

CALIFORNIA COASTAL COMMISSION

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Th12b

Date: January 26, 2023

To: COMMISSIONERS AND INTERESTED PERSONS

From: KARL SCHWING, DEPUTY DIRECTOR, SOUTH COAST DISTRICT
ZACH REHM, DISTRICT SUPERVISOR, SOUTH COAST DISTRICT
BAILEY WARREN, COASTAL PLANNER, SOUTH COAST DISTRICT

Subject: STAFF RECOMMENDATION ON CITY OF LAGUNA BEACH MAJOR
AMENDMENT NO. LCP-5-LGB-22-0003-3 Part A (ADUs) for Commission
Meeting of February 9, 2023

SUMMARY OF LCP AMENDMENT REQUEST

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-22-0003-3 Part A is a major amendment that would revise the existing regulations in the IP regarding accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs). Part A of this LCP amendment would repeal and replace Laguna Beach Municipal Code Chapter 25.17 (Second Residential Units) and amend IP Sections 25.10.004 (R-1 Residential Low-Density Units – Uses Permitted), 25.15.006 (R/HP Residential/Hillside Protection Zone – Uses Permitted) to bring the City's ADU ordinance into conformity with the state's current ADU laws.

The City proposes additions to the LCP which go beyond the requirements from the State ADU laws include 1) clarification to the nonconformities section that reconstruction of legal nonconforming structures to ADUs or JADUs shall not be required to correct nonconforming zoning conditions; and 2) an additional parking exemption for ADUs located on a lot within 100' of free on-street parking, in a neighborhood with adequate on-street parking supply, and a finding that the addition of an ADU does not degrade the existing emergency vehicle access as determined by the City.

The Laguna Beach Planning Commission held a public hearing on the ADU Amendment on November 16, 2021, and the Laguna Beach City Council held a public hearing on December 14, 2021, to initiate the LCP Amendment. The City Council adopted City Council Zoning Ordinance Amendment No. 21-8238 and LCP Amendment 21-8239 on December 14, 2021, authorizing City staff to submit the LCP Amendment to the Coastal Commission ([Exhibit 1](#)).

This report addresses Part A of the LCP Amendment submittal only. Parts B and C relate to other issues and include a separate staff report and findings. Part A is consistent with the procedural requirements of the Coastal Act and the regulations which govern such proposals (Sections 30510 and 30514 of the Coastal Act, and Sections 13551, 13552 and 13553 of Title 14 of the California Code of Regulations).

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission, after public hearing, **approve** Amendment Request No. LCP-5-LGB-22-0003-3 Part A, an IP-only amendment, **with suggested modifications**. The LCP amendment must first be denied as submitted, then the Commission can approve the LCP amendment if modified as suggested in this staff report. Staff recommends modifications to Chapter 25.17 (Second Residential Units) as submitted by the City.

Suggested Modification #1 clarifies that a “Converted ADU” includes the conversion of a garage into an ADU.

Suggested Modification #2 requires a CDP to be processed consistent with state ADU laws, including the requirement that a CDP be processed for all new ADUs/JADUs within 60 days from the date the city receives a completed application. The suggested modification also clarifies that the City shall not deny a permit to remedy an unpermitted ADU or JADU built prior to January 1, 2018, provided that health and safety measures are met.

Suggested Modification #3 sets the maximum square footage and floor area limit that may be applied to ADUs at 850 square feet, or 1000 square feet for ADUs providing more than one bedroom, the height limit that may be applied to ADUs at 16 feet and 18 feet depending on location, and the space between a detached ADU and another structure to comply with Building and Fire Code, consistent with the State ADU laws.

Suggested Modification #4 clarifies parking replacement regulations and exemptions consistent with state law, and requires that new ADUs/JADUs shall conform to all development standards of the zone in which the property is located to comply with IP 25.52.012 (G) (Development Standards). The suggested modification also requires that existing vehicle parking spaces removed by a converted ADU be replaced elsewhere on the property, consistent with section 25.17.040 (E)(6), and specifies that “car-share vehicle” shall refer to an established program intended to remain in effect at a fixed location, and be available to the public.

Suggested Modification #5 clarifies that nonconformities in the existing primary structures shall not be required to be corrected as part of the construction of a new ADU or JADU, consistent with State law, but that the ADU shall not increase the degree of non-conformity with other LCP requirements. The suggested modification also includes JADU bathroom requirements and owner occupancy requirements.

City of Laguna Beach LCP Amendment No.
LCPA 5-LGB-22-0003-3- Part A
(ADUs)

Suggested Modification #6 requires that Chapter 25.17 be implemented in a way that would avoid inconsistencies with all other coastal resource protection policies within the certified LCP and the Coastal Act.

The City submitted a completed LCP Amendment request on December 31, 2021. On February 18, 2022, 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 4, 2023.

If modified as suggested, the City's IP Ordinances will conform with, and will be adequate to carry out, the requirements of the certified LUP. The resolutions and motions begin on **Page 6**. The suggested modifications are detailed in Section IV. (A) of this staff report. The findings for approval of the LCP amendment, if modified as suggested, begin on **Page 7**.

ADDITIONAL INFORMATION

Further information on the City of Laguna Beach LCP Amendment LCP-5-LGB-20-0003-3, Part A may be obtained from Bailey Warren, Coastal Program Analyst, at (562) 590-5071 or bailey.warren@coastal.ca.gov. If you wish to comment on the proposed amendment, please do so via regular mail (directed to the South Coast District Office) or email (by emailing southcoast@coastal.ca.gov) by 5pm on Friday, February 3, 2023.

