

CALIFORNIA COASTAL COMMISSION

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Th12c

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 PARTS B AND C (LOCAL
COASTAL DEVELOPMENT PERMIT PROCEDURES, CORRECTIONS TO
CLERICAL ERRORS, MODIFICATION TO TIME EXTENSIONS, AND
AUTHORIZATION FOR ADMINISTRATIVE ACTIONS FOR LOCAL PERMITS
OTHER THAN LOCAL CDPs) 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 Parts B and C is a major amendment that would make changes to IP Section 25.05.030 (Conditional Use Permits), and IP Chapter 25.07 (Coastal Development Permits) to correct clerical errors, modify time extension procedures for locally issued coastal development permits (CDP), and authorize administrative approval of modifications to discretionary applications associated with the Coastal Commission-approved CDPs.

In June 2020, the California Coastal Commission approved, with modifications, a LCP Amendment to revise portions of the City's Municipal Code associated with CDPs. The City Council adopted an ordinance amending the Municipal Code provisions as modified by the Coastal Commission. Coastal Commission staff identified some minor clerical errors and omissions that occurred during adoption and required that the City make appropriate corrections. In addition to the clerical corrections, the City is proposing the abovementioned amendment to Chapter 25.07 (Coastal Development Permits) and Section 25.05.030 (Conditional Use Permits).

The Laguna Beach Planning Commission held a public hearing on the CDP Amendment on November 2, 2021, and the Laguna Beach City Council held a public hearing on November 16, 2021, to initiate the LCP Amendment. The City Council adopted City Council

Zoning Ordinance Amendment Numbers 21-8780 and 21-10064 and LCP Amendment Numbers 21-8778 and 21-10065 on November 16, 2021, authorizing City staff to submit the LCP Amendment to the Coastal Commission ([Exhibit 1](#)). 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 the Commission to take action on the LCP Amendment request is March 4, 2023.

This report addresses Parts B and C of the submittal only. Part A of the amendment can be found in a separate staff report labeled LCP-5-LGB-22-0003-3 Part A dated January 26, 2023. Parts B and C are 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 Parts B and C, 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 two suggested modifications to ensure the dispute resolution process on City actions is consistent with the Commission's regulations and that proposed changes to modify time extensions for CDPs, clarify an exemption category related to accessory dwelling units, and authorize the Director to grant administrative approval of changes to discretionary applications associated with CDPs are adequately protective of public access and coastal resources and consistent with State laws regarding ADU development. **Suggested Modification #1** updates the dispute resolution provisions from the LCP based on outdated practices to match current dispute resolutions in Commission Regulations Section 13569 to include the increased flexibility and streamlined processes used in recent practice. **Suggested Modification #2** clarifies that conversions of space for guest houses and self-contained accessory dwelling units are not exempt from a CDP unless it is determined that the conversion is within the existing walls or a habitable area of the primary dwelling unit on the property. The suggested modification also includes the definition of a habitable area to be an area that meets the requirements of the California Building Code (CBC).

If modified as suggested, the City's IP Ordinances will conform with, and will be adequate to carry out, the requirements of the certified Land Use Plan (LUP). The resolutions and motions begin on **Page 5**. The suggested modifications are detailed Section IV.A and in Appendix 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 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,

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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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Exhibit 1: City of Laguna Beach Zoning Ordinance Amendment Numbers. 21-8780 and 21-10064 and LCP Amendment Numbers 21-8778 and 21-10065

Exhibit 2: IP Amendment Clean Text with 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 amendment conforms with, and is 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.”

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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 CDP Amendment on November 2, 2021, and the Laguna Beach City Council held a public hearing on November 16, 2021, to initiate the LCP Amendment. The City Council adopted City Council Zoning Ordinance Amendment Numbers 21-8780 and 21-10064 and LCP Amendment Numbers 21-8778 and 21-10065 on November 16, 2021, authorizing City staff to submit the LCP Amendment to the Coastal Commission ([Exhibit 1](#)).

All of the local hearings for the LCP 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 Parts B and C is legally adequate. If the City does not accept the suggested modifications within six months of the Commission's action, then the LCP amendment remains uncertified and not effective within the coastal zone.

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 B AS SUBMITTED

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

Staff recommends a **YES** vote. Failure of this motion will result in denial of Part B 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 B as submitted by the City of Laguna Beach and adopts the findings set forth below on the grounds that Part B does not conform with the Land Use Plan. Certification of the Implementation Plan Amendment Part B 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 Part B may have on the environment.

B. CERTIFY LCP AMENDMENT LCP-5-LGB-22-0003-3 PART B 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 B 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 Part B 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 B if modified as suggested and adopts the findings set forth below on the grounds that Part B conforms with the LUP. Certification of Part B 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 Part B on the environment, or 2) there are no feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which Part B may have on the environment.

