

CALIFORNIA COASTAL COMMISSION

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W17a

June 21, 2021

TO: Commissioners and Interested Persons

FROM: Karl Schwing, Deputy Director, South Coast District
Zach Rehm, Supervisor of Planning
Liliana Roman, Coastal Program Analyst

SUBJECT: De Minimis Amendment Determination for City of Newport Beach LCP Amendment LCP-5-NPB-21-0036-1 Part A, reported to the Commission at its July 7, 2021 meeting.

Proposed Amendment

On April 29, 2021, the City of Newport Beach submitted LCP Amendment No. LCP-5-NPB-21-0036-1 Parts A through D. The proposed amendment was submitted for Coastal Commission action via City Council Resolution No. 2020-102 (**Exhibit 2**) and was filed as complete on June 8, 2021. Part A of the amendment involves revisions to the Residential Design Standards in the Implementation Plan (IP) portion of the certified LCP. Specifically, the amendment would revise the definition of Gross Floor Area in IP Section 21.70.020 and would revise Table 21.18-4 of IP Section 21.18.030 to clarify that the common and private open space requirements only apply to multi-unit residential developments of three (3) units or more. As currently defined, gross floor area excludes unfinished attics (regardless of ceiling height) and the definition lacks clarity regarding what constitutes an enclosed deck or patio. In turn, this allows new residential developments to be larger and bulkier than what the applicable definition of gross floor area was meant to define. The proposed changes aim to minimize the bulk and mass of residential structures by revising the definition of gross floor area to capture unfinished attics, covered decks, balconies or patios above the first floor, covered parking spaces which are open only on one side, open space standards, and simplifying residential development standards, such as clarifying that common and private open space requirements only apply to multi-unit residential developments of three (3) units or more; all with the intention of maintaining allowable building envelopes while preserving the character of existing residential communities. See **Exhibit 1** for a redline version of the proposed changes.

De Minimis LCP Amendment Determination

Pursuant to Coastal Act Section 30514(d), the Executive Director may determine that a proposed LCP amendment is “de minimis.” In order to qualify as a de minimis amendment, the amendment must meet the following three criteria:

1. The Executive Director determines that the proposed amendment would have no impact, either individually or cumulatively, on coastal resources, and that it is consistent with the Chapter 3 policies of the Coastal Act;

2. The local government provides public notice of the proposed amendment at least 21 days prior to submitting the amendment to the Commission, by one of the following methods: posting on-site and off-site in the affected area, newspaper publication, or direct mailing to owners and occupants of contiguous property; and
3. The amendment does not propose any change in use of land or water or allowable use of property.

If the Executive Director determines that an amendment is de minimis, that determination must be reported to the Commission. If three or more Commissioners object to the de minimis LCP amendment determination, then the amendment shall be set for a future public hearing; if three or more Commissioners do not object to the de minimis determination, then the amendment is deemed approved, and it becomes a certified part of the LCP ten days after the date of the Commission meeting (in this case, on July 17, 2021). The purpose of this notice is to advise interested parties of the Executive Director's determination that the proposed LCP amendment is de minimis. Each of the de minimis criteria is discussed briefly below:

1. No impact to coastal resources and consistency with Chapter 3 of the Coastal Act:

The proposed changes may possibly result in improvements to community character without resulting in the reduction of allowable density on a lot. Furthermore, no changes in overall height limits, allowable floor area, lot coverage, or setbacks are proposed that would lessen the intensity of allowable housing on a site. The proposed amendment will not adversely affect coastal views, coastal access, and other coastal resources, and it is consistent with the policies of Chapter 3 of the Coastal Act.

2. Provision of public notice: The City provided public notice for two community meetings held on August 19, 2019 and March 9, 2020. The City provided public notice, including via newspaper notices in advance of Planning Commission hearings held on September 17, 2020 and May 7, 2020 and the City Council hearing held on November 24, 2020 where the proposed amendment was considered. The proposed text was made available at the City Clerk's office and on the City's website for public inspection, all in advance of the City's hearings. The amendment submittal was subsequently received by the Commission on February 27, 2020 (and filed as complete on March 8, 2020). Therefore, the 21-day noticing requirement has been satisfied.

3. No change in use of land or allowable use of property: No change in land use is proposed by this amendment.

California Environmental Quality Act (CEQA)

The Coastal Commission's review and development process for LCPs and LCP amendments has been certified by the Secretary of Natural Resources as being the functional equivalent of the environmental review required by CEQA. The City exempted the proposed amendment from environmental review under CEQA. This report has

discussed the relevant coastal resource issues with the proposal, and has concluded that the proposed LCP amendment is not expected to result in any significant adverse impact on the environment. Thus, it is unnecessary for the Commission to suggest modifications to the proposed amendment to address adverse environmental impacts because the proposed amendment, as submitted, will not result in any significant environmental effects for which feasible mitigation measures would be required.

Coastal Commission Concurrence

The Executive Director will report this de minimis LCP amendment determination, and any comments received on it, to the Coastal Commission at its July 7, 2021 meeting to be held online as a virtual meeting and teleconference. If you have any questions or need additional information regarding the proposed amendment or the method under which it is being processed, please contact Liliana Roman at the South Coast Office in Long Beach or by email (Liliana.Roman@coastal.ca.gov). If you wish to comment on and/or object to the proposed de minimis LCP amendment determination, please do so by 5:00 p.m. on July 2, 2021.

Procedural Note - LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on June 8, 2021. It amends the IP only and the 60-working-day action deadline for the Commission to take action on the amendment is August 7, 2021.