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EXHIBITS

Exhibit 1: City of Laguna Beach Zoning Ordinance Amendment No. 21-8238 and LCP Amendment No. 21-8239

Exhibit 2: IP Amendment Clean Text including Suggested Modifications

I. PROCEDURAL ISSUES

A. STANDARD OF REVIEW

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

B. PUBLIC PARTICIPATION

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

City of Laguna Beach LCP Amendment No.
LCPA 5-LGB-22-0003-3- Part A
(ADUs)

Section 30503 of the Coastal Act requires local governments to provide the public with the maximum amount of opportunities to participate in the development of an LCP amendment prior to submittal to the Commission for review. The Laguna Beach Planning Commission held a public hearing on the ADU Amendment on November 16, 2021, and the Laguna Beach City Council held a public hearing on December 14, 2021, to initiate the LCP Amendment. The City Council adopted City Council Zoning Ordinance Amendment No. 21-8238 and LCP Amendment 21-8239 on December 14, 2021, authorizing City staff to submit the LCP Amendment to the Coastal Commission ([Exhibit 1](#)). On February 18, 2022, 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 4, 2023.

All of the local hearings for the ADU amendment were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

C. PROCEDURAL REQUIREMENTS

Pursuant to Section 13551 of Title 14 of the California Code of Regulations, the City resolution for submittal may specify that an LCP Amendment will either require formal local government adoption after the Commission approval, or that it is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513, and 30517. Here, if the Commission certifies the LCP amendment as submitted, no further City Council action will be necessary. The City's submittal resolution indicates that the ordinance will only become final after certification by the Commission, but no formal action is required. Should the Commission deny the LCP amendment, as submitted, without suggested modifications, no further action is required by either the Commission or the City, and the LCP amendment is not effective. Should the Commission deny the LCP amendment, as submitted, but then approve it with suggested modifications, then the City Council may consider accepting the suggested modifications and submitting them by resolution to the Executive Director for a determination that the City's acceptance is consistent with the Commission's action. The modified LCP amendment will become final at a subsequent Commission meeting if the Commission concurs with the Executive Director's Determination that the City's action in accepting the suggested modifications approved by the Commission for LCP Amendment LCP-5-LGB-22-0003-3 Part A 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. MOTION AND RESOLUTIONS

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

A. DENY LCP AMENDMENT LCP-5-LGB-22-0003-3, PART A AS SUBMITTED

Motion I: I move that the Commission reject Implementation Plan Amendment No. LCP-5-LGB-22-0003-3, Part A as submitted by the City of Laguna Beach.

Staff recommends a **YES** vote. Failure of this motion will result in denial of the amendment as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

Resolution to Deny as Submitted:

The Commission hereby denies certification of the Implementation Plan Amendment LCP-5-LGB-22-0003-3, Part A as submitted by the City of Laguna Beach and adopts the findings set forth below on the grounds that the amendment does not conform with the policies of the certified Laguna Beach Land Use Plan. Certification of the Implementation Plan amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the IP Amendment may have on the environment.

B. CERTIFY LCP AMENDMENT LCP-5-LGB-22-0003-3, PART A WITH SUGGESTED MODIFICATIONS

Motion II: I move that the Commission certify the City of Laguna Beach's Implementation Plan Amendment No. LCP-5-LGB-22-0003-3, Part A if modified as suggested in this staff report.

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

Resolution to Certify if Modified:

The Commission hereby certifies the Implementation Plan Amendment LCP-5-LGB-22-0003-3, Part A if modified as suggested and adopts the findings set forth below on the grounds that the amendment conforms with the policies of the Land Use Plan. Certification of the Implementation Plan amendment as modified 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 IP Amendment on the environment, or 2) there are no feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the IP Amendment may have on the environment.

III. SUGGESTED MODIFICATIONS

Certification of the LCP amendment is subject to the modifications found below in subsection IV. A. (LCP Amendment Description) and in **Appendix A** of this staff report. Staff is recommending a total of six modifications to Chapter 25.17 (Second Residential Units), which the City proposes to replace in full with a chapter on ADUs. **Suggested Modification #1** clarifies that a “Converted ADU” includes the conversion of a garage into an ADU. **Suggested Modification #2** requires a CDP to be processed consistent with state ADU laws, including the requirement that a CDP be processed for all new ADUs/JADUs within 60 days from the date the city receives a completed application. **Suggested Modification #3** sets the maximum square footage and floor area limit that may be applied to ADUs at 850 square feet, or 1000 square feet for ADUs providing more than one bedroom, the height limit that may be applied to ADUs at 16 feet and 18 feet depending on location, and the space between a detached ADU and another structure to comply with Building and Fire Code, consistent with the state ADU laws. **Suggested Modification #4** clarifies parking replacement regulations and exemptions consistent with state law, and requires explaining that new ADUs/JADUs shall conform to all development standards of the zone in which the property is located to comply with IP 25.52.012 (G) (Development Standards). The suggested modification also requires existing vehicle that parking spaces removed by a converted ADU be replaced elsewhere on the property, consistent with section 25.17.040 E(6), and specifies that a “car-share vehicle” shall refer to an established program intended to remain in effect at a fixed location, and be available to the public. **Suggested Modification #5** clarifies that nonconformities in the existing primary structures shall not be required to be corrected as part of the construction of a new ADU or JADU, consistent with state law, but that the ADU shall not increase the degree of non-conformity with other LCP requirements. The suggested modification also includes JADU bathroom requirements and owner occupancy requirements. **Suggested Modification #6** requires that Chapter 25.17 be implemented in a way that would avoid inconsistencies with all other coastal resource protection policies within the certified LCP and the Coastal Act.

