

**CALIFORNIA COASTAL COMMISSION**

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# Th13a

DATE: July 27, 2018

TO: Coastal Commission and Interested Parties

FROM: Steve Hudson, District Director  
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SUBJECT: City of Manhattan Beach LCP Amendment No. 1-17 (LCP-5-MNB-17-0024-1 Downtown Specific Plan) for the Commission meeting of August 9, 2018 in Redondo Beach.

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## SUMMARY OF AMENDMENT REQUEST

The LCP amendment was submitted to the Commission on March 24, 2017. On June 8, 2017, the Executive Director determined that the City's amendment submittal was in proper order and legally adequate to comply with the submittal requirements of Coastal Act Section 30510(b). Pursuant to Section 30512 of the Coastal Act and Section 13522 of the Commission's regulations, an amendment to the certified LCP that modifies both the LUP and IP portions must be scheduled for a public hearing and the Commission must take action within 90 days of a complete submittal. The 90th day after filing the complete submittal was September 6, 2017. Pursuant to Coastal Act Section 30517 and Section 13535(c) of the Commission's regulations, the Commission extended the statutory 90-day time limit for Commission action on the proposed LCP amendment for one year at its July, 2017 meeting. Therefore, the Commission must act upon this application at its August 2018 hearing.

The City of Manhattan Beach is requesting an amendment to the Coastal Land Use Plan (LUP) and Implementation Plan (IP) portions of its certified Local Coastal Program (LCP) to: 1) reconcile uncertified changes made to the Land Use Plan Map and zoning map of the LCP related to the City's 2003 General Plan Update, (that changed the land use designations of 28 properties from Downtown Commercial to High Density Residential and a small sliver of property from Downtown Commercial to Public Facilities); and 2) incorporate a new Downtown Specific Plan (DSP) as a design overlay for the downtown area, all of which is in the coastal zone. The DSP will amend the Land Use Plan text policy statements for the downtown area, amend implementation measures for the downtown area, and amend the zoning map for all parcels within the DSP area. (**Exhibit 7, p. 19**). See Page 2 for a summary of the staff recommendation.

## **SUMMARY OF STAFF RECOMMENDATION**

The major issues raised by this LCP amendment request are: 1) the proposed change in land use designation and zoning of properties currently protected and preserved for commercial visitor-serving uses (“Downtown Commercial”) to a residential designation, 2) the absence of policies to protect and provide for visitor serving and lower cost overnight visitor accommodations throughout the Downtown area, including short-term rentals of single-family residences, 3) the need to address prioritizing preservation of existing overnight visitor accommodations through appropriate policies to address Limited Use Overnight Visitor Accommodations; and 4) the absence of policies addressing hazards, such as sea level rise and adaptation measures to protect coastal resources.

Staff is recommending that the Commission, after public hearing, deny the amendment to the certified LCP as submitted; then certify, only if modified, the amendment to the LCP. The modifications are necessary because, as submitted, the LUP amendments are not adequate to ensure consistency with the applicable Chapter Three policies of the Coastal Act and the IP amendments do not conform to and are inadequate to carry out the certified LUP.

The motions to accomplish the staff recommendation begin on Page 6.

The suggested modifications are found starting on Page 9.

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**EXHIBITS**

- Exhibit 1 – Regional Map
- Exhibit 2 – Manhattan Beach Coastal Zone Land Use Map Certified 1981
- Exhibit 3 –Proposed Coastal Zone Land Use Plan, Land Use Policy Map
- Exhibit 4– Proposed Zoning Designations with Parcels being Re-zoned
- Exhibit 5 – Table 4.2 Land Use Matrix for the Manhattan Beach DSP with Suggested Modifications
- Exhibit 6 – City of Manhattan Beach Ordinance 16-0030
- Exhibit 7 - City of Manhattan Beach Ordinance 16-0031
- Exhibit 8- Incomplete Letters from Coastal Commission regarding LCP Amendment Request  
No. 3-04, dated June 6, 2006 & February 26, 2013.

