

CALIFORNIA COASTAL COMMISSION

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Th11a

ADDENDUM

DATE: June 11, 2025

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **ADDENDUM TO ITEM TH11a, LCP AMENDMENT NO. LCP-5-NPB-23-0039-3, PART A FOR THE COMMISSION MEETING ON JUNE 11, 2025.**

This addendum is designed to achieve the following objectives. First, Section I updates the record by supplementing it with correspondence that Commission staff received after the staff report was issued. Second, Section II provides responses to some of the issues raised in the recent correspondence, which responses Commission staff proposes the Commission incorporate into its findings.

I. CORRESPONDENCE RECEIVED

Since publication of the staff report on May 22, 2025, the Commission has received one ex parte from the City of Newport Beach and one comment letter from Jim Mosher. The ex parte and comment letter are included under the “Ex Partes” and “Correspondence” tabs of the agenda item.

II. RESPONSES TO COMMENTS

The following Commission staff response to public comments is hereby incorporated as a ‘Response to Comments’ section of the staff report dated May 22, 2025 (as Section III.C, thus re-numbering the following ‘California Environmental Quality Act’ subsection).

On June 2, 2025, Commission staff received an email from Jim Mosher in response to the staff report. In his email, Mr. Mosher raises the following concerns:

1. The proposed LCP Amendment would amend subsection 21.70-020.E of the certified IP to rename the existing definition of “Take-out service, limited” (a category currently intended for bakeries, candy shops, ice cream shops and such) to “Take-out service—fast-casual”, and amend the definition to include “small restaurants” with up to 20 seats, and (in [Table 21.40-1](#)) extending the 1 space per 250 sf off-street parking requirement to those small restaurants with sales “primarily

for off-site consumption". Subsection 21.70.020.E also contains a definition of "'Fast food" establishments, for which Table 21.40-1 imposes the much higher off-street parking requirement of 1 space per 50 sf. Since many small restaurants would fit both definitions it is unclear which parking requirement is intended to apply. In his contention, Mr. Mosher points to [Chapter 21.30](#) regarding the development standards in that chapter, which states that "where there may be a conflict, the standards that are most restrictive and/or most protective of coastal resources shall prevail." If that logic applies to Chapter 21.40, then the "fast casual" examples cited in the staff report (Chipotle™ and Starbucks™), which also fit the " Food Service—Fast food" definition, would be subject to the more restrictive 1 space per 50 sf standard.

2. The City's redline version didn't identify "Wine Tasting Room" as a new addition to Table 21.40-1, but it seems to be new. Title 20 defines the phrase and allows them in the City's Industrial Zoning Districts—but it isn't defined or included as an allowable use within any zoning district in the certified IP.
3. Subsection 21.70.020.E of the IP also contains a definition of "'Take-out service only" eating and drinking establishments, but the subsection does not specify a parking standard or designates the coastal zoning districts in which they are an allowed use. Mr. Mosher contends that it is unclear what the appropriate parking requirement would be for the "Take-out service only" use, and that the parking requirements should be addressed.

Staff response to Comments

In response to Mr. Mosher's first contention, the City clarified that although there is some overlap between the criteria for a Fast-food use and a Fast-casual use, the IP's definition of "Fast Food" in the Implementation Plan lists operational requirements that are distinct from the proposed "Fast Casual" definition. The IP definition of "Fast-food" requires at least four of the following operational characteristics to be met: 1) provision of a permanent menu board to select/order food; 2) a chain or franchise restaurant; 3) payment of food before consumption; 4) self-service bussing; 5) stationary seating arrangements as indicated in a furnishing plan. The IP's definition of Take-out service, limited (which would be renamed Take-out Service-Fast Casual" under this LCPA)," lists the following requirements: 1) Sales are primarily for off-site consumption; 2) Customers order and pay for food at either a counter or service window; 3) a limit on the number of interior and exterior seating that may be provided for on-site consumption of food/beverages; and 4) no alcohol sales on the premises. These definitions demonstrate that an establishment must meet a specific set of criteria in order to be classified as a Fast-food use. By comparison, The City has informed commission staff that, in practice, the City has consistently interpreted "fast food" as the traditional idea of fast-food models, such as McDonald's, Del Taco, In N' Out, etc.