IV. FINDINGS AND DECLARATIONS – DENIAL OF AMENDMENT NO. LCP-5-LGB-22-0003-3, PART A (ADUs) AS SUBMITTED AND APPROVAL AS MODIFIED

A. LCP AMENDMENT DESCRIPTION

This amendment would repeal and replace Laguna Beach Municipal Code Chapter 25.17 (Second Residential Units) and amend IP Sections 25.10.004 (R-1 Residential Low-Density Units – Uses Permitted), 25.15.006 (R/HP Residential/Hillside Protection Zone – Uses Permitted) of the City’s LCP to bring the City’s ADU ordinance into conformity with the State’s current ADU laws (Government Code Sections 65852.2, 65852.22, and 65852.23) ([Exhibit 2](#)). The chapter of the code being replaced was titled second units, which are functionally similar to ADU’s. The reason the chapter is being repealed and replaced is that the City has been implementing regulations for ADUs consistent with other

State laws outside of the LCP process for the past three years, and this LCP amendment would align review of proposed development under the LCP with other State laws. In past actions, both the Commission and the City have been generally permissive of second units and ADU development, with requirements for vehicle parking and resource protection.

On January 1, 2023, the California legislature adopted another group of housing bills aimed at addressing the housing crisis. The legislature approved, and the Governor signed SB 897 (Chapter 664, Statutes of 2022) and AB 2221 (Chapter 650, Statutes of 2022) into law that, among other things, amended Government Code sections 65852.2, 65852.22, and 65852.23 regarding ADUs and JADUs. The new laws intend to reduce regulatory barriers and costs, streamline the approval, and expand the potential capacity for ADUs in response to California's housing shortage. The City's current ADU ordinance is not consistent with Government Code sections 65852.2, 65852.22, and 65852.23 (as amended) and has subsequently been voided as of January 1, 2022. Until the City certifies and adopts a new ADU ordinance that is consistent with the state's ADU law, all ADU/JADU development within the City is subject to the standards provided in Government Code sections 65852.2, 65852.22, and 65852.23. The City proposes additions to the LCP which go beyond the requirements from the State ADU laws including 1) clarification to the nonconformities section that reconstruction of legal nonconforming structures to ADUs or JADUs shall not be required to correct nonconforming zoning conditions; and 2) an additional parking exemption for ADUs located on a lot within 100' of free on-street parking, in a neighborhood with adequate on-street parking supply, and a finding that the addition of an ADU does not degrade the existing emergency vehicle access as determined by the City.

Certification of the LCP amendment is subject to the following modifications. The City's proposed new LCP language (replacing certified LCP Section 25.17 in full) is shown as plain text. The Commission's suggested modifications are shown in ***bold, italicized, and underlined text*** and text suggested by the Commission to be deleted is shown in ~~double-strike through~~.

25.17 Accessory Dwelling Units and Junior Accessory Dwelling Units

25.17.010 Purpose. The purpose of this chapter is to establish the procedures for the development of Accessory Dwelling Units and Junior Accessory Dwelling Units on lots zoned to allow single-family or multifamily dwelling residential use and that include a proposed or existing dwelling pursuant to Government Code Sections 65852.2 and 65852.22.

25.17.020 Definitions.

- A. "Accessory Dwelling Unit" (ADU) means an attached, a detached, or converted dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing

primary residence. An ADU shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single- or multi-family dwelling is or will be situated. An ADU also includes the following: an efficiency unit as defined in Section 17958.1 of the Health and Safety Code and a manufactured home as defined in Section 18007 of the Health and Safety Code. Accessory dwelling units may be attached to the primary dwelling unit, detached from the primary dwelling unit or may involve the conversion of floor area of an existing structure.

- B. "ADU Ordinance" means Chapter 25.17 and all objective standards applicable to ADUs contained in Title 25.
- C. "Detached ADU" means an ADU that is within an independent structure entirely separate from the primary dwelling unit and other accessory structures.
- D. "Attached ADU" means an ADU that is constructed as a physical expansion of the primary dwelling unit and is attached to the primary dwelling unit.
- E. "Converted ADU" means an ADU that is constructed within the walls of the primary dwelling unit or an existing detached structure, **including conversion of an existing attached or detached garage into an ADU.**
- F. "Junior Accessory Dwelling Unit" (JADU) means a unit that is no more than 500 square feet in size and contained entirely within a single-family residence, ~~which includes attached non-living space like a garage.~~ A JADU may include separate sanitation facilities or may share sanitation facilities with the existing structure. The JADU shall include a separate entrance from the main dwelling.
- G. "Public Transit" means a location, including but not limited to a bus stop or train station, where the public may access buses and other forms of transportation that charge set fares, run on fixed routes, and are available to the public. This definition includes Laguna Beach Transit and Trolley.
- H. "Primary Dwelling" means an existing or proposed residential structure and includes both livable and non-livable areas. Detached structures, such as a detached garage is not considered part of the primary dwelling.

25.17.030 General Provisions.

- (A) Effect of Consistency. An ADU or JADU that conforms to the requirements of this chapter is:
 - (1) Deemed consistent with the allowable density for the lot upon which such unit is proposed to be established.
 - (2) Deemed consistent with the existing general plan and zoning

designations for the lot.

- (3) Not counted towards the calculation for major remodel projects, **except as necessary to comply with Sections 30253 if the Coastal Act limiting alterations of existing bluff top, beachfront, and coastal canyons.**

(B) Exceptions to Ministerial Review. Discretionary review may be required as follows.

- (1) Coastal Zone. ADUs that are not exempted or excluded under Chapter 25.07 (Coastal Development Permits) require issuance of a coastal development permit, subject to the noticing and appeal requirements in that chapter.
- (2) Deviations from Objective Standards. ADU and JADU applications that deviate from the standards of this chapter may still be permitted but shall not qualify for ministerial review. Such applications shall be subject to applicable design review, variance, coastal development permit, and other entitlements pursuant to Title 25.

