

CALIFORNIA COASTAL COMMISSION

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DATE: July 28, 2022

TO: **Commissioners and Interested Persons**

FROM: Karl Schwing, Deputy Director
Zach Rehm, District Supervisor
Marlene Alvarado, Coastal Program Analyst

SUBJECT: Staff Recommendation on City of Laguna Beach Major Amendment Request No. LCP-5-LGB-21-0042-1 Parts A, B, and C (Streamlining, Fuel Modification Design Review Exemptions, Wireless Communication Facilities) for Public Hearing and Commission Action at the August 11, 2022 meeting.

SUMMARY OF LCP AMENDMENT REQUEST NO. LCP-5-LGB-21-0042-1

The City of Laguna Beach is requesting that the Commission certify an amendment to the Implementation Plan (IP) portion of the Laguna Beach certified Local Coastal Program (LCP). Amendment Request No. LCP-5-LGB-21-0042-1 Parts A, B, and C is a major amendment that would streamline some existing regulations in the IP regarding amendments to the design review process, identify criteria for certain fuel modification projects to be exempt from local design review, and identify local design review and coastal development permit exemption criteria for certain wireless communication facilities in the public right-of-way by incorporating the changes contained in City Council Resolution Nos. 20.029, 21.007, and 21.011 and reflected in City Council Ordinance Nos. 1653, 1654, and 1659.

Part A of this LCP amendment would amend Chapter 25.05 (Administration), Sections 25.50.008 (Permitted Projections into Required Setbacks), and Section 25.50.012 (Fences, Walls, Hedges, Latticework, and Screens) of the City's Zoning Code (Title 25) to streamline the local review process for minor and non-controversial projects by expanding the list of projects that are exempt from design review or administrative design review, and by expanding the allowance for minor projects to be approved through the administrative design review process ([Exhibit 1](#)). This amendment would also clarify that the encroachment provision related to terraces applies to a graded fill terrace and not just a patio.

Part B of this LCP amendment would amend Subsections 25.05.040(B)(1) – (2) of Section 25.05.040 (Administration – Design Review) and Subsection 25.15.004(A)(7) of Section 25.15.004 (R/HP Residential/Hillside Protection Zone – Design Criteria) of Title 25 relating to fuel modification plans and fire safety to streamline the local review of fuel modification plans by waiving the requirement for local design review associated with fuel modification on private properties ([Exhibit 2](#)).

Part C of this LCP amendment would amend Section 25.07.008 (Coastal Development Permits – Exemptions) of Title 25 to exempt certain installations of wireless communication facilities within the public right-of-way from requiring a coastal development permit; and would also clean-up Chapter 25.55 (Wireless Communications Facilities) of Title 25 to strike all regulation of wireless communication facilities within both City and State rights-of-way ([Exhibit 3](#)).

SUMMARY OF STAFF RECOMMENDATION

The City of Laguna Beach (City) has prepared and submitted an amendment request with proposed changes to the Implementation Plan (IP) portion of the City’s certified Local Coastal Program (LCP) summarized above.

Suggested modifications are recommended to ensure internal consistency and to continue to protect coastal and natural resources, all consistent with Coastal Act and Land Use Plan (LUP) requirements.

Staff is recommending that the Commission, after public hearing:

Deny the amendment request to the Implementation Plan **as submitted**.

Approve the amendment request to the Implementation Plan **if modified as recommended**.

The proposed amendment, if modified as recommended, will be in conformance with and adequate to carry out the provisions of the certified Land Use Plan. **The motions to accomplish this are found on pages 5-6.**

DEADLINE FOR COMMISSION ACTION

The proposed LCP amendment was deemed complete on June 30, 2021. A request to extend the deadline to act was granted on August 13, 2021. The final date by which the Commission must act on this LCP amendment request is September 24, 2022.

ADDITIONAL INFORMATION: Copies of this staff report are available on the Commission’s website at www.coastal.ca.gov. For additional information, contact Marlene Alvarado or Zach Rehm in the Long Beach office at marlene.alvarado@coastal.ca.gov, zach.rehm@coastal.ca.gov, or (562) 590-5071.

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ATTACHMENTS

Attachment A – Suggested Modifications

EXHIBITS

[Exhibit 1 – Part A: City Council Resolution No. 20.029 and Ordinance No. 1659 \(Final Language Adopted by City\)](#)

[Exhibit 2 – Part B: City Council Resolution No. 21.011 and Ordinance No. 1654 \(Final Language Adopted by City\)](#)

[Exhibit 3 – Part C: City Council Resolution No. 21.007 and Ordinance No. 1653 \(Final Language Adopted by City\)](#)

[Exhibit 4 – Strikethrough/Insert Version of Proposed Changes to LCP](#)

I. PROCEDURAL ISSUES

A. STANDARD OF REVIEW

The City's Land Use Plan ("LUP") was approved with suggested modifications on June 11, 1985, and effectively certified on March 13, 1986. The City's LUP is comprised of a variety of planning documents including the Land Use Element (LUE), Open Space/Conservation Element, Coastal Technical Appendix, and Fuel Modification Guidelines (of the Safety General Element of the City's General Plan as adopted by Resolution 89.104). The Coastal Land Use Element was updated and replaced in its entirety via LCPA 1-10 in 2012.

