

CALIFORNIA COASTAL COMMISSION

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DATE: January 21, 2022

TO: Commissioners and Interested Persons

FROM: Karl Schwing, Deputy Director
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Marlene Alvarado, Coastal Program Analyst

SUBJECT: Major Amendment Request No. LCP-5-LGB-20-0051-3 to the City of Laguna Beach Certified Local Coastal Program, for Public Hearing and Commission Action at the February 10, 2022 meeting.

SUMMARY OF LCP AMENDMENT REQUEST NO. LCP-5-LGB-20-0051-3

Request by the City of Laguna Beach (City) to amend both the Land Use Plan (LUP) and the Implementation Plan (IP) portions of the City's certified Local Coastal Program (LCP) by incorporating the changes contained in City Council Resolution No. 20.055 ([Exhibit 1](#)) and reflected in City Council Ordinance No. 1650 ([Exhibit 2](#)).

The City is requesting that the Coastal Commission certify an amendment to the LUP and IP to remove references to the City's historic inventory in the LUP and to amend provisions in the Laguna Beach Residential Design Guidelines and Chapters 25.05 (Administration), 25.17 (Second Residential Units), 25.18 (Local Business – Professional Zone), 25.22 (Bed and Breakfast Inns), 25.38 (Floodplain Management), 25.45 (Historic Preservation), and 25.54 (Signs Regulations) of the City's Zoning Code (Title 25). The proposed LCP amendment would correct or clarify ambiguities, and would primarily: (1) include definition of the term "Historic Resource" and other relevant terms; (2) add 'owner consent' as a criteria for eligibility for local register purposes; (3) eliminate of references to the City's 1981 Historic Inventory; (4) expand historic preservation incentives; and (5) update other procedures regarding historic preservation.

SUMMARY OF STAFF RECOMMENDATION

The City of Laguna Beach (City) has prepared and submitted draft language with proposed changes to the Land Use Element (LUE) of the Land Use Plan (LUP) and the Implementation Plan (IP) portion of the City's certified Local Coastal Program (LCP) summarized above.

Suggested modifications are being made to ensure internal consistency and to continue to preserve historic resources, all consistent with Coastal Act and Land Use Plan (LUP) requirements.

Staff is recommending that the Commission, after public hearing:

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

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

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

DEADLINE FOR COMMISSION ACTION

The proposed LCP amendment was deemed complete on December 30, 2019. A request to extend the deadline to act was granted on November 18, 2020. The final date by which the Commission must act on this LCP amendment request is February 16, 2022.

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

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EXHIBITS

[Exhibit 1 – City Council Resolution No. 20.055](#)

[Exhibit 2 – City Ordinance No. 1650 \(Final Language Adopted by City\)](#)

[Exhibit 3 – Strikethrough/Insert Version of Proposed Changes to LCP](#)

I. PROCEDURAL ISSUES

A. STANDARD OF REVIEW

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

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

The standard of review for the proposed amendment to the Coastal Land Use Plan (CLUP), pursuant to Section 30512(c) and 30514(b) of the Coastal Act, is the Chapter 3 policies of the Coastal Act. The standard of review for the proposed amendment to the LCP Implementing Ordinances (IP), pursuant to Sections 30513 and 30514(b) of the Coastal Act, is that the proposed IP amendment conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan (LUP), as proposed to be amended.

B. PUBLIC PARTICIPATION

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

Ordinance No. 1650: The proposed changes affecting the Historic Preservation Program, the Land Use Element, the Laguna Beach Residential Design Guidelines and Chapters 25.05, 25.17, 25.18, 25.22, 25.38, 25.45, 25.54 of the Laguna Beach Municipal Code were the subject of two related City Council public hearings on July 14, 2020 and August 11, 2020; as well as one Planning Commission public hearing on February 26, 2020. Because the ordinance is of citywide effect, a 1/4th page notice was published in the Los Angeles Times newspaper.

PROCEDURAL REQUIREMENTS

If the Commission certifies the LCP amendment as submitted, no further City Council action will be necessary. City staff has indicated that the ordinance will only become final after certification by the Commission, but pursuant to Section 13544(b)(2) of Title 14 of the California Code of Regulations, no further formal action is required. Should the Commission deny the LCP Amendment, as submitted, without suggested modifications, no

further action is required by either the Commission or the City, and the LCP amendment is not effective, pursuant to Section 13542(f). Should the Commission deny the LCP Amendment, as submitted, but then approve it with suggested modifications, then the City Council may consider accepting the suggested modifications and submitting them by resolution to the Executive Director for a determination that the City's acceptance is consistent with the Commission's action. In that scenario, pursuant to Section 13544(c) of Title 14 of the California Code of Regulations, the modified LCP Amendment will become final at a subsequent Commission meeting if the Commission concurs with the Executive Director's Determination that the City's action in accepting the suggested modifications approved by the Commission for LCP Amendment LCP-5-LGB-20-0051-3 is legally adequate. If the City does not accept the suggested modifications within six months of the Commission's action, then the LCP amendment remains uncertified and not effective within the coastal zone.