(C) Processing Time. Zoning plan check shall be required for compliance with applicable zoning regulations and applicable building and construction requirements set forth in Titles 14 (Buildings and Construction) and 17 (Sewers).

- (1) Ministerial Review Time. Except as set forth in paragraph (2) below, applications must be **approved or denied** within 60 days from the date the city receives a completed application if there is an existing single-family or multifamily dwelling on the lot, or the application shall be deemed approved. Where an application deviates from the objective standards of this chapter, the application may be reviewed pursuant to the procedures of Section 25.17.030(B)(2) (Deviations).
- (2) If the applicant requests a delay, the 60-day period shall be tolled for the period of the delay.
- (3) Exception to Review Time. If the permit application to create a purely ministerial ADU or JADU is submitted with an application to construct a new dwelling, the following shall apply:
- (a) The ADU or JADU shall not be subject to the 60-day approval period but shall instead be subject to the approval period for the new dwelling. However, the ADU or JADU itself shall be considered without a public hearing.
- (b) An ADU or JADU may only be constructed concurrently with or after the construction of a new dwelling unit on the same lot. A certificate of occupancy for an ADU shall not be issued prior to the certificate of occupancy for the new primary dwelling unit.
- (4) **If the city denies an application for an ADU or JADU, it shall**

provide a full set of comments with the denial listing the items that are defective or deficient and shall describe how the application can be remedied by the applicant.

~~(5) The city has acted upon the application if it:~~

~~(a) Approves or denies the building permit for the ADU and/or JADU;~~

~~(b) Informs the applicant in writing that changes to the proposed project are necessary to comply with this section or any applicable regulation;~~

~~(5) Determines that the ADU does not qualify for ministerial approval. **The City shall not deny a permit to an unpermitted ADU or JADU that was constructed before January 1, 2018 due to violations of building standards or this chapter provided that correction of the violation is not necessary to protect the health and safety of the public or the occupants of the structure. This provision shall not apply to substandard buildings.**~~

(D) Precedence in Provisions. Applications shall comply with the **objective** standards outlined in this chapter and the zoning district in which the ADU or JADU is located. In the event of a conflict between the development standards set forth in the zone and the standards of this chapter, the provisions of this chapter shall take precedence.

25.17.040 Development Standards. Unless a stated exception applies, ADUs and JADUs must comply with the development standards set forth in this section.

(A) Location. ADUs and JADUs may only be located in the following locations:

(1) Lots zoned to allow single-family or multifamily dwelling residential use and that include an existing or proposed single-family or multifamily dwelling.

(2) Lots zoned to allow non-residential uses and developed with legal nonconforming single-family and/or multi-family dwellings.

(B) Lot Area. There is no minimum lot area to establish an ADU or JADU.

(C) Number of Units. A lot may have no more than one ADU (attached, detached or converted) and one JADU, except for multifamily lots ***as described in Subsection (D)(3) below.***

(D) Guaranteed Allowance. The following types of ADUs and JADUs require compliance with this subsection D and other development standards do not apply. Coastal resource protection policies continue to apply.

(1) Attached or Detached ADUs. One attached or detached ADU up to

- 800~~850~~ square feet of floor area, **or 1000 square feet of floor area for ADUs providing more than one (1) bedroom**, a height of 16' or less and 4' minimum side and rear yard setbacks.
- (2) Converted ADUs. One ADU or **and** JADU that is within the proposed or existing space of a primary dwelling, or an accessory structure. A converted ADU may include an expansion of up to 75 square feet for any use beyond the same dimensions as the existing structure. Accessory structures may include an additional expansion of up to 150 square feet to accommodate ingress and egress. **A converted JADU must be entirely within the existing habitable space of an existing primary dwelling unit.** Converted ADUs or JADUs shall comply with the following:
- (a) The space has exterior access from the proposed or existing single-family dwelling.
 - (b) The side and rear setbacks are sufficient for fire and safety.
 - (c) The junior accessory dwelling unit complies with the requirements of Section 65852.22.
- (3) Multifamily Lots. Either converted or detached ADUs are allowed, but not both.
- (a) Converted ADUs. A minimum of one ADU may be converted from livable or non-livable space. Additional ADUs may be converted within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, up to maximum of 25% of the existing multifamily dwelling units. **A converted JADU must be entirely within the existing habitable space of an existing multifamily dwelling unit.** Each ADU shall comply with building code standards for dwellings.
 - (b) Detached ADUs. Not more than two ADUs that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling, are subject to **18**~~16~~ foot maximum height and 4 foot side and rear setbacks.
- (4) **Allowable Heights. All ADUs and JADUs shall be subject to the following height limitations:**
- (a) **16 feet for a detached ADU on a lot with an existing or proposed single family or multifamily dwelling unit.**
 - (b) **18 feet for a detached ADU on a lot with an existing or proposed single family or multifamily dwelling unit that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code. An additional 2 feet in height shall be permitted to align the roof pitch with that of the primary dwelling unit**

- (c) **18 feet for a detached ADU on a lot with an existing or proposed multifamily, multistory dwelling.**
- (d) **25 feet or the zoning code height limitation applicable to the primary dwelling, whichever is lower, for an attached ADU.**

(5) Utility Connections. ADUs and JADUs permitted under 25.17.040(D) shall not be considered new residential uses for the purposes of installing a new or separate utility connection between the ADU or JADU and the utility; or calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory structure is constructed with a new primary dwelling.

(E) ADUs and JADUs Not Subject to Section 25.17.040 Guaranteed Allowance.