The Implementation Plan for the City was certified in 1993, with the City assuming coastal development permit issuing authority at that time. The Implementation Plan (IP) of the City of Laguna Beach certified Local Coastal Program (LCP) is comprised of more than 10 documents, including Title 25 of the City's Municipal Code, which is the City's Zoning Code.

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

B. PUBLIC PARTICIPATION

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."

Ordinance No. 1653 (Part C): The proposed changes affecting Chapters 25.07 and 25.55 of the Laguna Beach Municipal Code were the subject of one related City Council public hearing on January 6, 2021. Because the ordinance is of citywide effect, a 1/4th page notice was published in the Los Angeles Times newspaper.

Ordinance No. 1654 (Part B): The proposed changes affecting Chapters 25.05 and 25.15 of the Laguna Beach Municipal Code were the subject of two related City Council public hearings on February 23, 2021 and March 9, 2021; as well as one Planning Commission public hearing on November 4, 2020. Because the ordinance is of citywide effect, a 1/4th page notice was published in the Los Angeles Times newspaper.

Ordinance No. 1659 (Part A): The proposed changes affecting Chapters 25.05 and 25.50 of the Laguna Beach Municipal Code were the subject of one related City Council public hearing on May 4, 2021; as well as one Planning Commission public hearing on April 21, 2021. Because the ordinance is of citywide effect, a 1/4th page notice was published in the Los Angeles Times newspaper.

C. PROCEDURAL REQUIREMENTS

If the Commission certifies the LCP amendment as submitted, no further City Council action will be necessary. City staff has indicated that the ordinance will only become final after certification by the Commission, but pursuant to Section 13544(b)(2) of Title 14 of the California Code of Regulations, no further 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, pursuant to Section 13542(f). 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. In that scenario, pursuant to Section 13544(c) of Title 14 of the California Code of Regulations, 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-LGB-21-0042-1 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.

II. MOTIONS AND RESOLUTIONS

A. DENIAL OF THE IP AMENDMENT LCP-5-LGB-21-0042-1, PART A AS SUBMITTED

MOTION I:

I move that the Commission **reject** Implementation Plan Amendment No. LCP-5-LGB-21-0042-1 Part A for the City of Laguna Beach 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 Amendment No. LCP-5-LGB-21-0042-1 Part A to the Implementation Plan of the City of Laguna Beach's certified LCP as submitted 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. APPROVAL OF THE IP AMENDMENT LCP-5-LGB-21-0042-1, PART A IF MODIFIED AS SUGGESTED

MOTION II:

I move that the Commission **certify** Implementation Plan Amendment No. LCP-5-LGB-21-0042-1 Part A for the City of Laguna Beach certified LCP if it is modified pursuant to the staff recommendation.

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 Commissioners present.

Resolution to certify the IP Amendment if Modified:

The Commission hereby certifies Amendment No. LCP-5-LGB-21-0042-1 Part A to the Implementation Plan for the City of Laguna 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.

C. DENIAL OF THE IP AMENDMENT LCP-5-LGB-21-0042-1, PART B AS SUBMITTED

MOTION I:

I move that the Commission **reject** Implementation Plan Amendment No. LCP-5-LGB-21-0042-1 Part B for the City of Laguna Beach 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 Amendment No. LCP-5-LGB-21-0042-1 Part B to the Implementation Plan of the City of Laguna Beach's certified LCP as submitted 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.

D. APPROVAL OF THE IP AMENDMENT LCP-5-LGB-21-0042-1, PART B IF MODIFIED AS SUGGESTED

MOTION II:

I move that the Commission **certify** Implementation Plan Amendment No. LCP-5-LGB-21-0042-1 Part B for the City of Laguna Beach certified LCP if it is modified pursuant to the staff recommendation.

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 Commissioners present.

Resolution to certify the IP Amendment if Modified:

The Commission hereby certifies Amendment No. LCP-5-LGB-21-0042-1 Part B to the Implementation Plan for the City of Laguna 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.

E. DENIAL OF THE IP AMENDMENT LCP-5-LGB-21-0042-1, PART C AS SUBMITTED

MOTION I:

I move that the Commission **reject** Implementation Plan Amendment No. LCP-5-LGB-21-0042-1 Part C for the City of Laguna Beach 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 Amendment No. LCP-5-LGB-21-0042-1 Part C to the Implementation Plan of the City of Laguna Beach's certified

LCP as submitted 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.

F. APPROVAL OF THE IP AMENDMENT LCP-5-LGB-21-0042-1, PART C IF MODIFIED AS SUGGESTED

MOTION II:

I move that the Commission **certify** Implementation Plan Amendment No. LCP-5-LGB-21-0042-1 Part C for the City of Laguna Beach certified LCP if it is modified pursuant to the staff recommendation.

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 Commissioners present.

Resolution to certify the IP Amendment if Modified:

The Commission hereby certifies Amendment No. LCP-5-LGB-21-0042-1 Part C to the Implementation Plan for the City of Laguna 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 amendments listed above are 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~~.