II. MOTIONS AND RESOLUTIONS

A. DENIAL OF THE LUP AMENDMENT AS SUBMITTED

MOTION I:

I move that the Commission **reject** Land Use Plan Amendment No. LCP-5-LGB-20-0053-1 for the City of Laguna Beach as submitted.

Staff recommends a **YES** vote. Passage of this motion will result in rejection of the LUP amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Resolution to Deny the LUP Amendment as Submitted:

The Commission hereby denies certification of the Amendment to the Land Use Plan submitted for the City of Laguna Beach certified LCP and adopts the findings set forth below on grounds that the Amendment to the Land Use Plan as submitted does not meet the requirements of, and is not in conformity with, the policies of Chapter 3 of the Coastal Act. Certification of the Land Use 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 Land Use Plan Amendment may have on the environment.

B. APPROVAL OF THE LUP AMENDMENT IF MODIFIED AS SUGGESTED

MOTION II:

I move that the Commission **certify** Land Use Plan Amendment No. LCP-5-LGB-20-0053-1 for the City of Laguna Beach certified LCP if it is modified pursuant to the staff recommendation.

Staff recommends a **YES** vote. Passage of this motion will result in the certification of the LUP Amendment with suggested modifications and adoption of the following resolution

and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of the majority of the Commissioners present.

Resolution to certify the LUP Amendment if Modified:

The Commission hereby certifies the Amendment to the Land Use Plan for the City of Laguna Beach certified LCP if modified as suggested and adopts the findings set forth below on grounds that the Amendment with the suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

C. DENIAL OF THE IP AMENDMENT AS SUBMITTED

MOTION III:

I move that the Commission **reject** Implementation Plan Amendment No. LCP-5-LGB-20-0053-1 for the City of Laguna Beach as submitted.

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Plan amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Resolution to Deny the IP Amendment as Submitted:

The Commission hereby denies certification of the Amendment to the Implementation Plan submitted for the City of Laguna Beach certified LCP and adopts the findings set forth below on grounds that the Amendment to the Implementation Plan as submitted does not conform with and is not adequate to carry out the provisions of the certified Land Use Plan. Certification of the Amendment to the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Amendment to the Implementation Program as submitted.

D. APPROVAL OF THE IP AMENDMENT IF MODIFIED AS SUGGESTED

MOTION IV:

I move that the Commission **certify** Implementation Plan Amendment No. LCP-5-LGB-20-0053-1 for the City of Laguna Beach certified LCP if it is modified pursuant to the staff recommendation.

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

Resolution to certify the IP Amendment if Modified:

The Commission hereby certifies the Amendment to the Implementation Plan for the City of Laguna Beach certified LCP if modified as suggested and adopts the findings set forth below on grounds that the Amendment to the Implementation Plan with the suggested modifications will be in conformance with and adequate to carry out the provisions of the certified Land Use Plan. Certification of the Amendment to the Implementation Program if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

III. SUGGESTED MODIFICATIONS

The Commission finds and suggests that the following changes (i.e., “suggested modifications”) to the LCP are necessary to ensure that the LUP is consistent with and adequate to carry out the policies of Chapter 3 of the Coastal Act. If the City accepts these suggested modifications within six months of Commission action, by formal resolution of the City Council, the LCP amendment changes will become effective upon Commission concurrence with the Executive Director finding that the City’s action and the notification procedures for appealable development are legally adequate to satisfy and specific requirements set forth in the Commission’s certification order.

Suggested modifications to the standards of the Land Use Element of the LUP and of the IP are shown in [Attachment A](#) (Text added to the City’s proposed zoning code by the suggested modification is **bold and double-underlined**, and text suggested to be deleted is ~~struck through twice and in bold~~). [Exhibit 2](#) contains the final language to the LUE and to Title 25 as adopted/proposed by City. [Note: the legislative draft version has been attached as [Exhibit 3](#) to highlight the changes proposed by the City].

City and Commission staff have worked together to resolve issues related to historic preservation. City staff has generated many of the suggested modifications contained herein, either in response to Commission staff concerns or to supplement various sections. Wherever possible, Commission staff has incorporated the City’s suggestions and language changes.