(1) Minimum and Maximum Size. ADUs shall comply with the following minimum and maximum size limitations:

(a) Minimum Size for ADU and JADU: 150 square feet ("efficiency unit" per California Health and Safety Code Section 17958.1).

(b) Maximum Size for JADU: 500 square feet.

(c) Maximum Size for ADUs:

1. Detached ADUs.

1. Studios and one bedrooms: 850 square feet

2. ADUs with more than one bedroom: 1,000 square feet.

3. ADUs that are ADA compliant: 1,000 square feet

11. Attached ADUs.

1. Studios and one bedrooms: 850 square feet or 50% of the primary dwelling unit, whichever is less

2. ADUs with more than one bedroom: 1,000 square feet or 50% of the primary dwelling unit, whichever is less.

3. ADUs that are ADA compliant: 1,000 square feet or 50% of the primary dwelling unit, whichever is less.

(2) Height for New Structures.

(a) The height limit for attached and detached ADUs is set forth ~~in the zoning district in which the ADU is located~~ **in Section 25.17.040(D)(4).** ADUs above 16' in height ~~in height~~ **the height limitations** shall be subject to design review in accordance with Section 25.05.040.

(b) Building height shall be measured from the vertical distance from any point on the finished roof surface to the finished floor surface of the lowest floor measured directly below or to the natural or finished grade, whichever is more restrictive or lower. If the entire lowest floor, measured from the finished floor surface of the floor above, is located completely below natural or finished grade, whichever is more restrictive, then the building height shall be measured to the top of the finished floor of the next level directly above that

subterranean level. The height limit shall include roof chimneys, vents, mechanical enclosure, stairways and other such structural elements required for the operation of the building.

(3) Setbacks for attached or detached ADUs: ~~larger than 800 square feet.~~

- (a) Interior side and rear setbacks. A minimum of 4'.
- (b) Bluff Setback. A minimum of 25' from the top of an oceanfront bluff.
- (c) Watercourse. A minimum of 25' from the centerline of a watercourse.
- (d) Nonconforming Structure. ADUs that are created in the same location as an existing legally non-conforming structure may maintain the nonconforming setbacks **consistent with section (e) below.** Any expansions beyond the ~~dimensions~~ **location and size** of the existing legally non-conforming structure shall comply with the above setbacks.
- (e) **Greater setbacks from resources shall be imposed as necessary to protect the resources, consistent with the requirements of the certified Local Coastal Program. Resources may include, but are not limited to, hazardous areas, environmentally sensitive areas, wetlands, public views, and public trails and accessways. The provisions of Section 25.50.004(D) pertaining to additional building setbacks shall apply.**

(4) ~~Space Between Buildings. A 10' minimum separation shall be required between an attached or detached ADU and any other building. This building separation may be reduced to 3', provided there are no health and safety concerns, as set forth in the Building Code.~~ **The space between a detached ADU and another structure shall be the minimum necessary to comply with Building and Fire Code.**

- (5) Design Standards. Standards set forth in this section apply to the exterior of any ADU. Applications shall demonstrate compliance with the following:
 - (a) Architectural Standards. The exterior materials and finish, color scheme, and roof design, and pitch of an ADU above 12' in height shall be ~~similar to~~ **match** the primary dwelling building if an ADU is visible from any public or private roadways, excluding alleys.
 - (b) Lighting. Outdoor lighting must be hooded, fully shielded, and aimed downward. Light trespass that results in glare is prohibited.
 - (c) Outdoor Living Space. Covered exterior porches, decks, patios, and other outdoor living spaces attached to the ADU shall comply with the height, setbacks, and design standards above and are limited to 20% maximum floor area of the ADU.

Elevated decks more than 3' above adjacent existing grade shall require design review. Roof decks shall be prohibited.

(6) Parking

- (a) Replacement of Existing Parking. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU/JADU, ~~these off-street parking spaces need not be replaced.~~ **the demolition permit for the garage, carport, or covered parking structure shall be reviewed at the same time as the ADU application. In the Coastal Zone, the number of existing parking spaces for a single family residence or multifamily dwelling shall be replaced on site at a one-to-one ratio. However, an applicant shall not be required to provide more spaces than the minimum number of required off-street parking spaces for the primary structure(s). Replacement parking shall be done either through construction or relocation of existing parking, which may be uncovered and/or tandem, or located in the front or side setback and must be located on private property.**
- (b) On-Site ADU Parking. One parking space per ADU shall be provided. Parking spaces for ADUs must comply with the following requirements:
- i. May be tandem parking on a driveway.
 - ii. Minimum 3' from side property lines. Larger setbacks may be required based on site specific or fire and life safety conditions, as determined by the Fire Department and/or the Building Division, whichever is more restrictive.
 - iii. Not within a required on-site turnaround area.
 - ~~iv. If the Single-Family or Two-Family Dwelling unit has less than two covered spaces per dwelling unit plus an additional covered or uncovered space when the gross floor area of each residence is 3,600 or more square feet, one new parking space must be provided for the ADU but parking for the primary dwelling unit may remain nonconforming.~~
- (c) Exemptions. No parking shall be required for any of the following or in any of the following circumstances:
- i. In connection with the construction of a JADU.
 - ii. ~~In connection with the construction of a converted ADU.~~ **Accessory dwelling units converted as part of a proposed or existing habitable space of principal residence or existing accessory structure shall not require parking; however, if parking associated with the existing residence is removed by the**

converted ADU, the parking shall be replaced elsewhere on the property consistent with this section.