[Exhibits 1, 2, and 3](#) contain the final language to Title 25 as adopted/proposed by City. [Note: the legislative draft version has been attached as [Exhibit 4](#) to highlight the changes proposed by the City].

City staff has generated some of the suggested modifications contained herein, either in response to Commission staff concerns or to supplement various sections. Wherever possible, Commission staff has incorporated the City's suggestions and language changes.

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

SUGGESTED MODIFICATIONS to IP AMENDMENT LCP-5-LGB-21-0042-1, PART A

SUGGESTED MODIFICATION No. 1

Title 25 (Municipal Code), Chapter 25.05 (Administration), Section 25.05.040 (Design Review), modify subsection (B) and subsection (B)(1)(J) as shown below:

(B) Development Subject to Design Review. Development subject to Design Review, Administrative Design Review, or exempt from Design Review may still require Coastal Development Permits pursuant to the provisions of Chapter 25.07.

...

- (j) Total aggregate additions that are 50 percent or more of the ~~existing~~ gross floor area of the existing building or structure as of January 13, 1993. Additions that are 50% or more of the original gross floor area, additions that create a new upper story, and additions that exceed a height of 15 feet above the adjacent ground elevation ~~or~~ additions that exceed 10% of the original gross floor area of an existing legal nonconforming structure;

SUGGESTED MODIFICATION No. 2

Title 25 (Municipal Code), Chapter 25.05 (Administration), Section 25.05.040 (Design Review), modify subsection (B)(2)(a)(i) and (B)(2)(a)(iv) as shown below:

(2) Exceptions. The following improvements shall be exempt from the design review process, ~~unless they are changes associated with approved design review plans, including landscape plans.~~ The Director of Community Development has the discretion to refer applications to the appropriate design review authority for consideration and final action. The City Council may, by resolution, require that certain project types normally eligible for an exception be referred to either the design review or administrative design review process. Exceptions shall be reviewed through the plan check process to ensure compliance with zoning standards.

- (a) Additions to ~~a~~ single family residences in residential zones with no prior design review plans that:
 - (i) Result in aggregate additions that are less than fifty 50 percent of the original existing gross floor area of an existing building or structure cumulative over time since January 13, 1993;
 - (ii) Do not create a new upper story and do not exceed a height of ~~fifteen~~ 15 feet above the adjacent ground elevation;
 - (iii) Are in conformance with the zoning regulations; and
 - (iv) Are not within an environmentally sensitive area or where a licensed professional has determined, subject to peer review, that the

proposed improvements do not impact the environmentally sensitive area ~~subject to peer review.~~

SUGGESTED MODIFICATION No. 3

Title 25 (Municipal Code), Chapter 25.05 (Administration), Section 25.05.040 (Design Review), modify subsection (B)(2)(u) as shown below:

- (u) Fuel modification ~~programs.~~ ~~Projects~~ Plans consisting solely of a new or modified fuel modification ~~program~~ shall be reviewed and approved by the Director of Community Development or his or her designee to evaluate landscape design, and by the Fire Chief or his or her designee for compliance with fuel modification regulations. Such plans may qualify as development requiring a coastal development permit that is subject to the provisions of Chapter 25.07, including instances when such a plan constitutes development that is not exempt pursuant to Section 25.07.008 because it would impact environmentally sensitive habitat areas;

SUGGESTED MODIFICATION No. 4

Title 25 (Municipal Code), Chapter 25.05 (Administration), Section 25.05.040 (Design Review), modify subsection (B)(3)(a)(xi)(4)(c) relating to Administrative Design Review Process as shown below:

- (c) Are not within an environmentally sensitive area or where a licensed professional has determined, ~~subject to peer review,~~ that the proposed improvements do not impact the environmentally sensitive area ~~subject to peer review;~~

SUGGESTED MODIFICATION No. 5

Title 25 (Municipal Code), Chapter 25.05 (Administration), Section 25.05.040 (Design Review), modify subsection (C)(4) relating to Fire Department Review and Approval as shown below:

- (4) Fire Department Review and Approval. Prior to deliberation and action on a design review application for new construction and alterations involving 50% percent or more of an existing structure, the Fire Department shall review and approve or conditionally approve applications, including proposed fuel modification programs. Fuel modification programs or Alternative Materials and Methods (AM&Ms) requests, when determined necessary by the Fire Department, are required for any parcel having an “FM”—Fuel Modification designation or Very High Fire Hazard Severity Zone on the City’s Geographic Information Mapping system. ~~The Cal Fire-designated Very High Fire Hazard Severity Zone is an overlay zone, and does not change the underlying zoning of Title 25.~~ The Fire Department conditions of approval relating to public safety may not subsequently be modified by the approval authority without the Fire Department’s review and approval.

