

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
301 E. OCEAN BLVD., SUITE 300
LONG BEACH, CA 90802
(562) 590-5071



Th10b

Date: August 18, 2023

To: COMMISSIONERS AND INTERESTED PERSONS

From: KARL SCHWING, DEPUTY DIRECTOR, SOUTH COAST DISTRICT
SHANNON VAUGHN, DISTRICT MANAGER, 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-22-0021-2 (Building Height Allowances for
Commercial Structures) for Commission Meeting of September 6-8, 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-22-0021-2 is a major amendment that would amend Implementation Plan (IP) Chapters 25.18, 25.19, 25.20, 25.21, 25.25, 25.28, and 25.32 relating to building height allowances for commercial structures providing subterranean parking facilities. Commercial buildings within the City of Laguna Beach are subject to the applicable height limits measured vertically to any point along the applicable reference line that creates a horizontal plane longitudinally over the entire lot, or no more than 36 feet from the lowest finished floor elevation, whichever is more restrictive. Currently, in circumstances where the 36-foot height limit is used, most commercial zones exempt subterranean parking garage floor level(s) from the 36-foot measurement in cases where the garage access ramp begins its descent within the ground floor building footprint. The proposed amendment would replicate this approach to allow subterranean garages designed with an access ramp outside of the building footprint to be exempted from the same 36-foot height limit. In accordance with IP Section 25.08.016, the proposed amendment would allow building height measurements to begin from the more restrictive of the existing grade, finished grade, or finished floor surface of the first non-subterranean floor level, rather than below grade for commercial buildings that include subterranean parking, regardless of where the parking garage access ramp begins its descent. This adjustment would incentivize development in the City of below-grade parking as an alternative to surface parking facilities for increased access that is visually compatible with the surrounding uses.

The Laguna Beach Planning Commission held public hearings on the proposed amendment on October 6, 2021 and January 5, 2022, and the Laguna Beach City Council held a public hearing on April 26, 2022 to initiate the LCP Amendment. The City Council adopted City Council Ordinance No. 1673 and LCP Amendment 21-9984 on May 10, 2022, authorizing City staff to submit the LCP Amendment to the Coastal Commission ([Exhibit 1](#)).

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission, after public hearing, **approve LCP** Amendment Request No. LCP-5-LGB-22-0021-2, 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. The suggested modifications would apply to IP Chapters 25.18, 25.19, 25.20, 25.21, 25.25, 25.28, and 25.32 relating to building height allowances for commercial structures, which are the same sections proposed to be amended as submitted by the City.

Suggested Modification #1 adds tribal cultural resource protection requirements for projects involving excavation for garages or subterranean floors that are fully or partially below the existing grade.

Suggested Modification #2 establishes criteria for the identification and mitigation of impacts to archaeological or paleontological resources through initial evaluation of the project site and monitoring as needed.

Suggested Modification #3 removes the City's proposed language to require compliance with criteria within the City's "Guidelines for Commercial Garage Design", as the guidelines are not integrally related to the Coastal Act policies.

The City submitted a completed LCP Amendment request on June 6, 2022. On August 11, 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 September 15, 2023.

If modified as suggested, the City's amended IP Ordinances will conform with, and will be adequate to carry out, the requirements of the certified LUP. The motions and resolutions begin on **Page 5**. The suggested modifications are detailed in Section III of this staff report.

ADDITIONAL INFORMATION

Further information on the City of Laguna Beach LCP Amendment LCP-5-LGB-22-0021-2 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, September 1, 2023.

TABLE OF CONTENTS

SUMMARY OF LCP AMENDMENT REQUEST	1
SUMMARY OF STAFF RECOMMENDATION	2
I. PROCEDURAL ISSUES.....	3
A. STANDARD OF REVIEW	3
B. PUBLIC PARTICIPATION.....	3
C. PROCEDURAL REQUIREMENTS	4
II. MOTION AND RESOLUTIONS	5
A. DENY LCP AMENDMENT LCP-5-LGB-22-0021-2 AS SUBMITTED.....	5
B. CERTIFY LCP AMENDMENT LCP-5-LGB-22-0021-2 WITH SUGGESTED MODIFICATIONS	5
III. SUGGESTED MODIFICATIONS	6
IV. FINDINGS AND DECLARATIONS – DENIAL OF AMENDMENT NO. LCP-5-LGB-22-0021-2 (BUILDING HEIGHT ALLOWANCES FOR COMMERCIAL STRUCTURES) AS SUBMITTED AND APPROVAL AS MODIFIED	6
A. LCP AMENDMENT DESCRIPTION.....	6
B. CONSISTENCY ANALYSIS	21
C. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).....	24

EXHIBITS

[Exhibit 1: City of Laguna Beach LCP Amendment No. 21-9984 and Zoning Ordinance Amendment No. 1673](#)

I. PROCEDURAL ISSUES

A. STANDARD OF REVIEW

The standard of review for the proposed amendment to the LCP Implementing Plan (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.”

City of Laguna Beach LCP Amendment No.
LCP-5-LGB-22-0021-2 (Building Height Allowances for Commercial Structures)

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 public hearings on the proposed amendment on October 6, 2021 and January 5, 2022, and the Laguna Beach City Council held a public hearing on April 26, 2022 to initiate the LCP Amendment. The City Council adopted City Council Ordinance No. 1673 and LCP Amendment 21-9984 on May 10, 2022, authorizing City staff to submit the LCP Amendment to the Coastal Commission ([Exhibit 1](#)). On August 11, 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 September 15, 2023.