- iii. The ADU is deed restricted as an affordable housing unit.
- iv. The ADU is an ADA compliant housing unit.
- v. The ADU is located within one-half mile walking distance of public transit or within the Downtown Specific Plan area.
- vi. The ADU is located on a lot within 100' of free on-street parking, in a neighborhood with adequate on-street parking supply, and does not degrade the existing emergency vehicle access as determined by the City.
- vii. The ADU is located within a structure listed on the California Register of Historic Resources or the City's historic register.
- viii. The ADU is located on a property within a locked gate community.
- ix. On-street parking permits are required but not offered to the occupant of the ADU.
- x. A car share vehicle is located within one block of the ADU. **For the purposes of this section, "car-share vehicle" shall mean part of an established program intended to remain in effect at a fixed location, and available to the public.**
- xi. The ADU is proposed as part of an existing primary structure.**
- xii. The ADU application is submitted with an application for a new primary structure on the same lot.**

25.17.050 Additional Standards.

- A. Access. The ADU or JADU shall have independent exterior access from the primary dwelling. Interior access between the ADU or JADU and the primary dwelling unit is allowed
- B. Addresses. The addresses of both the primary building and ADU shall be clearly visible from the public right-of-way.
- C. Deed Restriction. JADUs shall require the recordation of a deed restriction, which shall run with the land, that includes the following:
 - (a) A prohibition on the sale of the JADU separate from the sale of the primary dwelling, including a statement that the deed restriction may be enforced against future purchasers.
 - (b) A restriction on the size and attributes of the JADU that conforms with this chapter.
- D. Fire Sprinklers. All types of ADUs and/or JADUs shall not be required to provide fire sprinklers if they are not required for the primary dwelling. A JADU shall not be considered a separate or new residential unit. Fire sprinklers may be utilized as mitigation in an alternate materials and methods proposal to provide equivalency when compliance with the California Fire Code requirement is not feasible.
- E. Historic Resources. ADUs and/or JADUs within or proposed to be within a structure listed on the California Register of Historic

Resources or the City's Register shall meet all Secretary of the Interior Standards, as applicable.

- F. Kitchen.
 - (a) ADUs shall contain a full kitchen.
 - (b) JADU shall contain an efficiency kitchen, which includes a cooking facility with appliances and a food preparation counter and storage cabinets that are of reasonable size of the JADU.
- G. **JADU Bathrooms. JADUs without a separate bathroom must have a separate entrance from the main entrance to the structure and an interior entry to the main living area.**
- H. Nonconformities. Conversions or reconstruction of legal nonconforming structures to ADUs or JADUs shall not be required to correct nonconforming zoning conditions. Conversions of legal nonconforming structures shall be required to meet all current building, electrical and fire code standards. **Nonconformities in the existing primary structures shall not be required to be corrected during or as a condition of approval of an application for an ADU or JADU.**
- I. Owner Occupancy **for JADUs**. For JADUs only, ~~t~~ The property owner shall permanently reside, as evidenced by documentation satisfactory to the city, in either the primary dwelling or the JADU.
- J. Passageway. No passageway shall be required for ADUs and/or JADUs. For the purposes of this section, "passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADUs and/or JADU.
- K. Rental Unit. The ADU or JADU shall not be rented for a period of less than 31 consecutive calendar days.
- L. Sale. The ADU shall not be sold or otherwise conveyed separate from the primary residence, unless specifically permitted by State law.
- M. Vehicular Access.
 - (a) The ADU and JADU shall utilize the same vehicular access that serves the primary buildings, unless the Fire Department and the Public Works Department finds that a secondary access will not degrade existing safety or traffic concerns. An ADU and/or JADU with new vehicular access to streets or alleys is subject to design review.

25.17.060 Utility Connections and Fees. All ADUs and JADUs shall connect to public utilities, including but not limited to water, electric, and sewer services.

- (1) New construction. The city may require a new or separate utility connection directly between the ADU and the utility. Consistent with California Government Code Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate

to the burden of the proposed ADU, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the current adopted California Plumbing Code, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

- (2) Impact Fees. No impact fees shall be imposed to an ADU less than 750 square feet in size. Any impact fees charged for an ADU of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling.
- (3) Onsite Water Treatment System. An ADU proposed to be connected to an onsite water treatment system shall require a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years prior as part of the application submittal. Approval by the local health officer may be required.

25.17.070 Affordable Housing Unit.

- (A) In order to encourage the use of ADUs to provide affordable housing as defined by the California Department of Housing and Community Development, the following described fee refunds shall be available. In order to obtain the incentive, the property owner must limit by deed restriction, covenant, and/or other instrument the occupancy of the ADU, based on the income limits and applicable rental rates established annually by the state of California. The city may impose conditions and penalties for noncompliance with the affordability restrictions. Deed Restriction. If the owner has requested the incentives in this section, prior to the issuance of a building permit, the property owner shall record a deed restriction with the County Recorder's Office, the form and content of which is satisfactory to the City Attorney. The deed restriction document shall notify future owners of the owner occupancy requirements, prohibition restrictions on short-term rentals, and annual reporting requirements. The deed restriction shall remain in effect for a minimum of 10 years.
- (B) Incentives. All city building, planning, zoning, and impact fees shall be refunded after building permit final, excluding consultant review fees.

25.17.080 Accessible Housing Unit.

Notwithstanding any ordinance or regulation mandating the payment of building, planning, and/or zoning permit fees, and in order to encourage the use of ADUs to provide accessible housing unit as defined by U.S. Department of Housing and Urban Development Section 504, all city building, planning, zoning, shall be refunded after building permit final, excluding consultant

review fees and impact fees pursuant to Government Code section 66000 et seq.