IV. FINDINGS

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

A. AMENDMENT DESCRIPTION

The City of Laguna Beach is requesting to amend both the Land Use Plan (LUP) and the Implementation Plan (IP) portions of the City's certified Local Coastal Program (LCP) by incorporating the changes contained in City Council Resolution No. 20.055 ([Exhibit 1](#)) and reflected in City Council Ordinance No. 1650 ([Exhibit 2](#)).

LUP Amendment Request

The subject amendment would remove one reference to the City's 1981 Historic Inventory from the Land Use Element (LUE) of the certified LUP. Currently Action 2.2.1 of the LUE references the City's Historic Inventory. The City is proposing to delete Action 2.2.1, which states, "Update the City's Historic Resource Inventory."

IP Amendment Request

The subject amendment also includes modifications to the IP of the certified LCP. The City is requesting to amend provisions in the Laguna Beach Residential Design Guidelines and Chapters 25.05 (Administration), 25.17 (Second Residential Units), 25.18 (Local Business – Professional Zone), 25.22 (Bed and Breakfast Inns), 25.38 (Floodplain Management), 25.45 (Historic Preservation), and 25.54 (Signs Regulations) of the City's Zoning Code (Title 25). The proposed LCP amendment would correct or clarify ambiguities and would primarily: (1) include definition of the term "Historic Resource" and other relevant terms; (2) add 'owner consent' as a criteria for eligibility for local register purposes; (3) eliminate of references to the City's 1981 Historic Inventory; (4) expand historic preservation incentives; and (5) update other procedures regarding historic preservation. The City's indicated that the proposed changes are to simplify, clarify and enhance the existing preservation program.

B. AMENDMENT LOCATION

The City of Laguna Beach lies almost exclusively within the Coastal Zone, with a total area of 8.8 square miles. Geographically, the City of Laguna Beach is surrounded by open space/wilderness parks and is comprised of three main parts: the shoreline, the coastal plain, and the hillsides and canyons ([Exhibit 1](#)). The City's shoreline extends for approximately 6.2 linear miles. Most of the City's shoreline is fronted by bluffs, with areas of pocket beaches. The shoreline includes two large sandy beaches: Main Beach adjacent to the City's downtown area, at the mouth of Laguna Canyon; and Aliso Beach in South Laguna at the mouth of Aliso Canyon. Only two roads provide access into and out of the City (Coast Highway and Laguna Canyon Road), establishing a physical separation from other regions.

C. CONSISTENCY ANALYSIS

I. LUP Amendment Request

Under Sections 30512(c) and 30514(b), the Commission shall certify a LUP amendment that meets the requirements of, and is in conformance with, the Chapter 3 policies of the Coastal Act. The City is proposing to delete Action 2.2.1, which states, "Update the City's Historic Resource Inventory."

Applicable Coastal Act – Chapter 3 Policies

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30253(e) of the Coastal Act states:

New development shall do all of the following:

- (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.
- (c) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Board as to each particular development.
- (d) Minimize energy consumption and vehicle miles traveled.
- (e) Where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.

Consistency Analysis - Denial as Submitted and Approval with Suggested Modifications

The proposed removal of LUE Action 2.2.1 would remove one of three references to the City’s 1981 Historic Inventory that are currently in the LUE.

The City’s indicated that the 1981 Historic Inventory does not meet the requirements of Public Resources Code Section 5024(g) and cannot create a presumption that the identified properties are a historic resource. In 1981, the City conducted a historic survey to identify homes with historical significance built prior to 1935. The City states:

“The Historic Inventory is a list of properties that were identified through a historic survey in 1981 as being eligible for the City’s Historic Register. These properties were determined to have structures which have most retained their original appearance, and architectural integrity and which most represent the former character of Laguna Beach. The City began the process to update this Inventory in 2014, but the updated Inventory is still in draft form and has not been approved or

adopted by the City. As noted above, an updated Inventory would be a valuable planning tool because, with regard to the properties surveyed, it provides some level of certainty. Specifically, it provides rebuttable presumption as to whether a property is or is not a historic resource. Properties identified on the Inventory as not being historic resources are presumed not to be historic resources that are entitled to protection under CEQA. Properties that are designated on the Inventory as historic resources are presumed to be historic resources that are granted protection under CEQA. The Inventory serves the purpose of giving advance notice to property owners and the City regarding historic resources status. If the City chooses to forgo completing the Inventory, that decision would have no impact whatsoever on whether any structure is or is not a historic resource. Instead, its elimination would mean that property owners and the City would have to conduct historical resource assessment from scratch for each project involving modifications to, or demolition of, structures over 45 years of age. This is time consuming and expensive, and the results may take many property owners by surprise. Simply put, elimination of the Inventory does not give a “free pass” for development; all future projects would still need to be reviewed by the City for historical resource impacts. Essentially, the homes that were on the Inventory would be reclassified into the “un-surveyed” group of homes more than 45 years of age.”