All of the local hearings 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-22-0021-2 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-22-0021-2 AS SUBMITTED

Motion I: I move that the Commission reject Implementation Plan Amendment No. LCP-5-LGB-22-0021-2 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-22-0021-2 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-22-0021-2 WITH SUGGESTED MODIFICATIONS

Motion II: I move that the Commission certify the City of Laguna Beach's Implementation Plan Amendment No. LCP-5-LGB-22-0021-2 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-22-0021-2 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) of this staff report. Commission staff is recommending a total of three modifications, developed in coordination with City of Laguna Beach staff, to IP Chapters 25.18, 25.19, 25.20, 25.21, 25.25, 25.28, and 25.32 relating to building height allowances for commercial structures. **Suggested Modification #1** adds tribal cultural resource protection requirements to subsection (c) for projects involving excavation for garages or subterranean floors that are fully or partially below the existing grade. **Suggested Modification #2** establishes criteria in subsection (d) for the identification and mitigation of impacts to archaeological or paleontological resources through initial evaluation of the project site and monitoring as needed. **Suggested Modification #3** removes the City's proposed language in subsection (b) to require compliance with criteria within the City's "Guidelines for Commercial Garage Design", as the guidelines are not integrally related to the coastal resource protection policies of the certified Land Use Plan or Chapter 3 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS – DENIAL OF AMENDMENT NO. LCP-5-LGB-22-0021-2 (BUILDING HEIGHT ALLOWANCES FOR COMMERCIAL STRUCTURES) AS SUBMITTED AND APPROVAL AS MODIFIED

A. LCP AMENDMENT DESCRIPTION

This amendment would amend IP Chapters 25.18, 25.19, 25.20, 25.21, 25.25, 25.28, and 25.32 relating to building height allowances for commercial structures providing subterranean parking facilities ([Exhibit 1](#)). Commercial buildings within the City of Laguna Beach are subject to the applicable height limits measured vertically to any point along the applicable reference line that creates a horizontal plane longitudinally over the entire lot, or no more than 36 feet from the lowest finished floor elevation, whichever is more restrictive. Currently, in circumstances where the 36-foot height limit is used, most commercial zones exempt subterranean parking garage floor level(s) from the 36-foot measurement in cases where the garage access ramp begins its descent within the ground floor building footprint. The proposed amendment would replicate this approach to allow subterranean garages designed with an access ramp outside of the building footprint to be exempted from the same 36-foot height limit. In accordance with IP Section 25.08.016, the proposed amendment would allow building height measurements to begin from the more restrictive of the existing grade, finished grade, or finished floor surface of the first non-subterranean floor level, rather than below grade for commercial buildings that include subterranean parking, regardless of where the parking garage access ramp begins its descent. This adjustment would incentivize development in the City of below-grade parking as an alternative to surface parking facilities for increased access that is visually compatible with the surrounding uses.

Certification of the LCP amendment is subject to the following modifications. The City's proposed new LCP language is shown as underlined text and language proposed to be deleted is in ~~single strikethrough~~. The Commission's suggested

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

Modifications to Section 25.18.008(F), Local Business-Professional Zone, Property Development Standards – Building Height Standards

25.18.008(F) Building Height Standards.

(F) Building Height Standards. The following building height limits represent the maximum heights permitted and may be reduced as determined appropriate by the design review authority.

(1) The height of any building shall not exceed the applicable height limits shown below measured vertically to any point along the applicable reference line that creates a horizontal plane longitudinally over the entire lot:

Rear Lot Line Above Street (slope in percent)	Height Permitted Above Rear Lot Line Elevation (at every point along the rear lot line)
0 to 5	22 ft.
5+ to 10	17 ft.
over 10	12 ft.

Through Lot (slope in percent)	Height Permitted Above Upper Curb or Street Elevation
0 to 5	25 ft.
5+ to 10	22.5 ft.
Over 10	20 ft.

Rear Lot Line Below Street (slope in percent)	Height Permitted Above Upper Curb or Street Elevation
0 to 5	25 ft.
5+ to 10	22.5 ft.
Over 10	20 ft.

(2) The height of any building (per the ~~building height~~ **“Height, building”** definition in Municipal Code Section 25.08.016) shall not exceed thirty-six feet, ~~including parking garage floor levels with access ramps located outside the structure’s ground floor footprint. Notwithstanding the building height definition Exception (4),~~ This thirty-six foot height limit shall include roof chimneys, vents, mechanical equipment, mechanical enclosure, elevator shafts, stairways and other such structural elements required for the operation of the building. ~~Per the building height definition, subterranean floors are exempt from the height measurement limit.~~ **The following shall be exempt from the maximum height measurement:**

a) Subterranean floors that are entirely below the natural or finished grade, whichever is more restrictive.

b) Subterranean garages with access ramps located outside or within the building footprint of the floor level above, leading to subterranean garage floor levels, ~~subject to satisfying the criteria published by the City in the Guidelines for Commercial Garage Design.~~

c) Any projects involving excavation for garages or subterranean floors that are fully or partially below the existing grade shall be subject to the following standard condition of approval, unless a different condition is required pursuant to a California Environmental Quality Act process involving tribal consultation:

Tribal Cultural Resources Monitoring. Prior to issuance of any grading or building permits, the project applicant shall demonstrate to the City that it has invited, and if the invitation was accepted, retained at least one qualified Native American monitor to observe construction-related ground disturbance activities. The monitor(s) shall be associated with a tribe that is traditionally and culturally affiliated with the project location and listed under the California Native American Heritage Commission's Tribal Contact List for the area of the project location. The retained Native American monitor(s) shall be present on-site during construction activities that involve any ground-disturbance, including but not limited to excavation for the construction of subterranean development and excavation trenching for dry utilities, water, sewer, storm drain, and underground biofiltration systems. If excavation occurs entirely within an area known to contain artificial fill that is neither mixed with native soils from the site nor sourced from a location with native soils that could contain tribal cultural resources based on City records or satisfactory evidence provided to and accepted by the City of Laguna Beach, monitoring shall not be required for these imported soils regardless of depth. On-site tribal monitoring shall be considered complete after project grading and trenching are completed and no further disturbance to native (previously undisturbed) soils is anticipated, or sooner if the Native American monitor(s) determines that the site has a low potential for impacting tribal cultural resources. The agreement between the applicant and monitoring tribe(s) shall formalize protocols for the protection and treatment of, including but not limited to, Native American human remains, funerary objects, and ceremonial or cultural items. If tribal representative(s) are unavailable for on-site monitoring, a qualified archaeologist and/or tribal cultural resource specialist shall be present during such project activities.

d) For any project involving excavation for garages or subterranean floors, the City shall evaluate whether there is potential for impacts to archaeological and/or paleontological resources. If there is potential for impacts, a qualified archaeologist and/or paleontologist shall be present during earth moving operations for such projects.

(3) The provisions of Section 25.50.004(D) pertaining to additional building setbacks shall apply to the front and rear setbacks.

(4) Notwithstanding the front lot line definition and exception process of Section 25.08.022, the front lot line shall be the property line abutting the most primary or highest capacity road classification.

Modifications to Section 25.19.008(E), C-N Commercial-Neighborhood Zone, Property Development Standards – Building Height Standards

25.19.008(E) Building Height Standards.

(E) Building Height Standards. The following building height limits represent the maximum heights permitted and may be reduced as determined appropriate by the design review authority.

(1) The height of any building shall not exceed the applicable height limits shown below measured vertically to any point along the applicable reference line that creates a horizontal plane longitudinally over the entire lot:

Rear Lot Line Above Street (slope in percent)	Height Permitted Above Rear Lot Line Elevation (at every point along the rear lot line)
0 to 5	22 ft.
5+ to 10	17 ft.
Over 10	12 ft.

Through Lot (slope in percent)	Height Permitted Above Upper Curb or Street Elevation
0 to 5	27 ft.
5+ to 10	25 ft.
Over 10	20 ft.

Rear Lot Line Below Street (slope in percent)	Height Permitted Above Upper Curb or Street Elevation
0 to 5	27 ft.
5+ to 10	25 ft.
Over 10	20 ft.

(2) The height of any building (per the building height “Height, building” definition in Municipal Code Section 25.08.016) shall not exceed thirty feet and two floors, including parking garage floor levels with access ramps located outside the structure’s ground floor footprint. ~~Notwithstanding the building height definition Exception (4),~~ The thirty-foot height limit shall include roof chimneys, vents, mechanical equipment, mechanical enclosures, elevator shafts, stairways and other such structural elements required for the operation of the building. ~~Per the building height definition, subterranean floors are exempt from the height measurement limit. Subterranean floors shall also be exempt from the two floor limit.~~ The following shall be exempt from the maximum height measurement and two-story limit:

a) Subterranean floors that are entirely below the natural or finished grade, whichever is more restrictive.

b) Subterranean garages with access ramps located outside or within the building footprint of the floor level above, leading to subterranean garage floor levels, ~~subject to satisfying the criteria published by the City in the Guidelines for Commercial Garage Design.~~

c) Any projects involving excavation for garages or subterranean floors that are fully or partially below the existing grade shall be subject to the following standard condition of approval, unless a different condition is required pursuant to a California Environmental Quality Act process involving tribal consultation;

Tribal Cultural Resources Monitoring. Prior to issuance of any grading or building permits, the project applicant shall demonstrate to the City that it has invited, and if the invitation was accepted, retained at least one qualified Native American monitor to observe construction-related ground disturbance activities. The monitor(s) shall be associated with a tribe that is traditionally and culturally affiliated with the project location and listed under the California Native American Heritage Commission’s Tribal Contact List for the area of the project location. The retained Native American monitor(s) shall be present on-site during construction activities that involve any ground-disturbance, including but not limited to excavation for the construction of subterranean development and excavation trenching for dry utilities, water, sewer, storm drain, and underground biofiltration systems. If excavation occurs entirely within an area known to contain artificial fill that is neither mixed with native soils from the site nor sourced from a location with native soils that could contain tribal cultural resources based on City records or satisfactory evidence provided to and accepted by the City of Laguna Beach, monitoring shall not be required for these imported soils regardless of depth. On-site tribal monitoring shall be considered complete after project grading

and trenching are completed and no further disturbance to native (previously undisturbed) soils is anticipated, or sooner if the Native American monitor(s) determines that the site has a low potential for impacting tribal cultural resources. The agreement between the applicant and monitoring tribe(s) shall formalize protocols for the protection and treatment of, including but not limited to, Native American human remains, funerary objects, and ceremonial or cultural items. If tribal representative(s) are unavailable for on-site monitoring, a qualified archaeologist and/or tribal cultural resource specialist shall be present during such project activities.

d) For any project involving excavation for garages or subterranean floors, the City shall evaluate whether there is potential for impacts to archaeological and/or paleontological resources. If there is potential for impacts, a qualified archaeologist and/or paleontologist shall be present during earth moving operations for such projects.