25.17.90 Coastal Development Permit.

Nothing in this chapter shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the California Public Resources Code), except that the City shall not be required to hold public hearings for coastal development permit applications for ADUs. **This chapter shall not be implemented in a way that would be inconsistent with some or all other coastal resource protection policies within the certified LCP and/or the Coastal Act.**

25.17.100 Notification.

No public notice or hearing shall be required unless the ADU and/or JADU do not meet the standards of this chapter or requires a discretionary permit, including but not limited to a Coastal Development Permit. The noticing and appeal requirements shall follow the requirements of the discretionary permit.

25.17.110 Code Enforcement Amnesty.

Delay in Enforcement. The City, until January 1, 2030, shall include in a notice to correct a violation of any provision of any building standard relating to an ADU or a JADU a statement that the owner of the unit has a right to request a delay in enforcement pursuant to the following:

- (A) The ADU or JADU was built before January 1, 2020.
- (B) The ADU was built on or after January 1, 2020, at the time the ADU was built, had a noncompliant ADU ordinance, but the ordinance is compliant at the time the request is made.
- (C) The owner of such an ADU that receives a notice to correct violations or abate nuisances must apply to the City requesting that enforcement of the violation be delayed for five years on the basis that correcting the violation is not necessary to protect health and safety. Examples of violations that require correction include, but are not limited to, gas line connections, electrical wiring of improper size and terminations, no venting for mechanical equipment, no natural light and ventilation, and structural stability.
- (D) The Director shall grant the delay in enforcement if the Director determines that correcting the violation is not necessary to protect health and safety, including but not limited to building standards and fire and safety standards.

B. CONSISTENCY ANALYSIS

IP Amendment Request

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

Relevant LUP Policies

Policy 2.10 Maximize the preservation of coastal and canyon views (consistent with the principle of view equity) from existing properties and minimize blockage of existing public and private views. Best efforts should be made to site new development in locations that minimize adverse impacts on views from public locations (e.g., roads, bluff top trails, visitor-serving facilities, etc.).

Action 6.12.1 Evaluate incentives for the development of affordable residential units in conjunction with mixed-use development in commercial zones.

Policy 7.3 Design and site new development to protect natural and environmentally sensitive resources, such as areas of unique scenic quality, public views, and visual compatibility with surrounding uses and to minimize natural landform alterations.

Action 7.3.2 Review all applications for new development to determine potential threats from coastal and other hazards.

Action 7.3.3 Design and site new development to avoid hazardous areas and minimize risks to life and property from coastal and other hazards.

Action 7.3.4 Require new development to assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Action 7.3.9 Ensure that new development, major remodels and additions to existing structures on oceanfront and oceanfront bluff sites do not rely on existing or future bluff/shoreline protection devices to establish geologic stability or protection from coastal hazards. A condition of the permit for all such new development on bluff property shall expressly require waiver of any such rights to a new bluff/shoreline protection device in the future and recording of said waiver on the title of the property as a deed restriction.

Action 7.3.11 Require all coastal development permit applications for new development on an oceanfront or on an oceanfront bluff property subject to wave action to assess the

potential for flooding or damage from waves, storm surge, or seiches, through a wave uprush and impact report prepared by a licensed civil engineer with expertise in coastal processes. The conditions that shall be considered in a wave uprush study are: a seasonally eroded beach combined with long-term (75 years) erosion; high tide conditions, combined with long-term (75 year) projections for sea level rise; storm waves from a 100-year event or a storm that compares to the 1982/83 El Nino event.

Action 7.3.12 Site and design new structures to avoid the need for shoreline and/or oceanfront bluff protective devices during the economic life of the structure (75 years).

Action 7.3.13 Limit the use of shoreline/bluff protective devices to the minimum required to protect existing development in danger from erosion. Site and design any such protective devices as far landward as possible. "Existing development" for purposes of this policy shall consist only of a principle structure, e.g. residential dwelling, required garage, or second residential unit, and shall not include accessory or ancillary structures such as decks, patios, pools, tennis courts, cabanas, stairs, landscaping etc. No shoreline/bluff protective device shall be allowed for the sole purpose of protecting an accessory structure.

Action 8.8.1 Evaluate and update parking standards to ensure sufficient parking for new development and/or an intensification of use.

Policy 10.2 Design and site new development to protect natural and environmentally sensitive resources such as areas of unique scenic quality, public views, and visual compatibility with surrounding uses and to minimize landform alterations.

Action 10.2.1 Adopt standards that require new development and related improvements to be located on the most suitable areas of the site so as to maximize safety and the preservation of sensitive resources.

Action 10.2.2 Evaluate the slope/density formula applied to the R-HP Residential Hillside Protection Zone and amend as necessary to ensure a density that is compatible with the topography.

Action 10.2.5 On bluff sites, require applications where applicable, to include a geologic/soils/geotechnical study that identifies any geologic hazards affecting the proposed project site, any necessary mitigation measures, and contains statements that the project site is suitable for the proposed development and that the development will be safe from geologic hazard for its economic life. For development on oceanfront bluffs, such reports shall include slope stability analyses and estimates of the long-term average bluff retreat/erosion rate over the expected life of the development. Reports are to be prepared/signed by a licensed professional Engineering Geologist or Geotechnical Engineer.

Action 10.2.7 Require all new development located on oceanfront bluffs to be sited in accordance with the stringline but not less than 25 feet from the bluff edge. This

requirement shall apply to the principal structure and major accessory structures such as guesthouses and pools that require a structural foundation. The setback shall be increased where necessary to ensure geologic safety and stability of the development.

Action 10.2.8 On oceanfront bluffs, require new minor accessory structures such as decks, patios and walkways that do not require structural foundations to be sited in accordance with stringline but not less than 10 feet from the bluff edge. Require accessory structures to be removed or relocated landward when threatened by erosion, geologic instability or other coastal hazards.