SUGGESTED MODIFICATIONS to IP AMENDMENT LCP-5-LGB-21-0042-1, PART B

SUGGESTED MODIFICATION No. 1

Title 25 (Municipal Code), Chapter 25.05 (Administration), Section 25.05.040 (Design Review), modify subsection (B)(2)(p) as shown below:

- (p) Fuel modification ~~programs. Projects~~ **Plans** consisting solely of a new or modified fuel modification ~~program~~ shall be reviewed and approved by the Director of Community Development or his or her designee to evaluate landscape design, and by the Fire Chief or his or her designee for compliance with fuel modification regulations. **Such plans may qualify as development requiring a coastal development permit that is subject to the provisions of Chapter 25.07, including instances when such a plan constitutes development that is not exempt pursuant to Section 25.07.008 because it would impact environmentally sensitive habitat areas.**

SUGGESTED MODIFICATION No. 2

Title 25 (Municipal Code), Chapter 25.15 (R/HP Residential/Hillside Protection Zone), Section 25.15.004 (Design Criteria), modify subsection (A)(7) as shown below:

- (7) Fuel Modification. The development proposal should address the required fuel modification as part of the initial application and should integrate fuel modification provisions into the site plan in such a way as to minimize impact on existing native vegetation and areas of visual prominence. Alternative means to thinning and/or removal of native vegetation for fire hazard management such as minimizing the building envelope, and/or siting of the structure(s) away from hazard areas, and/or use of fire retardant design and materials are preferred where feasible. **The fuel modification plan shall be in compliance with all Fire Department fuel modification requirements, and may qualify as development requiring a coastal development permit that is subject to the provisions of Chapter 25.07, including instances when such a plan constitutes development that is not exempt pursuant to Section 25.07.008 because it would impact environmentally sensitive habitat areas.**

SUGGESTED MODIFICATION No. 3

Title 25 (Municipal Code), Chapter 25.05 (Administration), Section 25.05.040 (Design Review), subsections (B)(1) and (B)(2), incorporate all the changes and modifications that are being made through Part A of this LCP Amendment Request (No. LCP-5-LGB-21-0042-1).

SUGGESTED MODIFICATION No. 4

Title 25 (Municipal Code), Chapter 25.05 (Administration), Section 25.05.040 (Design Review), subsections (B)(1) and (B)(2), renumber as appropriate and correct errors to

underlying language as needed to be consistent with the latest certified LCP amendments (e.g., Nos., LCP-5-LGB-20-0051-3 and LCP-5-LGB-19-0136-1).¹

SUGGESTED MODIFICATIONS to IP AMENDMENT LCP-5-LGB-21-0042-1, PART C

SUGGESTED MODIFICATION No. 1

Title 25 (Municipal Code), Chapter 25.07 (Coastal Development Permits), Section 25.07.008 (Exemptions), add subsection (A)(7) as shown below:

- (A) Certain types of development, described as follows, are considered to be without risk of adverse environmental effect on coastal resources, including public access, and therefore do not require a coastal development permit unless indicated otherwise.

...

- (7) The placement and operation of any wireless telecommunications facility within the public right-of-way is exempt, provided that the facility is mounted to an existing structure or a replacement structure sited within three feet of the existing location. **If the placement and operation of any wireless communications facility within the public right-of-way is not exempt pursuant to Section 25.07.008 because it would result in impacts to public access, scenic resources, ESHA, and other coastal resources, it requires a coastal development permit. If it does and provided further that the City may require reasonable conditions to avoid or mitigate any impacts on coastal resources, including scenic resources.**

IV. FINDINGS

The following findings support the Commission's denial as submitted and approval of the proposed LCP Implementation Plan amendment if modified. The Commission hereby finds and declares as follows:

A. AMENDMENT DESCRIPTION

The City of Laguna Beach is requesting that the Commission certify an amendment to the Implementing Plan (IP) portion of the Laguna Beach certified Local Coastal Program (LCP). Amendment Request No. LCP-5-LGB-21-0042-1 Parts A, B, and C is a major amendment that would revise the existing regulations in the IP by streamlining certain design review process, identifying certain fuel modification design review exemptions from design review, and identifying exemptions from design review and coastal development permit requirements for certain wireless communication facilities in the public right-of-way by incorporating the changes contained in City Council Resolution Nos. 20.029, 21.007, and 21.011 and reflected in City Council Ordinance Nos. 1653, 1654, and 1659.

¹ The City appears to have included some language that is no longer certified as its base document and those errors need to be corrected. For example, for Section 25.05.040(B)(1)(v), which is related to the outlining of the outside of building with lights, was recently modified through LCP Amendment No. LCP-5-LGB-20-0051-3 to longer include a reference to the City's Historic Inventory.

Part A of this LCP amendment would amend Chapter 25.05 (Administration), Sections 25.50.008 (Permitted Projections into Required Setbacks), and Section 25.50.012 (Fences, Walls, Hedges, Latticework, and Screens) of the City's Zoning Code (Title 25) to streamline the local design review process for minor and non-controversial projects by expanding the list of projects that are exempt from design review or administrative design review, and by expanding the allowance for minor projects to be approved through the administrative design review process. In addition, Title 25 currently allows encroachments of terraces into a setback when they are no higher than three feet above grade. Part A of this LCP amendment would also clarify that the encroachment provision related to terraces applies to a graded fill terrace and not just a patio.