(3) The provisions of Section 25.50.004(D) pertaining to additional building setbacks shall apply to the front and rear setbacks.

(4) Notwithstanding the front lot line definition and exception process of Section 25.08.022, the front lot line shall be the property line abutting the most primary or highest capacity road classification.

Modifications to Section 25.20.008(D), C-1 Local Business District, Property Development Standards – Building Height Standards

25.20.008(D) Building Height Standards.

(D) Building Height Standards. The following building height limits represent the maximum heights permitted and may be reduced as determined appropriate by the design review authority.

(1) The height of any building shall not exceed the applicable height limits shown below measured vertically to any point along the applicable reference line that creates a horizontal plane longitudinally over the entire lot:

Rear Lot Line Above Street (slope in percent)	Height Permitted Above Rear Lot Line (at every point along the rear lot line)
0 to 5	22 ft.
5+ to 10	17 ft.
Over 10	12 ft.

Through Lot (slope in percent)	Height Permitted Above Upper Curb or Street Elevation
0 to 5	30 ft.
5+ to 10	25 ft.
Over 10	20 ft.

Rear Lot Line Below Street (slope in percent)	Height Permitted Above Upper Curb or Street Elevation
0 to 5	30ft.
5+ to 10	25 ft.
Over 10	20 ft.

(2) The height of any building (per the building height “Height, building” definition in Municipal Code Section 25.08.016) shall not exceed thirty-six feet, including parking garage floor levels with access ramps located outside the structure’s ground floor footprint. This thirty-six-foot height limit shall include roof chimneys, vents, mechanical equipment, mechanical enclosure, elevator shafts, stairways and other such structural elements required for the operation of the building. ~~Per the building height definition, subterranean floors are exempt from the height measurement limit.~~ The following shall be exempt from the maximum height measurement:

a) Subterranean floors that are entirely below the natural or finished grade, whichever is more restrictive.

b) Subterranean garages with access ramps located outside or within the building footprint of the floor level above, leading to subterranean garage floor levels, subject to satisfying the criteria published by the City in the Guidelines for Commercial Garage Design.

c) Any projects involving excavation for garages or subterranean floors that are fully or partially below the existing grade shall be subject to the following standard condition of approval, unless a different condition is required pursuant to a California Environmental Quality Act process involving tribal consultation:

Tribal Cultural Resources Monitoring. Prior to issuance of any grading or building permits, the project applicant shall demonstrate to the City that it has invited, and if the invitation was accepted, retained at least one qualified Native American monitor to observe construction-related ground disturbance activities. The monitor(s) shall be associated with a tribe that is traditionally and culturally affiliated with the project location and listed under the California Native American Heritage Commission’s Tribal Contact List for the area of the project location. The retained Native American monitor(s) shall be present on-site during construction activities that involve any

ground-disturbance, including but not limited to excavation for the construction of subterranean development and excavation trenching for dry utilities, water, sewer, storm drain, and underground biofiltration systems. If excavation occurs entirely within an area known to contain artificial fill that is neither mixed with native soils from the site nor sourced from a location with native soils that could contain tribal cultural resources based on City records or satisfactory evidence provided to and accepted by the City of Laguna Beach, monitoring shall not be required for these imported soils regardless of depth. On-site tribal monitoring shall be considered complete after project grading and trenching are completed and no further disturbance to native (previously undisturbed) soils is anticipated, or sooner if the Native American monitor(s) determines that the site has a low potential for impacting tribal cultural resources. The agreement between the applicant and monitoring tribe(s) shall formalize protocols for the protection and treatment of, including but not limited to, Native American human remains, funerary objects, and ceremonial or cultural items. If tribal representative(s) are unavailable for on-site monitoring, a qualified archaeologist and/or tribal cultural resource specialist shall be present during such project activities.

d) For any project involving excavation for garages or subterranean floors, the City shall evaluate whether there is potential for impacts to archaeological and/or paleontological resources. If there is potential for impacts, a qualified archaeologist and/or paleontologist shall be present during earth moving operations for such projects.

(3) The provisions of Section 25.50.004(D) pertaining to additional building setbacks shall apply to the front and rear setbacks.

(4) Notwithstanding the front lot line definition and exception process of Section 25.08.022, the front lot line shall be the property line abutting the most primary or highest capacity road classification.

Modifications to Section 25.21.006(D), CH-M Commercial Hotel-Motel Zone, Property Development Standards – Building Height Standards

25.21.006(D). Building Height Standards.