C. CERTIFY LCP AMENDMENT LCP-5-LGB-22-0003-3 PART C AS SUBMITTED

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

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

Resolution to Certify As Submitted:

The Commission hereby certifies the Implementation Plan Amendment LCP-5-LGB-22-0003-3 Part C as submitted and adopts the findings set forth below on grounds that Part C conforms with, and is adequate to carry out, the provisions of the certified LUP, and certification of Part C will meet the requirements of 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 Part C on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the IP Amendment.

III. SUGGESTED MODIFICATIONS

Certification of the LCP amendments listed above are subject to the modifications found in Part IV of this staff report. Staff is recommending two modifications to the City's submittal within Section 25.05.030 (Conditional Use Permits), and IP Chapter 25.07 (Coastal Development Permits). **Suggested Modification #1** updates the dispute resolution provisions from the LCP that are currently based on outdated practices to match current dispute resolutions in Commission Regulations Section 13569 to include the increased flexibility and streamlined processes used in recent practice. **Suggested Modification #2** clarifies that conversions of space for guest houses and self-contained ADUs are not exempt from a CDP unless it is determined that the conversion is within the existing walls of the habitable area of the primary dwelling unit on the property. The suggested modification also includes the definition of habitable areas to be an area that meets the requirements of the California Building Code (CBC).

IV. FINDINGS AND DECLARATIONS

A. LCP AMENDMENTS DESCRIPTION

The amendment would adopt LCP Amendments 21-8778 and 21-10065, IP Section 25.05.030 (Conditional Use Permits), and IP Chapter 25.07 (Coastal Development Permits) ([Exhibit 1](#)). Specifically, LCP-5-LGB-22-0003-3 Part B and C would update local CDP procedures to correct clerical errors, modify time extensions for CDPs from six months to two years, to be consistent with time extensions, and authorize administrative actions to bring local permits (other than local CDPs) into conformity with Commission-approved CDPs granted for other associated entitlements, authorize the Director to grant administrative approval of changes to discretionary applications associated with CDPs, and clarify an exemption category related to ADUs.

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 suggested modifications are shown in **bold double underline** and text suggested to be deleted is shown in ~~double strikethrough~~. The proposed new IP language is shown in the following subsections.

Part B

Provided below are the current Municipal Code sections with the City's proposed clerical corrections to several LCP subsections and the Commission's suggested modifications to Section 25.07.012:

Section 25.05.040(B)(l) Design Review

(o) Fuel modification programs subject to the provisions of sections 25.05.040(C)(3) and (4); provided, that once a program has received approval, subsequent approval for maintenance of the fuel modification will be granted by the Director of Community Development, if that maintenance is in conformance with the intent and objectives of the originally approved program;

Section 25.07.008 Exemptions

(A)(l)(b) Improvements to any structure where the structure or the improvement is located on a beach, in a wetland or stream, seaward of the mean high tide line within fifty feet of a coastal bluff edge, in an environmentally sensitive ~~habitat~~ area, and/or in an area designated as highly scenic in the certified Land Use Plan;

(A)(6)(c)(2) The event and its associated activities or access requirements will either directly or indirectly impact environmentally sensitive ~~habitat~~ areas, rare or endangered species, significant scenic resources, or other coastal resources as defined in this section.

(A)(6)(d)(5) "Coastal resources" include, but are not limited to, public access opportunities, visitor and recreational facilities, water-oriented activities, marine resources, biological resources, environmentally sensitive ~~habitat~~ areas, agricultural lands, and archaeological or paleontological resources.

Section 25.07.012 (Procedures)

Each coastal development permit application ~~may~~ shall be approved or conditionally approved only after the approving authority has reviewed the development project and made all of the following findings processed in accordance with the following requirements:

(B) Where an applicant, interested person, or a local government has a question as to the appropriate designation for the development, the following procedures shall establish whether a development is exempt, categorically excluded, non-appealable or appealable:

~~(1) The local government shall make its determination as to what type of development is being proposed and shall inform the applicant of the notice and hearing requirements for that particular development. The~~

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~~local determination may be made by any designated local government employee(s) or any local body as provided in local government procedures.~~ **The determination of whether a proposed development is exempt or categorically excluded, or whether a decision on the proposal would be appealable to the Coastal Commission, shall be made by the local government as soon as practicable after the application for development or the request for exemption or categorical exclusion within the coastal zone is submitted to the local government. This determination shall be made according to the provisions of the Coastal Act, the certified Local Coastal Program, and Coastal Commission Regulations Sections 13240-13253 and 13300 et seq., including based upon applicable maps, coastal resources existing at the time of the application or request, categorical exclusions, land use designations, and zoning ordinances.**