Part B of this LCP amendment would amend Subsections 25.05.040(B)(1) – (2) of Section 25.05.040 (Administration – Design Review) and Subsection 25.15.004(A)(7) of Section 25.15.004 (R/HP Residential/Hillside Protection Zone – Design Criteria) of Title 25 relating to fuel modification plans and fire safety to streamline the local review of fuel modification plans by waiving the requirement for local design review associated with fuel modification on private properties. This amendment would also allow the Director of Community Development and the Fire Chief to approve such plans.

Part C of this LCP amendment would amend Section 25.07.008 (Coastal Development Permits – Exemptions) of Title 25 to exempt certain installations of wireless communication facilities within the public right-of-way from requiring a coastal development permit; and would also clean-up Chapter 25.55 (Wireless Communications Facilities) of Title 25 to strike all regulation of wireless communication facilities within both City and State rights-of-way.

B. AMENDMENT LOCATION

The City of Laguna Beach lies almost exclusively within the Coastal Zone, with a total area of 8.8 square miles. Geographically, the City of Laguna Beach is surrounded by open space/wilderness parks and is comprised of three main parts: the shoreline, the coastal plain, and the hillsides and canyons. The City's shoreline extends for approximately 6.2 linear miles. Most of the City's shoreline is fronted by bluffs, with areas of pocket beaches. The shoreline includes two large sandy beaches: Main Beach adjacent to the City's downtown area, at the mouth of Laguna Canyon; and Aliso Beach in South Laguna at the mouth of Aliso Canyon. Only two roads provide access into and out of the City (Coast Highway and Laguna Canyon Road), establishing a physical separation from other regions.

C. 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.

I. IP AMENDMENT LCP-5-LGB-21-0042-1 PART A

This LCP amendment request is an update to the list of projects that require local design review or administrative design review to streamline local review of minor and non-controversial projects. This amendment would also clarify that an encroachment provision applies to a graded fill terrace and not just a patio.

The following is a list of examples of the added exceptions that would be exempt from the City's standard local design review:

1. Minor modifications to approved design review plans, including but not limited to: (a) hardscape reconfigurations that do not reduce the existing open space and landscape open space; (b) landscape plans with no increased height, width, and spacing of vegetation; and (c) additions or relocations of windows and glass doors with adjacent neighbor consent.
2. Exterior modifications to less than 50 percent of the area of any street-facing façade of a building in a residential zone and does not result in a style change of the building.
3. Repainting existing structures in residential zones provided that the paint color was not required to specifically address a design-related issue such as consistency with the architectural style and/or surrounding neighborhood compatibility.
4. Re-roofing buildings and structures with Class A roofing that is consistent with the architectural style and surrounding neighborhood, provided there are no changes to the dimensions, square footage, or roof pitch.
5. Modifications to existing driveways or similar structures or other hardscape that does not increase impervious surfaces that complies with all other applicable provisions of Chapter 25.
6. Skylights with operable automatic night shades.
7. Conversion of existing landscaping to drought-tolerant landscaping up to six feet at mature growth height and provided that the existing landscaping was not required to specifically address a design-related issue such as view equity or privacy.
8. Grading of 20 cubic yard or less outside the building footprint.
9. Trash storage within the side yard when screened from public view by a wall or fence at least four feet in height and does not impact required access for the property.

Applicable LUP Policies

The City of Laguna Beach's certified LUP is comprised of four documents: the Land Use Element (LUE); the Open Space/Conservation Element; the Coastal Land Use Plan Technical Appendix; and the Fuel Modification Policies of the City's Safety Element (only the Fuel Modification Policies of the Safety Element are part of the certified Land Use Plan). Each of these four documents provide the objectives and policies of the City's certified Land Use Plan.

The **Land Use Element** of the certified LUP contains the following policies regarding general development:

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

Policy 2.1 states:

Maintain the diversity and uniqueness of individual neighborhoods. Development standards and design review guidelines shall minimize the scale and bulk of new construction and/or renovation and require development to be compatible with the surrounding residences.

Policy 2.2 states:

Encourage the preservation of historically significant residential structures and protect the character-defining components of Laguna Beach's traditional neighborhoods.

Policy 2.8 states:

Require building design and siting to be compatible and integrated with natural topographic features, minimize significant alteration of natural topography and/or other significant onsite resources, and protect public views as specified in the Design Guidelines and the Landscape and Scenic Highways Resource Document.

Consistency Analysis - Denial as Submitted and Approval with Suggested Modifications

LUE Policies 2.1, 2.2, and 2.8 require, among other things, that development be compatible with the surrounding residences and neighborhoods and natural topographic features.

The City's local design review process is one way of ensuring that development is compatible with the surrounding neighborhoods and natural topography. Through this IP amendment, the City proposes to expand the list of projects that are exempt from design review or administrative design review.

However, projects exempt from design review would still have to be reviewed and approved through the zoning plan check process. In addition, any project that is exempt from local design review can nevertheless be referred to design review by the Design Review Board (DRB) or the Planning Commission (PC) at the discretion of the Community Development Director. Additionally, the administrative design review process includes a public hearing conducted by local planning staff; however, the City states that this administrative design review process will still be more efficient than scheduling a project for a public hearing with the DRB and PC.