(D) Building Height Standards. The following building height limits represent the maximum heights permitted and may be reduced as determined appropriate by the design review authority.

(1) The height of any building shall not exceed the applicable height limits shown below measured vertically to any point along the applicable reference line that

City of Laguna Beach LCP Amendment No.
LCP-5-LGB-22-0021-2 (Building Height Allowances for Commercial Structures)

creates a horizontal plane longitudinally over the entire lot:

Rear Lot Line Above Street (slope in percent)	Height Permitted Above Rear Lot Line (at every point along the rear lot line)
0 to 5	22 ft.
5+ to 10	17 ft.
Over 10	12 ft.
Through Lot (slope in percent)	Height Permitted Above Upper Curb or Street Elevation
0 to 5	30 ft.
5+ to 10	25 ft.
Over 10	20 ft.
Rear Lot Line Below Street (slope in percent)	Height Permitted Above Upper Curb or Street Elevation
0 to 5	30 ft.
5+ to 10	25 ft.
Over 10	20 ft.

(2) ~~The height of any building (per the building height “Height, building” definition in Municipal Code Section 25.08.016) shall not exceed thirty-six feet, including parking garage floor level with access ramps located outside the structure’s ground floor footprint. The thirty-six-foot height limit includes roof chimneys, vents, mechanical equipment, mechanical enclosure, elevator shafts, stairways and other such structural elements required for the operation of the building. Per the building height definition, subterranean floors are exempt from the height measurement limit. The following shall be exempt from the maximum height measurement:~~

a) Subterranean floors that are entirely below the natural or finished grade, whichever is more restrictive.

b) Subterranean garages with access ramps located outside or within the building footprint of the floor level above, leading to subterranean garage floor levels, ~~subject to satisfying the criteria published by the City in the Guidelines for Commercial Garage Design.~~

c) Any projects involving excavation for garages or subterranean floors that are fully or partially below the existing grade shall be subject to the following standard condition of approval, unless a different condition is required otherwise determined pursuant to a California Environmental Quality Act process involving tribal consultation:

Tribal Cultural Resources Monitoring. Prior to issuance of any grading or building permits, the project applicant shall demonstrate to the City that it has invited, and if the invitation

was accepted, retained at least one qualified Native American monitor to observe construction-related ground disturbance activities. The monitor(s) shall be associated with a tribe that is traditionally and culturally affiliated with the project location and listed under the California Native American Heritage Commission's Tribal Contact List for the area of the project location. The retained Native American monitor(s) shall be present on-site during construction activities that involve any ground-disturbance, including but not limited to excavation for the construction of subterranean development and excavation trenching for dry utilities, water, sewer, storm drain, and underground biofiltration systems. If excavation occurs entirely within an area known to contain artificial fill that is neither mixed with native soils from the site nor sourced from a location with native soils that could contain tribal cultural resources based on City records or satisfactory evidence provided to and accepted by the City of Laguna Beach, monitoring shall not be required for these imported soils regardless of depth. On-site tribal monitoring shall be considered complete after project grading and trenching are completed and no further disturbance to native (previously undisturbed) soils is anticipated, or sooner if the Native American monitor(s) determines that the site has a low potential for impacting tribal cultural resources. The agreement between the applicant and monitoring tribe(s) shall formalize protocols for the protection and treatment of, including but not limited to, Native American human remains, funerary objects, and ceremonial or cultural items. If tribal representative(s) are unavailable for on-site monitoring, a qualified archaeologist and/or tribal cultural resource specialist shall be present during such project activities.

d) For any project involving excavation for garages or subterranean floors, the City shall evaluate whether there is potential for impacts to archaeological and/or paleontological resources. If there is potential for impacts, a qualified archaeologist and/or paleontologist shall be present during earth moving operations for such projects.

(3) The provisions of Section 25.50.004(D) pertaining to additional building setbacks shall apply to the front and rear setbacks.

(4) Notwithstanding the front lot line definition and exception process of Section 25.08.022, the front lot line shall be the property line abutting the most primary or highest capacity road classification.

25.25.008(F). Building Height Standards.

(F) Building Height Standards.

(1) No building or structure in this zone shall have a height greater than the following:

Rear Lot Line Above Street (slope in percent)	Maximum Height Permitted Above Rear Lot Line (in feet)
0 to 5	22 ft.
5+ to 10	17 ft.
Over 10	12 ft.

Through Lot (slope in percent)	Height Permitted Above Upper Curb Elevation
---------------------------------------	--

Or

Rear Lot Line Below Street (slope in percent)	Maximum Height Permitted Above Curb Elevation (in feet)
0 to 5	27 ft.
5+ to 10	25 ft.
Over 10	20 ft.