## **I. OVERVIEW**

### **A. STANDARD OF REVIEW**

The Coastal Act provides:

*The commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200)... (Section 30512(c))*

The Coastal Act further provides:

*The local government shall submit to the Commission the zoning ordinances, zoning district maps, and, where necessary, other implementing actions that are required pursuant to this chapter.*

*...The Commission may only reject ordinances, zoning district maps, or other implementing action on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. If the Commission rejects the zoning ordinances, zoning district maps, or other implementing actions, it shall give written notice of the rejection, specifying the provisions of the land use plan with which the rejected zoning ordinances do not conform, or which it finds will not be adequately carried out, together with its reasons for the action taken. (Section 30513)*

Section 13532, Title 14, California Code of Regulations, provides, in relevant part:

*The executive director shall prepare a staff recommendation which shall set forth specific findings, including a statement of facts and legal conclusions as to whether or not the proposed land use plan or LRDP conforms to the requirements of the California Coastal Act of 1976 and of these regulations. The proposed findings shall include any suggested modifications necessary to bring the land use plan or LRDP into compliance with the California Coastal Act of 1976, unless the local government has requested that such modifications not be part of the Commission's action . . .*

Section 13543(c) provides, relevant part:

*The standard of review of the implementing actions shall be the land use plan as certified by the Commission. If the land use plan is conditionally certified subject to local government acceptance of the suggested modifications, the standard of review shall be the conditionally certified land use plan. However, if the local government elects to revise and resubmit the land use plan in a manner different from that set forth in the suggested modifications of the conditioned certification, the Commission's approval of the implementing action shall be void.*

The standard of review that the Commission uses in reviewing the Land Use Plan text changes, as proposed by the City, is whether the changes in conformity with, and meet the requirements

of, the policies of Chapter 3 of the Coastal Act. The standard of review for the proposed amendment to the Implementation Plan/Zoning Ordinance, pursuant to Section 30513 and 30514 of the Coastal Act, is that the proposed amendment is in conformance with, and adequate to carry out, the provisions of the certified, or conditionally certified, Land Use Plan (LUP) portion of the City of Manhattan Beach certified Local Coastal Program.

## **B. PUBLIC PARTICIPATON**

Section 30503 of the Coastal Act requires local governments to provide the public with maximum opportunities to participate in the development of the LCP amendment prior to its submittal to the Commission for review. With regard to the planning process of the Downtown Specific Plan, the City held six public workshops, working sessions with members of the Advisory Committee, the City Council, and the Planning Commission, and interviews with stakeholder groups with regard to preparing the Downtown Specific Plan. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

## **II. MOTIONS AND RESOLUTIONS - LAND USE PLAN**

### **A. DENY THE LUP AMENDMENT AS SUBMITTED**

**Motion I:** *I move that the Commission **certify** the Land Use Plan Amendment LCP-5-MNB-17-0024-1 as submitted by the City of Manhattan Beach.*

Staff recommends a **NO** vote to the motion. Failure of this motion will result in denial of the land use plan 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 Land Use Plan Amendment LCP-5-MNB-17-0024-1 as submitted by the City of Manhattan Beach and adopts the findings set forth below on the grounds that the submitted Land Use Plan Amendment does not conform 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 that would substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.*

### **B. CERTIFY THE LUP AMENDMENT WITH SUGGESTED MODIFICATIONS**

**Motion II:** *I move that the Commission **certify** the Land Use Plan Amendment LCP-5-MNB-17-0024-1 submitted by the City of Manhattan Beach if modified as suggested in this staff report.*

Staff recommends a **YES** vote on the motion. Passage of the motion will result in certification of the land use plan amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

#### **Resolution to Certify if Modified**

*The Commission hereby certifies Land Use Plan Amendment LCP-5-MNB-17-0024-1 for the City of Manhattan Beach if modified as suggested on the grounds that the Land Use Plan Amendment with suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment if modified as suggested below 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 plan on the environment, or 2) there are no further feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.*

### **Procedural Requirements**

Pursuant to Section 13551(b) of the California Code of Regulations, a resolution for submittal must indicate whether the Local Coastal Program amendment will require formal local government adoption after Commission approval, or is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513 and 30519. The City's resolution of adoption (Resolution No. 16-0086) states that this LCP amendment will take effect upon Commission certification. However, this certification is subject to the City's incorporation of suggested modifications made by the Commission. Therefore, this LCP amendment will not become effective until the City of Manhattan Beach adopts the suggested modifications and complies with all the requirements of Section 13544.5 and the Commission staff and Commission take the steps outlined in that section, including the requirement that the Executive Director determine the City's adoption of the amendment to the Land Use Plan is legally adequate.