The City has a robust design review process, and notes that any substantial projects will continue to be subject to design review, subject to CEQA, and will provide sufficient protections to preserve neighborhood character and coastal resources.

Part A of the subject IP amendment does not include any changes to Chapter 25.07 of the Title 25, which contains the provisions and requirements for reviewing and processing coastal development permits. Therefore, one suggested modification is being made at the start of Section 25.05.040(B) to clarify that development subject to design review, administrative design review, or exempt from design review may still require a coastal development permit pursuant to the provisions of Chapter 25.07.

In addition, two modifications are suggested in Section 25.05.040(B)(1)(J) and Section 25.05.040(B)(2)(a)(i) to remove the City's addition of a baseline date by which aggregate additions can be measured. For coastal development permit purposes, the Commission

and the City are not yet in agreement regarding whether to provide for a baseline based on the LCP certification date or the Coastal Act effectiveness date, by which aggregate additions can be measured. Although the City is only proposing changes to Chapter 25.05 relating to its local design review process, Chapter 25.05 is nevertheless part of the certified LCP. The City is in agreement to table this issue for a future LCP update.

The City is also amending Subsection 25.05.040(C)(4), which relates to the fire department review to add a Cal Fire-designated overlay zone (i.e., Very High Fire Hazard Severity Zone). Suggested Modification No. 5 is necessary to clarify that this overlay zone does not change the underlying zoning of Title 25. (See Section II below for applicable LUP policies on fuel modification pertaining to Suggested Modification No. 5.)

In addition, three other minor modifications that are being suggested for Part A of the subject LCP amendment are for general clean-up.

The City is in agreement with all of these suggested modifications to Part A.

Conclusion

The IP amendment, as proposed, is not adequate to carry out the LUP without the suggested modifications described above because certain clarifiers are necessary to ensure consistency with the LUP's development policies. 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.

II. IP AMENDMENT LCP-5-LGB-21-0042-1 PART B

Part B of the subject LCP amendment is primarily a request to waive the requirement for local design review associated with fuel modification on private properties to streamline the local review of fuel modification plans.

Applicable LUP Policies

The **Land Use Element** of the certified LUP contains the following policies regarding fuel modification:

Policy 7.6 of the LUE of the certified LUP states:

Implement individualized fuel modification programs for existing legal building sites whenever environmentally sensitive resources are present.

Action 7.6.1 of the LUE of the certified LUP states:

Allow fuel modification programs to be modified on existing legal building sites to address and mitigate impacts to environmentally sensitive resources, particularly for properties abutting open space areas.

Action 7.6.2 of the LUE of the certified LUP states:

Allow fuel modification alternative means and methods for existing legal building sites in areas where high- and very-high-value habitat may otherwise be impacted

and in areas where an Environmentally Sensitive Habitat Area (ESHA) ("ESHA" as defined in the LCP Glossary), may otherwise be impacted.

Policy 10.6 of the LUE of the certified LUP states:

Require all fuel modification to be located within the site being developed. Exceptions may be granted for existing legal building sites when findings can be made by the approval authority that other alternatives are not available and a strict application of this provision would endanger environmentally sensitive resources or deny a property owner reasonable use of an already existing legal building site. Fuel modification performed by private property owners cannot go beyond property lines without agreement by the adjacent property owners. Fuel modification on public land to protect existing development should be avoided whenever feasible; if avoidance isn't feasible, measures must be employed to minimize the amount of fuel modification necessary on public land.

Action 10.6.1 of the LUE of the certified LUP states:

The development proposal should address the required fuel modification as part of the initial application and should integrate fuel modification provisions into the site plan in such a way as to minimize impact on existing native vegetation and areas of visual prominence. Any required thinning of flammable vegetation shall be conducted outside of bird nesting season if feasible. Alternative means of thinning and/or removal of native vegetation for fire hazard management such as minimizing the building envelope, and/or siting of the structure(s) away from hazard areas, and/or use of fire retardant design and materials are preferred where feasible.

Action 10.6.2 of the LUE of the certified LUP states:

Equivalent methods of fire risk reduction shall be determined on a case-by-case basis by the City and may include the following, or a combination of the following, but are not limited to: compliance with Building Code and Fire Code requirements for projects; tile roof treatments; irrigated buffer zones; installation of masonry or other non-combustible fire resistant wall; boxed eaves; reduced landscaping; other alternative construction to avoid the need for vegetation thinning, pruning or vegetation removal.

Action 10.6.3 of the LUE of the certified LUP states:

No new division of land shall be allowed which would require new fuel modification (e.g. vegetation removal) or new fuel breaks in environmentally sensitive habitat areas or on public open space or park lands to protect new development within the resultant lots.

Action 10.6.4 of the LUE of the certified LUP states:

Update the Safety Element to incorporate current fuel modification and fuel break practices and requirements.

