This table is part of a section of the City's uncertified zoning code that regulates accessory dwelling units. Section 51.276 was the subject of LCP Amendment No. LCP-5-LOB-17-0086-3, which was certified by the Commission on October 10, 2018 with suggested modifications; however, the modifications were not accepted by the City before the Commission's certification expired. Thus, the ADU regulations were never formally certified and are not part of the City's certified zoning code. In any case, some of the development standards are no longer consistent with current state ADU laws. While such state laws are not the standard of review, the inclusion of Table 51.276-1, without any certified ADU policies to which they relate, would create confusion as to how to apply LCP applies to projects involving ADUs; therefore, it is better for to the Commission to review Table 51.276-1 along with a proposal to certify its ADU regulations.

Thus, as proposed by the City, Amendment Request No. LCP-5-LOB-19-0168-3 is not adequate to carry out the policies of the City's certified LUP and must be rejected.

#### **D. Approval of LCP Amendment if Modified as Suggested**

As submitted, the City's proposed LCP amendment No. LCP-5-LOB-19-0168-3 does not conform with and is not adequate to carry out the policies of the certified LUP. The following four modifications are necessary to protect coastal resources, including public



views of the beach and ocean, and make the City's LCP amendment consistent with the certified City's LUP.

**Suggested Modification 1** prevents expansion of nonconforming historic buildings, structures, or contributing buildings, structures, or lots if such an improvement would increase the size or degree of nonconformity as to coastal resource protection and shoreline development policies of the certified LCP. In addition, replacement or rebuilding of historic structures would require the replacement structure to conform to all policies of the LCP. As described above, the certified LUP includes policies related to nonconforming development, including policies that require development to come into conformance with LCP provisions when nonconforming elements are demolished or reconstructed and a policy that requires existing nonconforming uses to be removed as soon as legally possible. Additionally, the LUP includes policies that require additional parking for expansions or changes of use, limit expansion of Belmont Pier, prohibit buildings at beach property lines from extending further toward the beach than the toe of a bluff or than existing development onsite, and more generally protect open space, marine resources, views of the beach, bay, and ocean, and public access and recreation.

Much of the Long Beach coastal zone is ocean or bay-fronting with many properties adjacent to public open spaces used for coastal recreation and habitat. Some existing historic landmarks are located on beach or bay-fronting properties, in areas where specific LUP nonconformity policies apply, or consist of coastal waters including but not limited to the Adelaide Tichenor House, Bank of Belmont Shore, Cherry Avenue Lifeguard Station, Crandell/Howard House, and Marine Stadium; other similar sites may be designated in the future. Therefore, expansions of some nonconforming historic landmarks, as would be allowed under the proposed IP amendment, could intrude on open space and adversely impact marine resources, public views, and coastal access and recreation opportunities, which would be inconsistent with the certified LUP coastal resource protection and shoreline development policies, including the LUP's policies regarding non-conforming structures.

Suggested Modification 1 would limit the scope of the proposed exemption of historic landmarks from complying with the IP provision. The suggested modification would prevent any expansion of a historic landmark or contributing structure or lot in the coastal zone that would increase the size or degree of non-conformity as to any coastal resource protection or shoreline development policies of the LCP. Suggested Modification 1 also clarifies that an replacement of an historic structure would require that the replacement structure comply with all LCP policies. As suggested to be modified, the proposed amendment to Section 21.27.130 of the certified IP would conform with the policies of the certified LUP.

**Suggested Modification 2** ensures that uses proposed to be allowed by right in the IP are consistent with allowable uses in the LUP. Over time, the land use zones in the certified IP have changed from older zone designations to newer zoning classifications; however, this has been done somewhat inconsistently so there are internal conflicts and gaps. Thus, part of the City's LCPA request is to update its commercial land use tables to provide consistency in the City's commercial zoning designations. In so doing, some of the proposed zone changes would allow new uses and change which uses require discretionary action by the City and which are allowed by right.

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The LUP includes limitations on the types of uses allowed in certain coastal areas to encourage the prioritization of coastal-dependent and visitor-serving uses consistent with the Chapter 3 policies of the Coastal Act. Not all commercial uses included in the certified IP are appropriate in all commercially designated areas in the coastal zone. In addition, one of the thresholds for requiring a development to receive a local coastal development permit, as stated in the certified LCP, is that the project triggers a discretionary action by the City. Thus, a project involving a change of use in a commercial zone to a commercial use that is allowed by right might not trigger discretionary action by the City and, therefore, such changes of use would not require a local CDP and would not necessarily be analyzed for consistency with the LCP, including specific land use restrictions in coastal areas. Further, the City's proposed LCPA No. LCP-5-LOB-20-0169-4 (also described and analyzed in this staff report) would allow the City Zoning Administrator to make determinations about the consistency of specific land uses with other City planning documents that are not as specific as the zoning code with regard to allowable uses. As proposed, if the Zoning Administrator finds that the specific use is consistent with the intent of that document, they could authorize such use even potential inconsistent with the visitor-serving use requirements of the LCP and the Coastal Act. While this would be a discretionary action that would trigger the need for a CDP in the coastal zone, the Zoning Administrator would have the authority to interpret the intent of the LCP without being required to make findings regarding a use's consistency with the land use restrictions in the LUP.