Mr. Mosher correctly points out in his contention, Chapter 21.30 of the certified IP states that "[w]here there may be a conflict, the standards that are most restrictive and/or most protective of coastal resources shall prevail." In other words, if there is an ambiguity to which use a restaurant belongs for purposes of parking requirements, the use with the more restrictive parking standard would apply pursuant to Chapter 21.30.

Although Mr. Mosher has identified a valid question regarding the future execution of the proposed LCP Amendment, staff does not find that the potential for a restaurant to qualify for both a fast-food dining use and a fast casual dining use raises a significant coastal resource issue in this case because the most restrictive parking requirements apply under the LCP. As described above, the City has adequately demonstrated that it is able to clearly distinguish clear distinctions between the fast food and fast-casual dining uses, and that it would be able to adequately differentiate between the two uses in staff report findings.

With respect to Mr. Mosher's second contention, the City clarified that the inclusion of a wine tasting room use in Table 21.40-1 was an oversight and should not have been proposed for inclusion in the IP. The City further noted that the "Wine Tasting Room" land use is only allowed in the City's Industrial (IG) Zoning District of Title 20 (Planning and Zoning) in the Newport Beach Municipal Code, and is not present within the Coastal Zone. City staff requests that the Wine Tasting Room use not be considered as part of the amendment, and has submitted a corrected Table 21.40-1 to remove the wine-tasting use. Upon review of the City's response, Commission staff determines that this amounts to a scrivener's error, and proposes to correct the posted exhibits to reflect the correct Table 21.40-1, as detailed below.

With respect to Mr. Mosher's third contention, The City clarified that it applies a "Retail Sales" parking rate to the "Take-out service only" land use, consistent with the definition of "Retail sales," which includes "bakeries" and "specialty food and beverage" as illustrative examples. According to the City, a Take-Out Service Only use effectively operates as Retail Sales use since it is selling food for off-site consumption with no opportunity to dine on-site—it is transactional without the experience of on-site consumption. Given that the "Take-out service only" use does not include a typical seating area that is typically considered when considering parking requirements, Commission staff does not find that the application of a "Retail Sales" parking standard for the "Take-out service only" use raises an adverse coastal resource issue.

III. CORRECTIONS TO STAFF REPORT

The following change is made to the staff report dated May 22, 2025. Language to be added is shown in underlined text, and language to be deleted is identified by strikethrough.

- a) Page 9 of the Exhibits (Exhibit 2 – Part A Redline Changes) shall be replaced with a new Page 9 in order to correct Table 21.40-1 (OFF-STREET PARKING REQUIREMENTS). The corrected page is included at the end of this addendum.**

The rows entitled “Food Service with/without alcohol, with/without late hours” and “Take-Out Service, Limited” in Table 21.40-1 (Off-Street Parking Requirements) of Section 21.40.040 (Off-Street Parking Spaces Required) of the NBMC are amended to read as follows:

**TABLE 21.40-1
OFF-STREET PARKING REQUIREMENTS**

Land Use	Parking Spaces Required
Eating and Drinking Establishments	
Accessory (open to public)	1 per each 3 seats or 1 per each 75 sq. ft. of net public area, whichever is greater
Bars, Lounges, and Nightclubs	1 per each 4 persons based on allowed occupancy load or as required by conditional use permit
Food Service with/without alcohol, with/without late hours	1 per 30—50 sq. ft. of net public area, including outdoor dining areas 25% of the interior net public area or 1,000 sq. ft., whichever is less. See Section 21.40.060 <u>1 per 100 sq. ft., and 1 per 150 sq. ft. for outdoor dining areas</u>
Food Service—Fast food	1 per 50 sq. ft., and 1 per 100 sq. ft. for outdoor dining areas
Take-Out Service— Limited <u>Fast-Casual (up to 20 seats)</u>	1 per 250 sq. ft., <u>including outdoor dining areas</u>

Section 21.40.060 (Parking Requirements for Food Service Uses) of the NBMC is deleted in its entirety and replaced with the following:

~~21.40.060 Parking Requirements for Food Service Uses~~ Reserved.

- ~~C. Establishment of Parking Requirement. The applicable review authority shall establish the off-street parking requirement for food service uses within a range of one space for each thirty (30) to fifty (50) square feet of net public area based upon the following considerations:~~
- ~~4. Physical Design Characteristics.~~
 - ~~g. The gross floor area of the building or tenant space;~~
 - ~~h. The number of tables or seats and their arrangement;~~
 - ~~i. Other areas that should logically be excluded from the determination of net public area;~~