(2) ~~If the determination of the local government is challenged by the applicant or an interested person, or if the local government wishes to have a Coastal Commission determination as to the appropriate designation, the local government shall notify the Commission by telephone of the dispute/question and shall request the executive director's opinion.~~ **The local government shall inform the applicant and the Coastal Commission's South Coast district office in writing of its determination as soon as practicable and at a minimum prior to providing the required notice for any potential permit action and prior to allowing any activity without a permit (for exemptions and exclusions), with reference to any notice and hearing requirements.**

(3) ~~The executive director shall, within thirty (30) working days of the local government request (or upon completion of a site inspection where such inspection is warranted), transmit his or her determination as to whether the development is exempt, categorically excluded, non-appealable or appealable.~~ **The Coastal Commission's executive director may review the local government determination independently, or at the request of the applicant or an interested person(s). If the executive director reviews the local government determination, he or she shall inform the local government of said review, and the local government shall supply, at a minimum, a copy of the application or request and a copy of its determination to the executive director. Within 30 working days, unless extended by the executive director for good cause, the executive director shall notify the local government, the applicant, and the interested person(s) who requested review, if any, in writing of his or her determination regarding whether the proposed development or request qualifies for exemption or categorical**

exclusion, or whether local government decisions on a permit for the proposed development would be appealable to the Coastal Commission.

~~(4) Where, after the executive director's investigation, the executive director's determination is not in accordance with the local government determination, the Coastal Commission shall hold a hearing for purposes of determining the appropriate designation for the area. The Commission shall schedule the hearing on the determination for the next Commission meeting (in the appropriate geographic region of the state) following the local government request. If the executive director's determination regarding the appropriate permitting process for the proposed development or request is the same as the local government's, then that determination shall apply to that proposed development or request, and there is no further challenge available. If the executive director's determination conflicts with the local government's determination, and the respective staffs are not able to resolve the conflict and reach agreement on the appropriate permitting process for the proposed development or request in a reasonable time, the executive director shall schedule a hearing as soon as practicable for the Commission to resolve the dispute. Only the local government, the applicant, and the interested person(s), if any, who made the request for review may testify at the hearing. Any person may submit written comments. The Commission shall make findings to support its decision, which shall be provided to the local government.~~

CDP Exemption for Accessory Dwelling Unit: Provided below are the current Municipal Code sections, with proposed language for the exemption provision pertaining to accessory dwelling units to expressly exempt conversions of existing space within a residential structure from requiring a coastal development permit.

Section 25.07.008 Exemptions

(A)(I) Improvements to Single-Family Dwellings. Improvements to single-family dwellings and mobile homes, including structures located on the same lot as the single-family dwelling **that** are normally associated with a single-family dwelling such as garages, swimming pools, fences, storage sheds and landscaping, are exempt unless classified as one of the following:

(a) Guest houses and self-contained accessory dwelling units (excluding conversions of ~~space~~ habitable area within the walls of the primary dwelling unit; where habitable area means an area that meets the requirements of the California Building Code (CBC) for sleeping, living, cooking, or dining purposes, excluding enclosed places (e.g., closets, bath or toilet rooms, hallways, laundries, pantries, storage spaces, utility rooms,

Part C

Time Extensions for Coastal Development Permits ("CDPs"): The current code allows the City to grant a two-year time extension followed by a final one-year extension for conditional use permits, variances, and design review applications. (This time extension is in addition to the initial two-year time period allowed from project approval, for a total time period of five years.) However, CDPs are only allowed a single six-month extension. Provided below are the current Municipal Code sections, with proposed language for CDP time extensions to now match time extensions for other entitlements.

Section 25.07.012(1) Effective Date of Coastal Development Permits

- (4) For City-issued coastal development permits that are not appealed to the Coastal Commission, the approving authority may grant ~~an extension of time the permit is valid not to exceed an additional six month~~ a two-year extension of time and, after that initial extension of time, a final one-year extension of time period for due cause. Such time extension shall be requested in writing by the applicant or authorized agent prior to expiration of the beginning two-year period approval period or any subsequently approved extensions of time.

(a) Extension of Time Findings. An extension of time of the beginning two-year approval period may be granted by the approving authority, if each of the following findings can be made:

(i) The zoning codes or standards applicable to the circumstances of the originally approved conditional use permit have not materially changed; and

(ii) The neighborhood character has not changed so as to be materially inconsistent with the findings made when the conditional use permit was originally approved.

Minor Changes to Coastal Commission-Approved Coastal Development Permits ("CDPs"): City Staff is proposing a new provision that would authorize the Community Development Director ("Director") to administratively approve minor changes to local entitlements (Design Review, Use Permit, etc.) that are associated with a CDP acted on by the Coastal Commission, as specified below. This would typically occur when a project is appealed to the Coastal Commission and modifications are made that reduce the scope of the project. The Director would also have the discretion to refer any changes directly to the final decision-making body for consideration, specifically when the amendment is not consistent with the four standards listed below.