(2) Building height shall be limited to two stories, not to exceed the above height limits or twenty-two feet, excluding roof, as measured from the curb, whichever is more restrictive. No point of the building elevation height shall exceed thirty feet as measured from natural or finished grade, whichever is more restrictive. These building heights represent the maximum permitted and may be reduced as determined appropriate by the design review board. The following shall be exempt from the maximum height measurement and two-story limit:

a) Subterranean floors that are entirely below the natural or finished grade, whichever is more restrictive.

b) Subterranean garages with access ramps located outside or within the building footprint of the floor level above, leading to subterranean garage floor levels, ~~subject to satisfying the criteria published by the City in the Guidelines for Commercial Garage Design.~~

c) Any projects involving excavation for garages or subterranean floors that are fully or partially below the existing grade shall be subject to the following standard condition of approval, unless a different condition is required pursuant to a California Environmental Quality Act process involving tribal consultation;

Tribal Cultural Resources Monitoring. Prior to issuance of any grading or building permits, the project applicant shall

demonstrate to the City that it has invited, and if the invitation was accepted, retained at least one qualified Native American monitor to observe construction-related ground disturbance activities. The monitor(s) shall be associated with a tribe that is traditionally and culturally affiliated with the project location and listed under the California Native American Heritage Commission's Tribal Contact List for the area of the project location. The retained Native American monitor(s) shall be present on-site during construction activities that involve any ground-disturbance, including but not limited to excavation for the construction of subterranean development and excavation trenching for dry utilities, water, sewer, storm drain, and underground biofiltration systems. If excavation occurs entirely within an area known to contain artificial fill that is neither mixed with native soils from the site nor sourced from a location with native soils that could contain tribal cultural resources based on City records or satisfactory evidence provided to and accepted by the City of Laguna Beach, monitoring shall not be required for these imported soils regardless of depth. On-site tribal monitoring shall be considered complete after project grading and trenching are completed and no further disturbance to native (previously undisturbed) soils is anticipated, or sooner if the Native American monitor(s) determines that the site has a low potential for impacting tribal cultural resources. The agreement between the applicant and monitoring tribe(s) shall formalize protocols for the protection and treatment of, including but not limited to, Native American human remains, funerary objects, and ceremonial or cultural items. If tribal representative(s) are unavailable for on-site monitoring, a qualified archaeologist and/or tribal cultural resource specialist shall be present during such project activities.

d) For any project involving excavation for garages or subterranean floors, the City shall evaluate whether there is potential for impacts to archaeological and/or paleontological resources. If there is potential for impacts, a qualified archaeologist and/or paleontologist shall be present during earth moving operations for such projects.

(3) Refer to Chapter 25.51 for other standards related to building height. The provisions of Section 25.50.004(D) pertaining to additional building setbacks shall apply only to the rear setback.

Modifications to Section 25.28.030(D), I Institutional Zone, Property Development Standards – Building Height Standards

25.28.030(D). Building Height Standards.

(D) Building Height Standards.

(1) ~~The maximum overall height of any building (per the building height “Height, building” definition in Municipal Code Section 25.08.016) shall not exceed thirty-six feet, including parking garage floor levels with access ramps located outside the structure’s ground floor footprint. This thirty-six-foot height limit shall include roof chimneys, vents, mechanical equipment, mechanical enclosure, elevator shafts, stairways and other such structural elements required for the operation of the building. Per the building height definition, subterranean floors are exempt from the height measurement limit. The following shall be exempt from the maximum height measurement:~~

a) Subterranean floors that are entirely below the natural or finished grade, whichever is more restrictive.

b) Subterranean garages with access ramps located outside or within the building footprint of the floor level above, leading to subterranean garage floor levels, ~~subject to satisfying the criteria published by the City in the Guidelines for Commercial Garage Design.~~

c) Any projects involving excavation for garages or subterranean floors that are fully or partially below the existing grade shall be subject to the following standard condition of approval, unless a different condition is required pursuant to a California Environmental Quality Act process involving tribal consultation;

Tribal Cultural Resources Monitoring. Prior to issuance of any grading or building permits, the project applicant shall demonstrate to the City that it has invited, and if the invitation was accepted, retained at least one qualified Native American monitor to observe construction-related ground disturbance activities. The monitor(s) shall be associated with a tribe that is traditionally and culturally affiliated with the project location and listed under the California Native American Heritage Commission’s Tribal Contact List for the area of the project location. The retained Native American monitor(s) shall be present on-site during construction activities that involve any ground-disturbance, including but not limited to excavation for the construction of subterranean development and excavation trenching for dry utilities, water, sewer, storm drain, and underground biofiltration systems. If excavation occurs entirely within an area known to contain artificial fill that is neither mixed with native soils from the site nor sourced from a location with native soils that could contain tribal cultural resources based on City records or satisfactory evidence provided to and accepted

by the City of Laguna Beach, monitoring shall not be required for these imported soils regardless of depth. On-site tribal monitoring shall be considered complete after project grading and trenching are completed and no further disturbance to native (previously undisturbed) soils is anticipated, or sooner if the Native American monitor(s) determines that the site has a low potential for impacting tribal cultural resources. The agreement between the applicant and monitoring tribe(s) shall formalize protocols for the protection and treatment of, including but not limited to, Native American human remains, funerary objects, and ceremonial or cultural items. If tribal representative(s) are unavailable for on-site monitoring, a qualified archaeologist and/or tribal cultural resource specialist shall be present during such project activities.

d) For any project involving excavation for garages or subterranean floors, the City shall evaluate whether there is potential for impacts to archaeological and/or paleontological resources. If there is potential for impacts, a qualified archaeologist and/or paleontologist shall be present during earth moving operations for such projects.

(2) Notwithstanding the front lot line definition and exception process of Section 25.08.022, the front lot line shall be the property line abutting the most primary or highest capacity road classification.