## **III. MOTIONS AND RESOLUTIONS - IMPLEMENTATION PLAN**

### **A. DENY THE IP AMENDMENT AS SUBMITTED**

**Motion I:** *I move that the Commission **reject** the Implementation Plan Amendment LCP-5-MNB-17-0024-1 for the City of Manhattan Beach as submitted.*

Staff recommends a **YES** vote to the motion Passage of this motion will result in rejection of Implementation Program 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 as Submitted**

*The Commission hereby denies certification of Implementation Plan Amendment LCP-5-MNB-17-0024-1 submitted for the City of Manhattan Beach and adopts the findings set forth below on grounds that the Implementation Plan Amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the plan would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures that would substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.*

### **B. CERTIFY THE IP AMENDMENT WITH SUGGESTED MODIFICATIONS**

**Motion II:** *I move that the Commission **certify** the Implementation Plan Amendment LCP-5-MNB-17-0024-1 for the City of Manhattan Beach if modified in accordance with the suggested changes set forth in this staff report.*

Staff recommends a **YES** vote on the motion. Passage of the motion will result in certification of the submitted land use plan amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

**Resolution to Certify if Modified**

*The Commission hereby certifies Implementation Plan Amendment LCP-5-MNB-17-0024-1 for the City of Manhattan Beach and adopts the findings set forth below on the grounds that the Implementation Plan Amendment with suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the plan if modified as suggested below 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 plan on the environment, or 2) there are no further feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.*



#### IV. SUGGESTED MODIFICATIONS TO THE LAND USE PLAN

The staff recommends that the Commission certify the Local Coastal Plan Amendment only with the modifications to the LUP as shown or described below.

**NOTE:** Language presently contained within the certified LCP is shown in straight type. Language proposed by the City to be inserted is shown underlined. Language proposed by the City to be deleted is shown in ~~single strike-out~~. Language recommended by Commission staff to be deleted is shown in ~~double strike-out~~. Language recommended by Commission staff to be inserted is shown in double underline. Other instructional suggested modifications to revise maps or figures *are shown in italics*.

##### Suggested Modification 1

*Manhattan Beach Coastal Zone Land Use Map, City of Manhattan Beach Local Coastal Plan, certified by the CCC on June 18, 1981, is hereby replaced with the Coastal Zone Land Use Plan, Land Use Policy Map adopted by the City in 2004 to reflect revised land use designations set forth in the City's General Plan Update as they relate to the coastal zone.*  
[As Shown on **Exhibits 2 and 3**]

##### Suggested Modification 2

Certified Local Coastal Plan (LUP), Section I, add the following after Policy I.A.9:

**Policy I.A.10: Lower Cost Visitor and Recreational Facilities; Encouragement and Provision.** Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

**Policy I.A.11: Oceanfront Land; Protection for Recreational Use and Development.** Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

**Policy I.A.12: Private Lands; Priority of Development Purposes.** The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

##### Suggested Modification 3

Certified Local Coastal Plan (LUP), Section II, add the following Policy after II.1:

**Policy II.2: Scenic and Visual Qualities.** 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 public 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.

**Policy II.3: Maintenance and Enhancement of Public Access.** The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

## **V. SUGGESTED MODIFICATIONS TO THE IMPLEMENTATION PLAN**

The staff recommends that the Commission certify the Local Coastal Plan Amendment only with the modifications to the IP as shown or described below.

### **Suggested Modification 4**

Section A.12.020 (Land Use Regulations RM and RH districts) of the certified Implementation Program shall be revised in the following manner (there is no “R” district):

In addition to these regulations, the Downtown Specific Plan governs the ~~R~~ RH and RM Residential Districts within the Downtown Specific Plan Area, as shown on the Coastal Zone zoning map. If conflicts exist between these regulations and the Downtown Specific Plan regulations, the Specific Plan regulations shall prevail in the Downtown Specific Plan area.

### **Suggested Modification 5**

Section A.16.010 (Specific Purposes) of the certified Implementation Program shall be revised in the following manner (re-insert “serve beach visitors”):

**CD Downtown Commercial District.** To provide opportunities for commercial, mixed use, residential, public, and semipublic uses that are appropriate for the Downtown area that preserve and enhance the small town character of the downtown area, and the heart of the community. This district is intended to accommodate a broad range of community businesses and to serve beach visitors to serve beach visitors, and create a vibrant, charming area consistent with the vision and goals for the Downtown Specific Plan.