The **Open Space and Conservation Element** of the certified LUP contains the following policies regarding fuel modification:

Policy 7-G of OS/C Element of the certified LUP states:

The Design Review process for an individual project shall include criteria for treatment of the urban edge between existing development and open space in areas designated “Residential/Hillside Protection: on the Land Use Plan Map. The A-5-LGB-20-0010 (City of Laguna Beach) Appeal – No Substantial Issue 21 criteria shall be developed to reflect topographic constraints and shall include at a minimum:

- a. Treatments to screen development, including the use of vegetation, variable setbacks and modified ridgelines or berms;
- b. Fuel modification techniques for new development which provide the following: result in graduated fuel modification zones in which on the minimum amount of native vegetation is selectively thinned; prohibit grading or discing for fuel modification; confine fuel modification to the development side of the urban open space edge to the maximum extent; avoid fuel modification encroachment into environmentally sensitive areas; locate structures with respect to topographic conditions to incorporate setbacks, minimize fuel modification requirements and maximize hazards; and provide requirements for ongoing maintenance.
- c. Treatments for fuel modification and maintenance techniques for existing development consistent with standards in (b) above to the maximum extent feasible.

Policy 8-G of the OS/C Element of the certified LUP states:

When subdivision or fuel modification proposals are situated in areas designated as "High Value" habitats on the Biological Values Maps and where these are confirmed by subsequent on-site assessment, require that these habitats be preserved to the greatest extent possible.

Policy 8-H of the OS/C Element of the certified LUP states:

When subdivision or fuel modification proposals are situated in areas designated as "Very High Value" habitats on the Biological Values Maps and where these are confirmed by subsequent on-site assessment, require that these habitats be preserved and, when appropriate, that mitigation measures be enacted for immediately adjacent areas.

Policy 10-G of the OS/C Element of the certified LUP states:

Fuel modification plans, where appropriate shall be included within the boundary of the developed land use zone.

The OSCE defines ‘high value habitat’ as:

These are extensive areas dominated by indigenous plant communities which possess good species diversity. They are often, but not always, linked to extensive open space areas, within or outside of the City, by traversable open space corridors. Their faunal carrying capacity is good to excellent; many areas are utilized as bedding and foraging sites by mule deer, or possess large resident populations of birds or native small animals.

Also included in this category are locales of maritime desert scrub and ceanothus chaparral, whether extensive or fragmented, because of the locally unique character of these communities.

The OSCE defines 'very high value habitat' as:

These include the habitats of endangered, rare or locally unique native plant species. Also included are areas of southern oak woodland and natural (not irrigation augmented) springs and seeps. Among the very high value habitats inventories are areas of significant rock outcrop exposures, because of the assemblages of sensitive plant species that often occupy such settings.

The **Fuel Modification Guidelines** (of the Safety General Element of the City's General Plan as adopted by Resolution 89.104) of the certified LUP contains the following policies regarding fuel modification:

Policy 1 of the Fuel Modification Guidelines states:

Where native specimen vegetation is retained within fuel modification areas, these areas should be properly maintained to minimize fire risk.

Policy 2 of the Fuel Modification Guidelines states:

Provide fire breaks necessary for the protection of life and property as determined by the Fire Chief for community areas. Fuel modification should be limited to zones established adjacent to proposed or existing development. Graduated trimming and clearing should be utilized within these zones to provide a transition between undisturbed wildland areas and the development edge.... Clearing or removal of native vegetation for fuel modification purposes should be minimized by placement of roads, trails, and other such manmade features between the development and woodland areas. To minimize fuel modification areas, other techniques (such as perimeter roads, techniques using fire resistant materials, elimination of wood balconies and decks, fire retardant siding and tile roofs) should be incorporated in the design and development of projects.

Consistency Analysis - Denial as Submitted and Approval with Suggested Modifications

The certified Land Use Element of the certified LUP contains policies, such as Land Use Element Policy 7.6 and related actions and Policy 10.6 and related actions, Open Space Conservation Element Policies 7-G, 8-G, 8-H and 10-G, and Policies 1 and 2 of the Fuel Modification Guidelines that pertain to fuel modification and requirements to protect sensitive habitat.

Through Part B of the subject LCP amendment, the City is proposing to primarily waive the requirement for local design review associated with fuel modification on private properties to streamline the local review of fuel modification plans. This amendment would also allow the Director of Community Development and the Fire Chief to approve such plans.

Fuel modification can have significant adverse impacts on sensitive habitat. In fact, fuel modification, because of maintenance, thinning, or clearing, is not typically considered to be compatible with protection of ESHA. Also, during review of new land divisions, including lot line adjustments, development is required to be sited such that fuel modification within sensitive habitat is avoided and that adequate setbacks are incorporated into the developed area to provide all required defensible space. Moreover, in areas where fuel modification is necessary, a buffer between the fuel modification zone and adjacent ESHA that is separate and distinct from fuel modification zones should be considered. Where a

buffer cannot be provided, development may need to be set back further from the ESHA in order to ensure that fuel modification does not adversely impact ESHA. Where development cannot be set back, and would require a fuel modification zone that would encroach into ESHA, mitigation in the form of new habitat or habitat restoration may need to be provided, or the development may need to be denied. This analysis must be provided subject to a coastal development permit application if there are potential ESHA impacts.