Modifications to Section 25.32.005(C), M-1A Light Industrial Zone, Property Development Standards – Building Height Standards

25.32.005(C). Building Height Standards.

(C) Building Height Standards.

(1) The maximum height of any building (per the building height “Height, building” definition in Municipal Code Section 25.08.016) shall not exceed thirty-six feet, ~~including parking garage floor levels with access ramps located outside the structure’s ground floor footprint.~~ This thirty-six-foot height limit shall include roof chimneys, vents, mechanical equipment, mechanical enclosure, elevator shafts, stairways and other such structural elements required for the operation of the building. ~~Per the building height definition, subterranean floors are exempt from the height measurement limit.~~ The following shall be exempt from the maximum height measurement:

a) Subterranean floors that are entirely below the natural or finished grade, whichever is more restrictive.

b) Subterranean garages with access ramps located outside or within the building footprint of the floor level above, leading to subterranean garage floor levels, subject to satisfying the criteria published by the City in the Guidelines for Commercial Garage Design.

c) Any projects involving excavation for garages or subterranean floors that are fully or partially below the existing grade shall be subject to the following standard condition of approval, unless a different condition is required pursuant to a California Environmental Quality Act process involving tribal consultation:

Tribal Cultural Resources Monitoring. Prior to issuance of any grading or building permits, the project applicant shall demonstrate to the City that it has invited, and if the invitation was accepted, retained at least one qualified Native American monitor to observe construction-related ground disturbance activities. The monitor(s) shall be associated with a tribe that is traditionally and culturally affiliated with the project location and listed under the California Native American Heritage Commission's Tribal Contact List for the area of the project location. The retained Native American monitor(s) shall be present on-site during construction activities that involve any ground-disturbance, including but not limited to excavation for the construction of subterranean development and excavation trenching for dry utilities, water, sewer, storm drain, and underground biofiltration systems. If excavation occurs entirely within an area known to contain artificial fill that is neither mixed with native soils from the site nor sourced from a location with native soils that could contain tribal cultural resources based on City records or satisfactory evidence provided to and accepted by the City of Laguna Beach, monitoring shall not be required for these imported soils regardless of depth. On-site tribal monitoring shall be considered complete after project grading and trenching are completed and no further disturbance to native (previously undisturbed) soils is anticipated, or sooner if the Native American monitor(s) determines that the site has a low potential for impacting tribal cultural resources. The agreement between the applicant and monitoring tribe(s) shall formalize protocols for the protection and treatment of, including but not limited to, Native American human remains, funerary objects, and ceremonial or cultural items. If tribal representative(s) are unavailable for on-site monitoring, a qualified archaeologist and/or tribal cultural resource specialist shall be present during such project activities.

d) For any project involving excavation for garages or subterranean floors, the City shall evaluate whether there is potential for impacts to

archaeological and/or paleontological resources. If there is potential for impacts, a qualified archaeologist and/or paleontologist shall be present during earth moving operations for such projects.

(2) Notwithstanding the front lot line definition and exception process of Section 25.08.022, the front lot line shall be the property line abutting the most primary or highest capacity road classification.

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

Action 2.8.2 Establish criteria for placement of new development on the most suitable area of the lot to maximize the preservation of sensitive resources.

Policy 3.10 Require building design and siting to be compatible and integrated with natural topographic features, minimize significant alteration of natural topography or other significant on-site resources, and protect public views as specified in the Design Guidelines and Landscape and Scenic Highways Resource Document by maintaining the low-profile character of structures. Require use of appropriate landscaping, special architectural treatments, and siting considerations for projects visible from major highways and arterial streets. 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 3.10.1 Establish criteria for placement of new development on the most suitable area of the lot to maximize the preservation of sensitive resources.

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 10.2.4 Encourage open space dedication to guarantee preservation of natural and sensitive resources whenever appropriate.

Sensitive Resources/Sensitive Biological Resources - Sensitive coastal, geologic, vegetation and wildlife, archeological and paleontological, visual, watersheds and watercourse resources, water quality and conservation, air quality, parks and trails, and natural hazards, as discussed in the General Plan Open Space/Conservation Element.

As discussed above, any amendments to the IP portion of the City's certified LCP must be consistent with the certified LUP. LUP Policies 2.8 and 3.10, as implemented through Actions 2.8.2, 3.10.1, and 10.2.1, require the protection the character-defining components of Laguna Beach's neighborhoods and the preservation of sensitive resources. Sensitive resources, as defined by the certified LUP, include, but are not limited to, coastal, geologic, vegetation and wildlife, archeological and paleontological, visual, watersheds and watercourse resources, water quality and conservation, air quality, parks and trails, and natural hazards. Archaeological resources may include any material remains of past human life or activities of archaeological interest, such as pottery, tools, weapons, or human remains. Paleontological resources are fossilized remains of ancient environments, including fossilized bone, shell, and plant parts; impressions of plant, insects, or animal parts preserved in stone; and preserved tracks of insects and animals. Tribal Cultural resources are considered both cultural and archaeological resources and include sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe. As such, the certified LUP's protection of "sensitive resources" aligns with the Coastal Act's coastal resource protection policies, including Section 30244 which protects archaeological, including tribal cultural, and paleontological resources.