There is some local concern that the removal of references to the local Historic Inventory from the LCP will reduce protections to structures listed on the Inventory (from local Historic Inventory and Historic Register listing 65 properties to only a local Historic Register, listing 27 properties), and that such removal could impact the character of the community.

The City has indicated that the proposed changes do not modify the historic status of any property, and if a property has been determined to be a historic resource in a manner consistent with California law and meets the criteria for the State Register, it will continue to be protected pursuant to CEQA. In addition, impacts to community character will continue to be determined on a case-by-case basis through the coastal development permit process. Therefore, the proposed change to the LUE will not be inconsistent with Sections 30251 and 30253(e) of the Coastal Act regarding the protection of character.

For internal consistency, two suggested modifications are being made, which would remove the other two (out of three) references to the City’s local historic inventory from the LUE. The other two references are included in the definitions for ‘buildings with “special qualities”’ and ‘historic preservation’ in the LUE Glossary.

In addition, a modification is being suggested to the definition of “historically significant” in the LUE Glossary that would clarify that further clarification regarding historically significant buildings is provided in Chapter 25.45 of the IP.

The other modifications to the LUP are to ensure the policies and actions are renumbered as appropriate.

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

Conclusion

For the reasons described above, the Commission finds that the proposed LUP amendment, as modified, is in conformity with the Chapter 3 policies of the Coastal Act.

II. 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 amendments must conform with, and be adequate to carry out, the provisions of the certified LUP (considering the proposed LUP amendment as modified). This LCP amendment request is an update to the City's Historic Preservation Ordinance. This ordinance contains the policies and regulations relevant to historic preservation.

The City is proposing remove 28 references to the City's 1981 Historic Inventory that are currently in Title 25 (Municipal Code) and the Design Guidelines – A Guide to Residential Development of the certified IP.

In Chapter 25.05 of Title 25, the IP lists examples of physical improvements and site developments that are subject to design review. The City is proposing to remove "exterior alterations or additions to structures listed on the historic register per Chapter 25.45, Historic Preservation" as an example that requires design review.

The IP amendment will add a new section in Chapter 25.45 to define relevant terms such as, but not limited to, "historic resource" and "demolition." This IP amendment would define "Historic resource" as "a property or structure that (1) is listed on the City's historic register, (2) is listed on the California Register of Historical Resources, (3) has been officially determined to be eligible for the California Register of Historical Resources by the State Historical Resource Commission, (4) is listed on the National Register of Historic Places, (5) has been officially determined to be eligible for the National Register of Historic Places by the National Park Service, or (6) the City is mandated by law to treat as a historic resource based on substantial evidence in light of the whole record." For purposes of historic preservation, the City is defining demolition as "any act which removes existing exterior walls, cladding and or roof framing. Demolition of portions of a historic structure, for purposes of this chapter, shall not be constrained by "Major Remodel" as defined in Section 25.08.24 of this title."

The City is proposing a section in Chapter 25.45 that will detail the criteria for eligibility on the historic register and would include 'owner consent' as a criterion for such eligibility. Under the proposed Section 25.45.006(C) (Criteria for Historic Register Listing), upon submittal of an application by the property owner(s), the City would consider a building(s), structure(s), sites, object, or district for designation by the Heritage Committee if it meets criteria (1), which states "The owner of the property voluntarily agrees to the placement on the register[,]" and also one or more of criteria (2) through (11), which are listed below. The proposed Section 25.45.006(C) builds upon the currently certified criteria and procedures.

25.45.006 Historic Register Designation, Criteria and Procedures and Removal from Register.

...

(C) Criteria for Historic Register Listing. Upon submittal of an application by the property owner(s), a building, grouping of buildings, structure, site, object, or district shall be considered for designation by the Heritage Committee if it meets criteria (1) and also one or more of criteria (2) through (11):

- (1) The owner of the property voluntarily agrees to the placement on the register;
- (2) It is listed on the National Register or the State Register;
- (3) It exemplifies the cultural, political, economic, social or historical heritage of the community;
- (4) It is identified with a person, events, culture or site significant in local, state or national history;
- (5) It is representative of the work of a notable builder, designer, architect, or artist including those of local importance;
- (6) It embodies distinguishing architectural characteristics of a style, type, period or method of construction that exemplify a particular architectural style or way of life important to the City;
- (7) It embodies elements that represent a significant structural, engineering, or architectural achievement or innovation;
- (8) It has a unique location, a singular physical characteristic, or is an iconic visual feature or public view point within the City;
- (9) Is one of the remaining examples in the City, region, state or nation possessing distinguishing characteristics of architectural, cultural or historical importance;
- (10) Is an iconic landscape, garden, space or public view point that is significant to the history and heritage of the City; or
- (11) Has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California, or the nation.