Section 25.07.016 Appeals for Coastal Development Permits

(C) Coastal Development Permits Approved by the Coastal Commission. The director of community development may administratively, and as a ministerial matter, authorize changes to design review, conditional use permits, and other entitlements associated with a coastal development permit approved by the Coastal Commission, on appeal, subject to the following:

(1) The changes are consistent with the coastal development permit approved by the Coastal Commission;

(2) The changes do not result in an expansion or enlargement of the project, or a material change in fundamental operational characteristics of the use;

(3) The changes do not have the potential for new or more severe unmitigated adverse impacts on the surrounding neighborhood or community; and

(4) The changes are consistent with the City's Local Coastal Program, General Plan, the California Environmental Quality Act and the California Coastal Act.

In lieu of administratively authorizing changes, the director may refer any change approved by the Coastal Commission to the final decision-making body of the city for review and action.

Section 25.05.030 Conditional Use Permit

(K) Modifications. Additions, enlargements or modifications of uses or structures upon property for which a conditional use permit has been granted shall not be allowed except pursuant to a subsequent conditional use permit as might otherwise be required or granted pursuant to the terms of this title. Modifications to a conditional use permit associated with a coastal development permit may be authorized in accordance with Section 25.07.016(C).

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 5.1 Establish standards and review procedures to ensure that infill development and/or redevelopment is neighborhood compatible.

Action 5.1.1 Improve design guidelines and review procedures to more effectively evaluate development projects.

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 7.3.11 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.

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

The proposed LCP amendment includes an addition to IP Section 25.07.012 that

would authorize the Director to grant administrative approval of changes to discretionary applications associated with CDPs in a manner that maintains consistency with the certified LCP policies and relevant Coastal Act Chapter 3 policies. Although the proposed amendment includes several revisions to ensure compliance, the amendment as submitted in IP Section 25.07.012 (B)(1) through (B)(4), is based on outdated Commission regulations that do not reflect recent processes taken by the Commission. The amendment as submitted contains inflexible and impractical deadlines to accomplish up-to-date analysis and lacks comprehensive guidelines for circumstances where a third party is seeking review from the Commission's Executive Director. Action 5.1.1 of Policy 5.1 requires the improvement of guidelines and review procedures to evaluate development projects more effectively, such as the regulations within IP Section 25.07.012. Therefore, **Suggested Modification #1** updates the dispute resolution language to match updated dispute resolution regulations found in Commission Regulations Section 13569. The procedures laid out in Section 13569 provide more flexibility and realistic deadlines for CDP analysis. The suggested modification further clarifies that in circumstances where a third party is seeking Commission review from the Executive Director, and Commission determination is in alignment with the local government's determination, then that determination is final and there is no public hearing on dispute resolution.

As recently determined by the Coastal Commission and the Executive Director through review of permit applications and LCP procedures, an interior remodel within the habitable area of an existing primary structure with no exterior changes is not classified as development requiring a CDP. Accordingly, the proposed amendment includes additional language to add clarification to IP Section 25.07.008 pertaining to ADUs to expressly exempt conversions of existing habitable area within a residential structure from requiring a CDP. However, the additional language proposed by the City would cause guest houses and self-contained ADUs that are not part of the habitable area of an existing primary structure to be exempt from obtaining a CDP, inconsistent with prior Commission actions and the Commission's interpretation of its regulations and the certified Laguna Beach LUP which is the standard of review. Policy 5.1 of the certified LUP requires established procedures from the IP to ensure infill development and/or redevelopment is neighborhood compatible. An increase in habitable area from a self-contained structure on a property, outside of the primary structure, would require additional analysis to ensure this neighborhood compatibility. Actions 7.3.2, 7.3.3, and 7.3.11 of Policy 7.3 as well as Action 10.3.1 and Action 10.3.2 of Policy 10.3 require the review of all new development applications to determine potential threats to protect natural and environmentally sensitive resources and minimize risk to life. New habitable space outside of a primary structure would also require additional analysis to ensure protection from potential hazards. Therefore, **Suggested Modification #2** clarifies that ADUs are not exempt from obtaining a CDP unless it is determined that the conversion would take place within a habitable area of the primary dwelling unit, and includes a subsection that would define "habitable area" as part of the suggested modification, consistent with LUP policies 5.1 and 10.3.

Overall, the proposed amendment can only be found to be consistent with the certified LCP policies and relevant Coastal Act Chapter 3 policies if approved with the Commission's suggested modifications detailed above. Other changes proposed by the City are intended to improve the text flow and grammar of the IP sections to be more

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consistent with community language. The other changes are minor in that they do not change the interpretation or intent of the IP sections and serve to carry out the LUP policies referenced 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 Parts B and C, 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.