Therefore, to avoid City approval of land use changes in the coastal zone that are not consistent with the intent of the LCP to prioritize coastal-dependent and visitor-serving uses, Suggested Modification 2 is recommended to add a note to Table 32-1 (*Uses in Commercial Districts*) that clarifies that change of any use in the coastal zone must also be consistent with the certified LCP, and where conflicts may arise, the LUP policies would override the IP land use provisions. These changes are necessary for the proposed IP amendment to conform to the LUP, specifically, Table 1 of the Downtown Shoreline Policy Plan.

**Suggested Modification 3** prevents rooftop solar collectors from adversely impacting view corridors and scenic visual resources that are protected by the certified LUP, including LUP policies like open space policy Preservation of Natural Resources Goal(d) that requires the maintenance of "open vistas of the ocean across public lands" and Standards 3.A and D of the Area C General Development and Use Standards that requires buildings "be designed in appropriate coastally oriented styles" and "be located and designed to provide maximum feasible amount of unobstructed views through their sites towards the beach". As detailed in the previous section of this staff report (Section IV.C), several planned development districts and specific plan areas within the coastal zone, as well as other LCP elements, include land use policies that designate scenic routes and view corridors and preserve public views of the ocean, beach, and bay. Allowing rooftop solar collectors and their associated structures to extend beyond certified height standards that are, in some cases, explicitly included in the LCP to minimize adverse impacts to visual resources, as proposed by the City, would be inconsistent with such policies. Therefore, a modification to the language proposed in four locations in the IP is suggested that requires that such height exceedances only be allowed in the coastal zone when

necessary solely for solar collection and when adverse impacts to visual resources protected by the LCP are avoided. As modified, the proposed amendments to the IP would be consistent with the City's certified LUP policies regarding protection of visual resources (open space policy Goal d and Area C development standards).

**Suggested Modification 4** directs the City to add a note to Table 32-1 of the IP to clarify that the development standards for accessory dwelling units (ADU), which are not defined or described in the certified LCP, are not applicable in the coastal zone. As proposed, the development standards are not adequately defined and are partly inconsistent with current state laws relating to accessory dwelling units. Thus, without the City's related ADU regulations that are not yet certified, the lack of specificity in the proposed LCPA could be interpreted in a way that would be inconsistent with the policies of the certified LUP. The suggested modification adds a note to the table to clarify its applicability (or lack thereof) in the coastal zone rather than deleting the table altogether because the ordinance containing the proposed amendments to the IP also applies to the City's uncertified zoning code, which does include accessory dwelling unit regulations that are in the process of being updated. As modified, it is clear that the accessory dwelling unit regulations do not apply in the coastal zone, thereby avoiding potential conflicts with the LUP.

As modified, LCPA LCP-5-LOB-19-0168-3 conforms with and is adequate to carry out the policies of the certified LUP.

## **E. California Environmental Quality Act**

Section 21080.9 of the California Public Resources Code – within the California Environmental Quality Act (CEQA) - exempts local governments from the requirement of preparing environmental review documentation in connection with its activities and approvals necessary for the preparation and adoption of an 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).) Thus, under Section 21080.5 of CEQA, the Commission's review and analysis of the LCP amendment in this staff report satisfies CEQA environmental review requirements. Nevertheless, the Commission is required in approving an LCP submittal to find that the LCP does conform with 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. 14 C.C.R. Sections 13542(a), 13540(f), and 13555(b). The City of Long Beach LCP Amendment Nos. LCP-5-LOB-19-0167-2, LCP-5-LOB-19-0168-3, and LCP-5-LOB-20-0169-4 consist of amendments to the Implementation Plan (IP) of City's certified LCP.

As outlined in this staff report, the proposed LCP amendments, if LCP-5-LOB-19-0168-3 is modified as suggested, will be consistent with the policies of the LUP. Thus, the Commission finds that the LCP Amendment Nos. LCP-5-LOB-19-0167-2 and LCP-5-LOB-20-0169-4 are in conformity with and adequate to carry out the land use policies of the certified LCP and LCP Amendment No. LCP-5-LOB-19-0168-3, if modified as suggested, is in conformity with and adequate to carry out the land use policies of the certified LCP. The Commission finds that approval of the LCP amendments, as modified (LCP-5-LOB-

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19-0168-3), will not result in significant adverse environmental impacts under the meaning of CEQA and will be consistent with Section 21080.5(d)(2)(A) of the Public Resources Code. Furthermore, as modified, there are no other feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the LCP amendment may have on the environment.