The proposed IP amendment will also expand historic preservation incentives. The City is proposing a rear yard setback relief for new structures or additions to existing structures on the historic register. The City is also proposing density bonuses for properties listed on the historic register that are located in the R-2 and R-3 residential zones and would allow a second residential unit for properties in the R-1 residential zone. Additional new incentives include relief from nonconforming open space requirements and giving priority building and planning/zoning division plan check processing.

Additional changes to the IP include an update to the procedures for the alteration of historic structures. As currently certified, the IP requires that the design review board review the proposed changes and alterations of historic structures (except for minor exterior modifications) and provides local rehabilitation guidelines. These procedures are being amended to allow City staff to review the alterations to determine consistency with the Secretary of Interior's Standards (SOIS) or the City's Local Design Guidelines.

This IP amendment request also includes modifications to the procedures for the demolition of historic structures. These modifications are partially “clean-up” changes that correct and/or clarify ambiguities in the language of the document and to re-organize the procedures.

Other changes to the IP include new sections in Chapter 25.45 of Title 25 to address property owned by public agencies; required property maintenance; and historic property disclosure.

Applicable LUP Policies

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

The policies cited below are the relevant policies with regard to preservation of historic resources:

The Coastal **Land Use Plan Technical Appendix** segment of the certified LUP expressly incorporates the following Coastal Act policies regarding historic preservation and community character:

Section 30251 states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

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

Action 1.1.13 states: Encourage preservation of historic structures and adaptive reuse of buildings.

GOAL 2: Preserve, enhance and respect the unique character and identity of Laguna's residential neighborhoods. Intent - The residential neighborhoods of Laguna Beach are diverse in housing design and are characterized by a strong neighborhood identity. Styles range from traditional to contemporary, with a majority of neighborhoods being of an eclectic mix. Pressures for development created by Laguna Beach's spectacular coastal and hillside settings and consistently high property values are perceived as creating cumulatively negative aesthetic and other impacts on these unique neighborhoods. In

response to such impacts, Goal 2 sets forth policies and actions to preserve, enhance, and respect the character and identity that make Laguna Beach a highly desirable community in which to live through actions such as 1) amending zoning ordinances, including the implementation of long-term anti-mansionization standards; 2) changing the Design Review guidelines and process; 3) encouraging the preservation of historic residences; and 4) strengthening the Landscape and Scenic Highways Resource Document.

Policy 2.2 Encourage the preservation of historically significant residential structures and protect the character-defining components of Laguna Beach's traditional neighborhoods.

Action 2.2.2 Receive an annual report from the Heritage Committee regarding preservation issues related to historically significant structures and amend preservation policies and ordinances as necessary to address identified issues. (Same as Action 3.3. 1.)

Action 2.2.3 Adopt incentives to preserve residential structures that contribute to the cultural and/or architectural character and heritage of the community.

GOAL 3: Preserve, enhance, and respect the unique, small-scale village character and individual identity of Laguna Beach's commercial areas. Intent -Laguna Beach's commercial areas are predominantly low-scale, which contributes to the pedestrian-oriented street environment. The village charm of Laguna Beach is a character that community members have long worked to preserve and enhance. An example of such a preservation technique is the Downtown Specific Plan, adopted in 1989 to preserve the "village atmosphere." The following policies apply to all commercial areas of the City and encourage compatibility of uses, the creation of small businesses, pedestrian orientation and access, art-related uses, enhanced and appropriate landscaping, and the preservation of historically significant commercial structures.

Policy 3.1 Promote development that is compatible with the pedestrian-oriented village character of the downtown (e.g., small lot sizes and height limitations).

Action 3.1.1 Consider adopting appropriate incentives for small commercially zoned lots to encourage a continuation of historic development patterns of small buildings on small lots. Examples of such incentives could include relaxed parking and setback standards.

Policy 3.2 Encourage expansion of the village character, as defined in the Downtown Specific Plan, to other commercial areas of the City.

Policy 3.3 Encourage the preservation of historically significant buildings and protect the character-defining components of Laguna Beach's commercial neighborhoods. (*Similar to Policy 2.2.*)

Action 3.3.1 Receive an annual report from the Heritage Committee regarding preservation issues related to historically significant structures and amend preservation policies and ordinances as necessary to address identified issues. (*Same as Action 2.2.2*)

Action 3.3.2 Develop City incentives to preserve significant/special commercial buildings in Laguna Beach.