## VI. SUGGESTED MODIFICATIONS TO THE DSP – LUP AND IP

The staff recommends that the Commission certify the addition of the Downtown Specific Plan into the certified LCP only with the modifications to the City's proposed text as shown below.

### Suggested Modification 6

Downtown Specific Plan, Section 4.3 Allowed Uses: Add a footnote to Table 4.2 Land Use Matrix for the CD column:

(\*) Development in the CD District is intended to provide focal points for local shopping, civic and social activities and for visitor-serving commercial uses. New residential uses (including but not limited to single family and multi-family) in the CD District shall be developed in concert with commercial uses, with the exception that senior citizen housing, daycare uses, group homes, and residential care, may be developed without any commercial component. Residential uses should be secondary and supportive of its related commercial development and may be allowed in mixed-use developments. Mixed-use development should use designs that, to the extent feasible, vertically integrate residential dwelling units above the ground floor with retail uses including restaurant, retail, and similar nonresidential uses located on the ground floor or above. The integration and mixing of uses shall be designed to increase opportunities for employees to live near jobs and residents to live near shopping. Overnight visitor-serving uses, such as hotels and youth hostels, are encouraged uses in the CD District.

### Suggested Modification 7

Downtown Specific Plan, Section 4.3 Allowed Uses: Add the following land use policy:

**Short Term/Vacation Rentals.** Short-term rentals are allowed on properties developed with a Single-Family Residence in residential, commercial, and mixed-use zones. The City may evaluate and develop appropriate regulations and development standards to minimize potential adverse impacts to neighborhoods or coastal resources, as well as further evaluate the appropriate locations where short term rentals may be allowed pursuant to a Local Coastal Program amendment that would require certification by the California Coastal Commission.

### Suggested Modification 8

Downtown Specific Plan: Add the following land use policies in a new chapter or other appropriate location within the specific plan or LCP as agreed upon by the City and Executive Director:

**Coastal Hazards/Sea Level Rise/Adaptation.** 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.

**Identify and Use the Best Available Science.** The best available, up-to-date scientific information about coastal hazards and sea level rise shall be used in the evaluation of coastal development permit applications that present hazard risks and in the preparation of technical reports and related findings. Sources of information may include, but shall not be limited to, state and federal agencies, research and academic institutions, and non-governmental organizations, such as the California Coastal Commission (CCC), Ocean Protection Council (OPC), National Oceanic and Atmospheric Administration (NOAA), the National Research Council, and the Intergovernmental Panel on Climate Change. Best available science should be updated, in keeping with regional policy efforts, as new, peer-reviewed studies on sea level rise become available and as agencies such as the OPC or the CCC issue updates to their guidance. As of August 2018, the April 2017 Rising Seas in California: An Update on Sea Level Rise Science and the *State of California Sea Level-Rise Guidance: 2018 Update* report provide the best available sea level rise projections.

**Limits on Future Shoreline Armoring.** As a condition of approval of a coastal development permit for new development or redevelopment on a beach, shoreline, or other area subject to coastal hazards, applicants shall be required to acknowledge that the new development or redevelopment does not qualify as a structure entitled to shoreline protection under Coastal Act Section 30235 or the LCP. The applicant shall also waive any right to claim that the structure is entitled to shoreline protection under Coastal Act Section 30235 or the LCP. Private property owners shall be required to record that acknowledgement and waiver in a deed restriction. For purposes of this policy, the term coastal hazards includes, but is not limited to, tidal and storm flooding, storm conditions, waves, wave run-up, and erosion as influenced by sea level rise over time.