Policy 10.3 Ensure that all new development, including subdivisions, the creation of new building sites and remodels that involve building additions, is evaluated to ascertain potential negative impacts on natural resources, ESHA and existing adjacent development. Proposed development shall emphasize ESHA impact avoidance over impact mitigation. Any mitigation required due to an unavoidable negative impact should be located on-site rather than off-site, where feasible. Any off-site mitigation should be located within the City's boundaries and in close proximity to the project.

Action 10.3.1 Continue preparation of initial studies, pursuant to the California Environment Quality Act (CEQA), for any proposed development, including single-family residences, located within environmentally sensitive areas.

Action 10.3.2 Continue to require in-depth analysis of constraint issues for properties, especially those designated on the City's hazard maps so that the nature of the constraint and the best options for mitigation or avoidance will be considered at all stages of the approval process since these constraints may affect what development is appropriate for the property

Action 10.6.3 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.

As discussed above, any amendments to the IP portion of the City's certified LCP must be consistent with the certified LUP. When new State law is proposed to be implemented into a certified LCP, both the LCP and new State law must be consistent with each other (or "harmonized") as best as practical. In this case, the State laws regarding ADUs contain development standards (including height, setback, and parking standards), that require an amendment to the certified LCP so that ADUs and JADUs may be constructed consistent with the State ADU law while also protecting coastal resources consistent with the Coastal Act as required by the certified LUP. The submitted IP amendment includes several revisions to bring the City's ADU ordinance into compliance with the State ADU laws, but modifications to the amendment are necessary to modernize the LCP so it remains consistent with the coastal resource protection policies.

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LCPA 5-LGB-22-0003-3- Part A
(ADUs)

Suggested modifications require new ADUs/JADUs to conform to certified IP Sections 25.52.020, 25.52.022, and 25.52.024. These sections guide coastal resource protection standards in bluff districts, canyon districts, areas with scenic or visual resources, and environmentally sensitive areas. Suggested modifications ensure that new ADU/JADU development is protective of coastal resources, consistent with LUP policies 2.10, 6.12, 7.3, 10.2, and 10.3.

Policy 2.10 requires preservation of coastal and canyon views, while Policy 7.3 requires new development to protect environmental resources such as areas of unique scenic quality and public views. Greater height and building size limits from the State laws added to the LCP through **Suggested Modification #3** shall be dependent on type and location of the ADU, consistent with LUP Policies 2.10 and 7.3.

Action 6.12.1 of Policy 6.12 encourages an increase of affordable residential units. **Suggested Modification #1** updates the definition of “Converted ADU” to include the conversion of a garage into an ADU, encouraging more opportunity for the development of new ADUs. Actions 7.3.2, 7.3.3, and 7.3.11 of Policy 7.3 require new development to be designed and reviewed to avoid potential threats, avoid hazardous areas, and minimize risk to life. **Suggested Modification #2** requires assurance that health and safety measures are met, pursuant to Actions 7.3.2, 7.3.3, and 7.3.11, while requiring analysis of applications to be approved or denied in a timely manner to encourage an increase in affordable residential units, consistent with Action 6.12.1.

Action 7.3.13 of Policy 7.3 further limits the use of shoreline/bluff protective devices to minimize erosion. Policy 10.3 requires new development to be designed to protect natural and environmentally sensitive resources. Action 8.8.1 requires parking standards to be updated and maintained to ensure sufficient parking is provided along with new development. **Suggested Modification #4** requires that greater ADU/JADU setbacks may be imposed if the ADU/JADU is subject to special coastal resource protections, pursuant to Policies 7.3 and 10.3. **Suggested Modification #4** also updates LCP parking replacement regulations and exemptions to be more permissible for the construction of ADUs pursuant to State law, while maintaining that new ADU/JADU construction conform to all development standards of the zone in which the property is located, including parking requirements, consistent with Action 8.8.1.

Actions 10.2.1 through 10.2.8 of Policy 10.2 of the certified LUP require new development, including ADUs, to be undertaken in a manner that protects coastal resources including environmentally sensitive areas, visual compatibility and character of the area, public views, and limitations of landform alterations. Actions 10.3.1 and 10.3.2 of Policy 10.3 require initial studies and in-depth analyses constraint issues for properties to ensure that new development is evaluated to ascertain negative impacts to natural and environmentally sensitive resources. Action 10.6.3 of Policy 10.6 further requires that no new division of land take place requiring new fuel modification to protect new development. **Suggested Modification #5** clarifies that existing primary structures are not required to correct non-conforming aspects of the primary structure in order to be permitted to

construct a new ADU or JADU. However, the new ADU/ JADU shall not increase the degree of non-conformity of the development with other LCP requirements. The new ADU/ JADU shall be designed to protect natural and environmentally sensitive resources and avoid potential negative impacts on natural resources, Environmentally Sensitive Areas, and existing adjacent development, pursuant to LUP policies 10.2, 10.3, and 10.6. These modifications ensure that the proposed amendment is consistent with the current provisions of the State ADU laws.

In addition to the modifications listed above, **Suggested Modification #6** requires that Chapter 25.17 harmonize with all other coastal resource protection policies within the certified LCP and Coastal Act. Overall, the proposed amendment can only be found to be consistent with the LUP public access, development, and sensitive habitat policies if approved with the Commission's suggested modifications, as detailed above.

C. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

As set forth in Section 21080.9 of the California Public Resources Code, the California Environmental Quality Act (CEQA) exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program (LCP). The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. (14 CCR § 15251(f).) Nevertheless, the Commission is required in approving an LCP submittal to find that the LCP conforms with the provisions of CEQA, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

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