Therefore, to ensure that the proposed changes do not conflict and are consistent with the LUP's natural resource protection policies, two modifications are being suggested to clearly indicate that fuel modification plans may be development that is subject to the provisions of Chapter 25.07, such as in instances when such fuel modification plans constitute development that is not exempt pursuant to Section 25.07.008 because it would impact environmentally sensitive habitat areas.

This modification ensures that this subsection is consistent with the natural resource protection policies of the LUP. For example, Section 30240(A) states (as it appears in its entirety in the Technical Appendix): "Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas." In addition, Section 30240(B) states (as it appears in its entirety in the Technical Appendix): "Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation area shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat area." These policies prioritize natural resource protection over private development.

The City appears to have included some language that is uncertified as its base document and those errors need to be corrected. For example, for Section 25.05.040(B)(1)(v) as shown as existing certified language Ordinance No. 1659, which is related to the outlining of the outside of building with lights, was recently modified through LCP amendment No. LCP-5-LGB-20-0051-3 to longer include a reference to the City's Historic Inventory. A modification is suggested to correct such errors to the underlying language.

In addition, a modification is suggested for general clean-up.

The City is in agreement with all of these suggested modifications for Part B of this LCP amendment.

Conclusion

The IP amendment, as proposed, is not adequate to carry out the LUP without the suggested modifications described above because certain clarifiers are necessary to ensure consistency with the LUP's natural resource protection policies. 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.

III. IP Amendment LCP-5-LGB-21-0042-1 Part C

The City is proposing to exempt certain installations of wireless communication facilities within the public right-of-way from requiring a coastal development permit; and would also clean-up Chapter 25.55 (Wireless Communications Facilities) of Title 25 to strike all regulation of wireless communication facilities within both City and State rights-of-way.

Applicable LUP Policies

The **Land Use Element** of the certified LUP contains the following policies regarding wireless communication:

Action 1.1.4

Support technology and business practices that enable people to reduce vehicle miles traveled from home to work. These include the use of home office and technology such as wireless communication and video conferencing.

Consistency Analysis - Denial as Submitted and Approval with One Suggested Modification

LUE Action 1.14 requires that technology (including wireless communication) and business practices that enable people to reduce vehicle miles traveled from home to work be supported.

The City is proposing to exempt certain installations of wireless communication facilities within the public right-of-way from requiring a coastal development permit, provided that the facility is mounted to an existing structure or a replacement structure sited within three feet of the existing location. Such facilities are commonly integrated into the design of existing light standards or streetlights and are intended to increase existing network capacity. The City is also proposing clean-up Chapter 25.55 (Wireless Communications Facilities) of Title 25 to strike all reference to regulation of wireless communication facilities within both City and State rights-of-way.

These changes are intended to provide the City the greatest amount of authority provided by law, and provide uniform and comprehensive standards and regulations, along with permit requirements, consistent with State and federal law, including, but not limited to recent guidance from the FCC, for the installation or modification of wireless telecommunications or wireless utility facilities in the public rights-of-way (“ROW”).

However, while this proposed change is not inconsistent with LUE Action 1.14, installations of wireless communication facilities within the public right-of-way have the potential to impact public access, public scenic resources, environmentally sensitive habitat areas, and other coastal resources, which can conflict with the certified LUP’s coastal resource and natural resource protection policies. One example of such policies includes LUE Policy 4.3, which states: “Maintain and enhance access to coastal resource areas, particularly the designated public beaches, by ensuring that access points are safe, attractive, and pedestrian friendly.” As another example, LUE Policy 2.9 states: “Require the use of appropriate landscaping, special architectural treatments, and/or siting considerations to protect public views for projects visible from major highways and arterial streets.” Furthermore, LUE Policy 7.3 states: “Design and site new development to protect natural and environmental sensitive resources, such as areas of unique scenic quality, public

views, and visual compatibility with surrounding uses and to minimize natural landform alterations.”

To ensure that the proposed changes do not conflict and are consistent with the LUP’s numerous coastal and natural resource protection policies, a modification is being made to clearly indicate that if the placement and operation of any wireless communications facility within the public right-of-way is not exempt pursuant to Section 25.07.008 because it would result in impacts to public access, scenic resources, ESHA, and other coastal resources, it requires a coastal development permit, except to the extent as preempted by federal law.

The City is in agreement with this suggested modification to Part C of this LCP amendment.

Conclusion

The IP amendment, as proposed, is not adequate to carry out the LUP without the suggested modification described above because certain clarifiers and changes are necessary to ensure consistency with the LUP’s coastal resource and natural resource policies. 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.

D. CONSISTENCY WITH THE 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 IV of this report, is in conformity with, and adequate to carry out the land use policies of the certified LUP, as modified by the suggested modifications. 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. As modified, the LCP contains specific requirements that apply to development projects and procedures for applicants to follow in order to obtain a coastal development permit. Thus, future individual projects would require coastal development permits, issued by the City of Laguna Beach, and in the case of areas of original jurisdiction, by the Coastal Commission. Throughout the coastal zone, specific impacts to coastal resources resulting from individual development

projects are assessed through the coastal development review process; thus, any individual project will be required to undergo environmental review under 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.