Action 3.3.3 Consider the establishment of a land trust or other mechanism to purchase historically significant and special commercial structures.

Action 5.1.3 Promote preservation of historic structures and adaptive reuse of existing buildings.

Consistency Analysis - Denial as Submitted and Approval with Suggested Modifications

Historical resources range from architecturally significant historic buildings and collections of buildings or residences that form distinctive neighborhoods to those associated with important persons or events in Laguna Beach's history. As noted in the Laguna's Design Guidelines – A Guide to Residential Development: "The preservation of local landmarks, historical development patterns, diversity of design and pedestrian scale have contributed to Laguna's village atmosphere[.]"

The certified LUP has expressly incorporated Coastal Act Section 30251, which requires, in relevant part, that permitted development be sited and designed to be visually compatible with the character of surrounding areas. In addition, the LUE of the LUP contains policies and actions that encourage the preservation of historic structures and adaptive reuse of buildings (Action 1.1.13 and 5.1.3); encourage the preservation of historically significant residential structures and protect the character-defining components of Laguna Beach's traditional neighborhoods and commercial neighborhoods (Policy 2.2 and 3.3); promote development that is compatible with the village character of the downtown (e.g., small lot sizes, pedestrian orientation, eclectic mix of architectural styles, etc.) (Policy 3.1); and encourage expansion of the village character to other commercial areas (Policy 3.2). Moreover, the LUE defines neighborhood character as the "sum of the qualities that distinguish areas within the City, including historical patterns of development (e.g., structural heights, mass, scale or size), village atmosphere, landscaping themes and architectural styles.

The City is proposing remove 28 references to the City's 1981 Historic Inventory that are currently in Title 25 (Municipal Code) and the Design Guidelines – A Guide to Residential Development of the certified IP, because the City no longer maintains the inventory. References to the City's historic register will remain. However, there is some local concern that the proposed IP amendment will reduce protections to remaining structures on the Inventory and will eliminate Heritage Committee review for such properties, and that could impact the character of the community.

As previously addressed above in Section IV.C.I of this staff report, the City has indicated that the 1981 Historic Inventory does not meet the requirements of Public Resources Code Section 5024(g) and cannot create a presumption that the identified properties are a historic resource. However, omitting the local Historic Inventory, which is supplemental to the Historic Register, will not have an impact on the historic status of a structure (whether a structure is considered to be a historic resource). Additionally, a historic resource assessment will still be required for projects involving alterations to structures constructed over 45 years ago. A project would still be required to be consistent with the City's Historic

Preservation Ordinance and would need a coastal development permit to demolish or substantially alter a historic building. In addition, any structure(s) on properties that have been determined to be historic resources pursuant to state law and meets the criteria for the State Register will continue to be protected under CEQA. The City states:

“If a property has already been determined to be a historic resource in a manner consistent with California law, it will continue to be protected. Additionally, pursuant to State CEQA Guideline Section 15064.5(a), this would generally include any situation where the City Council finds, based upon substantial evidence, that the property meets the criteria for the State Register. For example, the City has identified numerous properties that are potentially eligible for the National Register, and those will require a historic assessment before they can be modified...These are properties that are not on the City’s Register, but the City nonetheless recognizes the need to preserve them.”

The City’s criteria for establishing historical significance will continue to follow the California Register of Historical Resources eligibility requirements. The California Register has four criteria for historic significance. These are: (1) the resource is associated with events that have made a significant contribution to broad patterns of local or regional history or the cultural heritage of California or the United States; (2) the resource is associated with the lives of persons important to local, California or national history; (3) the resource embodies the distinctive characteristics of a type, period, region, or method of construction or represents the work of a master or possesses high artistic values; or (4) the resource has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California or the nation. Furthermore, the City’s historic preservation program will protect historic resources from being demolished and guide rehabilitation of these resources in a manner that is consistent with the Secretary of Interior Standards (SOIS) and the established character of the community.

In addition, there are existing safeguards that will help preserve neighborhood character. Generally, any project that has a potential to impact neighborhood character requires design review and is subject to the City’s Design Review Criteria and Design Guidelines, regardless of historic status. For instance, pursuant to Section 25.05.040 of the certified IP, additions that are 50% or more of the original gross floor area, additions that create a new upper story, additions that exceed a height of 15 feet above the adjacent ground elevation or additions that exceed 10% of the original gross floor area of an existing legal nonconforming structure will all require design review, including historic structures.

Regarding village character, pursuant to Section 25.05.040(H) of the certified IP, physical improvements and site developments subject to design review are required to be “designed and located in a manner which best satisfies the intent and purpose of design review, the city’s village atmosphere and the design review criteria...Village atmosphere shall be characterized by appropriately scaled development, diverse and unique architectural designs, pedestrian orientation and sensitivity to the natural conditions of the site.”