The submitted IP amendment promotes the development of below-grade parking as an alternative to more visually impactful parking facilities, in turn, encouraging the expansion of ground disturbance activities within the City, which is located within the ancestral and unceded lands of the Juaneño/Acjachemen peoples. The amendment would change how subterranean parking is measured within the building height under current code by disregarding where the access ramp is located in comparison to the building footprint. Currently, if the ramp is completely within the building footprint, the building height measurement begins at grade. If the ramp is not completely within the building footprint, starting its descent outside of the building footprint, then the building height measurement includes the subterranean parking and would generally not allow for a second or third story in allowed commercial zones. The proposed amendment would broaden the allowance for subterranean parking garages by allowing building height measurements to begin at grade regardless of where the access ramp begins its descent. Therefore, promoting the development of below-grade parking and the ground disturbance activities that accompany this development.

City of Laguna Beach LCP Amendment No.
LCP-5-LGB-22-0021-2 (Building Height Allowances for Commercial Structures)

While representatives from various tribal entities did not respond to the Commission's notification about the proposed amendment and invitation to consult, Commission staff are aware that the City is known to contain sensitive tribal cultural, including archaeological, resources that are protected by LUP Policies 3.10 and 10.2. LUP Policies 3.10 and 10.2 require new development to be designed to minimize significant alteration of on-site resources and to protect natural and environmentally sensitive resources. Actions 2.8.2, 3.10.1 and 10.2.1 specifically require the establishment of development criteria for the protection of sensitive resources. As stated above, sensitive resources include tribal cultural resources. The proposed IP amendment would encourage below grade development and associated ground disturbing activities within the ancestral and unceded lands of the Juaneño/Acjachemen peoples without the establishment of development criteria required by the certified LUP. Additionally, the IP lacks resource protection policies specific to the protection of tribal cultural resources. Thus, as submitted, the new policies relating to commercial and mixed-use building height are not adequate to carry out the LUP. The Commission suggests three modifications, described in detail below, that require tribal cultural resource monitoring and protocols to protect such resources, if found during ground disturbance activities. These modifications to the IP amendment are necessary to ensure that the IP conforms with and is adequate to carry out the LUP policies that require preservation of sensitive resources, including tribal cultural resources.

Suggested Modification #1, developed in coordination with City staff, would add a new subsection (c) to the tribal resource protection policy within the IP to ensure that the types of projects that would be encouraged by the proposed amendment are reviewed through the lens of the certified LUP and Coastal Act. As modified, projects involving excavation for garages or subterranean floors that are fully or partially below the existing grade would not be issued City grading or building permits until the applicant demonstrates that it has invited, and if the invitation was accepted, retained appropriate Native American representative(s) to monitor construction-related ground disturbance activities. This includes, but is not limited to, disturbance during garage excavation activities, excavation for utilities, and grading fill that contains native soils. If the appropriate Native American monitor(s) are unavailable, a qualified archaeologist and/or tribal cultural resource specialist shall be present during such project activities. As suggested to be modified, on-site tribal monitoring would be considered completed after grading and trenching are completed for the project, and no disturbance to previously undisturbed native souls are anticipated, unless the Native American monitor(s) determine the monitoring is complete sooner due to low potential impacts to tribal cultural resources. Thus, with the required monitoring of ground-disturbing construction activities by individuals with either personal ancestral ties to the area or selected by tribal representatives with ancestral ties to the area (or in their absence a qualified professional), impacts to any tribal cultural resources that may exist on sites developed in compliance with the new proposed height regulations would be minimized. Additionally, if resources are encountered, the applicant would be bound to the agreement made with the retained monitor(s), as well as state and federal law, in regards to how such resources would be treated. Therefore, as modified, the IP amendment is adequate in carrying out the LUP and Coastal Act policies that protect tribal cultural resources.

Coastal Act Section 30244 requires mitigation measures for development that would have an adverse impact on archaeological or paleontological resources. Actions 2.8.2, 3.10.1 and 10.2.1 of the certified LUP require the establishment of criteria for the placement of new development to maximize the preservation of sensitive resources. As stated above, the submitted IP amendment promotes the development of below-grade parking as an alternative to more visually impactful parking facilities, in turn, encouraging the expansion of ground disturbance activities within potentially sensitive areas. However, as proposed, the LCP amendment does not include policies that would ensure protection of sensitive resources as required by the LUP. Therefore, **Suggested Modification #2** would establish criteria in subsection (d) for the identification and mitigation of impacts to archaeological or paleontological resources through initial evaluation of the project site and monitoring as needed.

As part of the proposed amendment, the City proposed language, included in subsection (b) of its policies related to Building Height Standards, to require compliance with criteria within the City's "Guidelines for Commercial Garage Design". **Suggested Modification #3** would remove this requirement. The guidelines published by the City would be better addressed by the local planning department, as the guidelines are not integrally related to the resource protection policies of the certified LUP or Chapter 3 of the Coastal Act. Inclusion of the guidelines within this proposed amendment would further require the Commission to certify guidance that is not currently part of the certified LUP, which would require a more substantive addition of policies that is beyond the scope of the City's proposed amendment. If the City wishes to include design guidelines within its certified LCP, that can be done at a later date with appropriate findings and analysis specific to the request.

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, 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

City of Laguna Beach LCP Amendment No.
LCP-5-LGB-22-0021-2 (Building Height Allowances for Commercial Structures)

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.