Additionally, Section 25.05.040(H)(9) addresses “neighborhood compatibility” and notes that “development shall be compatible with the existing development in the neighborhood

and respect neighborhood character. Neighborhood character is the sum of the qualities that distinguish areas within the city, including historical patterns of development (e.g., structural heights, mass, scale, or size), village atmosphere, landscaping themes and architectural styles.” Moreover, the Downtown Specific Plan also has action items to protect village character consistent with certified LUP.

The City has indicated it has a robust design review process, and notes that any substantial projects will continue to be subject to design review, subject to CEQA, and will provide sufficient protections to preserve the neighborhood character and existing historic resources. In Chapter 25.05 of Title 25, the IP lists examples of physical improvements and site developments that are subject to design review. Although the City is proposing to remove “exterior alterations or additions to structures listed on the historic register per Chapter 25.45, Historic Preservation[,]” as well as demolitions of structures on the historic resources list as examples that require design review, this is simply because the City believes it should not be presumed that such development automatically requires design review because of the historic status of a structure; rather, it should be presumed that design review is required when, for example, substantial exteriors alterations and additions regardless of the historic status of a structure. However, a modification to the proposed Section 25.45.010 (Procedures for the alteration of historic structures) is suggested to clarify that prior to issuance of a building permit to remodel or alter any historic resource, the City is required to review the proposed changes to determine if the proposal is consistent with the design review criteria *and* the SOIS or the City’s Local Design Guidelines.

It is important to note that it is possible to alter historic buildings and preserve their historic character. It is also possible to replace an older structure with a new structure that maintains or recreates the character of previous structure, thereby maintaining and preserving community character. Also, the LCP as certified and as proposed to be amended will continue to offer property owners the option to initiate removal of their property from the register (subject to City Council approval with recommendation from the heritage committee). Therefore, under the certified LCP, if a property is currently listed on the local historic register but otherwise is not considered a historic resource by the City, the property owner already has the option to try to remove their property from the local register. However, properties on the California and National Register are automatically eligible for the City’s historic register and are not subject to Heritage Committee review for designation.

Additionally, it should also be noted that impacts to community character will continue to be determined on a case-by-case basis through the coastal development permit process. Therefore, these proposed changes to the IP will not be inconsistent with the LUP regarding the protection of character and impacts to historic resources.

Regarding Heritage Committee review, the Heritage Committee will not be eliminated. For projects that are consistent with SOIS but otherwise require design review, application review by the Heritage Committee will be required to provide recommendations to the approval authority prior to design review. For projects that are not consistent with SOIS, the Heritage Committee will review the applications and provide recommendations to the approval authority. The Heritage Committee will also continue to review applications for

historic register designation and removal from the register. Additionally, a request for preservation incentives in conjunction with an application to modify an historic resource will require a recommendation from the Heritage Committee. The Heritage Committee will also continue to provide recommendations to the City Council regarding penalties for illegal construction work to historic structures.

References to documents that are not part of the LCP, such as the SOIS, would ordinarily be discouraged. However, in this case, the City is referencing a U.S. federal document which discusses aesthetic changes to a historic structure and standards related to historic resources. In addition, in this case, it is unnecessary to incorporate these federal standards into the LCP because other parts of the LCP determine what can and cannot be approved consistent with the Coastal Act. The reference to SOIS is limited to City staff review level, and not an exemption from CDP requirements in favor of federal standards.

For internal consistency, two suggested modifications are being made, which would remove the other two out of 30 references to the City's local historic inventory from Title 25 and Section 10. South Laguna Community Design and Landscape Guidelines of the certified IP.

The IP amendment request, as proposed, includes a new definitions section (Section 25.45.004) to Chapter 25.45 (Historic Preservation). Regarding the proposed definition for "demolition," a suggested modification is being made to relocate this definition to the section for which it is intended (Section 25.45.022 (Illegal construction – Penalty for violations)) and to avoid confusion between the use of that term in Section 25.45.022 and in other parts of the LCP. Additionally, the City indicated that the intent of this definition is to differentiate "demolition" from "major remodel" for purposes of historic preservation and determining penalties for illegal construction to historic structures. Therefore, this suggested modification also clarifies that demolition includes complete destruction/removal of a historic structure, as well as substantial partial demolition.

Regarding the proposed definition for "historic resource," a minor modification is being suggested to clarify that a historic resource is generally considered to be "historically significant" if the resource meets the criteria for listing on the California Register of Historical Resources. This suggested modification ensures that the IP is adequate to carry out state requirements and the LUP.

This IP amendment request, as proposed, will expand and/or modify historic preservation incentives. For example, the City is proposing to expand setback flexibility and allow for new rear yard setback reliefs. However, to ensure that these setback reliefs do not conflict and are consistent with the LUP's oceanfront and/or oceanfront bluff edge setbacks and other necessary setbacks intended to protect natural resources, a modification is being suggested to clearly indicate that these LUP setbacks must still be met.

Regarding another listed incentive, although no changes are proposed to the open space requirements, a suggested modification is necessary to clarify that these open space requirements are those required specifically by Section 25.50.010 in Chapter 25.45

(General Yard And Open Space Provisions) of Title 25 of the certified IP, and not open space requirements that may be necessary to protect public and natural resources.

Regarding the relief from nonconforming structure requirements, the relief allows property owners to add fifty percent of a historic structure without bringing existing certain nonconformities into compliance if the addition does not diminish or detract from the historic significance of a structure. A suggested modification is necessary to indicate which type of nonconformities are being referenced (i.e., nonconforming building height, parking, vehicular access, and setbacks (as noted in Section 25.45.008(E)). In addition, a modification is being suggested to ensure that additions allowed under this relief are consistent with the SOIS and do not increase the size or degree of non-conformities.

Another modification is also necessary related to this relief subsection regarding nonconforming structure requirements to clarify that residential structures that are altered by or have additions of more than fifty percent shall not necessarily be eligible for shoreline and bluff protection. This modification ensures that this subsection is consistent with the bluff and shoreline protection policies of the LUP. For example, LUE Action 7.3.5 states: "Prohibit development on oceanfront bluff faces, except public improvements providing public access, protecting coastal resources, or providing for public safety. Permit such improvements only when no feasible alternative exists and when designed and constructed to minimize landform alteration of the oceanfront bluff face, to not contribute to further erosion of the oceanfront bluff face, and to be visually compatible with the surrounding area to the maximum extent feasible." In addition, Section 30253(2) states (as it appears in its entirety in the Technical Appendix): "New development shall assure stability and structural integrity and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluff and cliffs." These policies prioritize public and natural resource protection over private development.

Other modifications are suggested for general clean-up, clarification, and internal consistency of the IP with the certified LCP. For example, proposed Section 25.45.006(D) is being modified to ensure that the criteria requirements match with those of Section 25.45.006(C).

The other modifications to the LUP are to ensure the policies and actions are renumbered as appropriate.

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

Conclusion

The IP amendment, as proposed, is not adequate to carry out the LUP without the suggested modification described above because certain clarifiers are necessary to ensure consistency with the LUP's historic preservation policies and certain changes are required to ensure consistency with the natural resource and bluff and shoreline protection policies of the certified LUP. If approved with the suggested modifications described above, the Commission finds that the City's IP would conform with, and is adequate to carry out, the

requirements of the certified LUP, as approved herein, consistent with Section 30513 of the Coastal Act.

D. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

On August 11, 2020, after holding multiple noticed public hearings, the Laguna Beach City Council adopted Resolution No. 20.055 approving the LCP Implementation Plan for submittal to the California Coastal Commission. As part of their local action, the City found that pursuant to Sections 15060(c)(2) and 15061(3) of the California Code of Regulations (“California Environmental Quality Act Guidelines,”) that the proposed amendment to the LCP Implementation Plan is exempt from further review under the California Environmental Quality Act (CEQA).

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

The Commission finds that, for the reasons discussed in this report, the proposed LUP amendment, with adoption of the suggested modifications listed in Section IV of this report, is in conformity with the Chapter 3 policies of the Coastal Act. The Commission finds that, for the reasons discussed in this report, the proposed IP amendment, with adoption of the suggested modifications listed in Section IV of this report, is in conformity with, and adequate to carry out the land use policies of the certified LUP, as modified by the suggested modifications. The Commission finds that approval of the LCP Amendment with suggested modifications will not result in significant adverse environmental impacts within the meaning of CEQA. As modified, the LCP contains specific requirements that apply to development projects and procedures for applicants to follow in order to obtain a coastal development permit. Thus, future individual projects would require coastal development permits, issued by the City of Laguna Beach, and in the case of areas of original jurisdiction, by the Coastal Commission. Throughout the coastal zone, specific impacts to coastal resources resulting from individual development projects are assessed through the coastal development review process; thus, any individual project will be required to undergo environmental review under CEQA. Certification of the LCP if modified as suggested complies with CEQA because: 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, and 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts which the LCP Amendment may have on the environment. The Commission finds that the

proposed LCP amendment if modified as suggested will be consistent with Section 21080.5(d)(2)(A) of the Public Resources Code.