**Assumption of Risk.** As a condition of coastal permit approval for new development, including redevelopment, in an area subject to current or future hazards, applicants shall be required to acknowledge, and private applicants must also record a deed restriction on the property to acknowledge the following, as applicable: 1) that the development is located in a hazardous area, or an area that may become hazardous in the future; 2) that they assume the risks of injury and damage from such hazards in connection with the permitted development; 3) that they unconditionally waive any claim of damage or liability against the City of Manhattan Beach, its officers, agents, and employees for injury or damage from such hazards; 4) that, if a permit is appealed, they indemnify and hold harmless the City of Manhattan Beach, and Coastal Commission, or its officers, agents, and employees, with respect to approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; 5) that sea level rise could render it difficult or impossible to provide services to the site (e.g., maintenance of roadways, utilities, sewage or water systems), thereby constraining allowed uses of the site or rendering it uninhabitable; 7) that the boundary between public land (tidelands) and private land may shift with rising seas, the structure may eventually be located on public trust lands, and the development approval does not permit encroachment onto public trust land; 8) that any future encroachment on public trust lands must be removed unless the Coastal Commission determines that the encroachment is legally permissible pursuant to the Coastal Act and authorizes it to remain, and any future encroachment would also be subject to the State Lands Commission's (or other trustee

agency's) leasing approval; and 9) that the structure may be required to be removed or relocated and the site restored if it becomes unsafe.

### **Suggested Modification 9**

Downtown Specific Plan: Add a footnote or other similar reference to each reference to the General Plan within the 2016 Downtown Specific Plan as follows:

Where there are conflicts between the policies set forth in the Coastal certified LCP, including the Downtown Specific Plan, and those set forth in any other element of the City's General Plan or regulations, the policies of the Coastal LCP take precedence.

### **Suggested Modification 10**

Downtown Specific Plan, Section 2.4 General Plan Land Use: The first paragraph, shall be modified as follows:

In areas outside the Coastal Zone, the Manhattan Beach General Plan is the guiding document for development in the City. Within the Coastal Zone, the City's certified Local Coastal Program is the standard for new development, and the project area. The General Plan and certified Land Use Plan identify the land use classifications and sets the direction for development standards found in the Zoning Code. The City maintains two separate zoning codes: one that applies in the coastal zone (Title A), and another for the remainder of the City (Title 10). Title A of the City's Municipal Code is the Implementation Plan portion of the Local Coastal Plan, which contains the development standards in the coastal zone.

### **Suggested Modification 11**

Downtown Specific Plan, Section 2.5 Local Coastal Program, first paragraph, shall be modified as follows:

The Downtown Specific Plan is part of the City's certified Local Coastal Program. The Manhattan Beach Local Coastal Program (LCP) provides additional policy direction and includes standards for development within development standards for the project area, which is located entirely within the coastal zone. The City's Land Use Plan was certified by the Coastal Commission in 1981. In 1994 the Commission certified the Implementation Plan for final certification of the Local Coastal Plan, giving the City the authority to issue its own coastal development permits. As illustrated in figure 2.6: Local Coastal Program almost the entire district Downtown Specific Plan is located within the LCP's coastal zone, and the portion of the project area located west of Manhattan Avenue is located within the LCP's appealable area, which provides for City decisions on coastal permits to be appealed to the California Coastal Commission.

### **Suggested Modification 12**

Downtown Specific Plan Chapter 4, Goal 3 (a land use policy, as are all goals in the plan) shall be revised to include the following:

Goal 3: Support a vital Downtown business district that is primarily composed of small, pedestrian-oriented commercial businesses, ~~that serve Manhattan Beach residents but includes~~ including low-intensity businesses that provide goods and services to residents and visitors.

### **Suggested Modification 13**

Downtown Specific Plan Table 4.1 Land Use Designations shall be revised to include the following:

CD	Downtown Commercial	The Downtown Commercial designation provides locations for commercial businesses, residential uses, and public uses, with a focus on pedestrian-oriented commercial businesses that serve Manhattan Beach residents <u>and coastal visitors</u> . <del>Visitor-oriented uses are limited to low intensity, including</del> business providing goods and services primarily to beachgoers.
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### **Suggested Modification 14**

*Downtown Specific Plan Table 4.2 Land Use Matrix for the Manhattan Beach Downtown Specific Plan Area shall be replaced with the revised Table 4.2 attached as Exhibit 5. The changes include: Single-Family Transient (STVR) and other Visitor Serving Uses are permitted by right in the CD District.*

### **Suggested Modification 15**

Downtown Specific Plan (LUP), Section 4.4, Second Bullet Point, shall be revised to include the following:

The proposed location of the use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan for areas located outside of the coastal zone, and with the certified Local Coastal Program for areas located within the coastal zone; will not be detrimental to the public health, safety, or welfare of persons residing or working on the proposed project site or in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City.

### **Suggested Modification 16**

Downtown Specific Plan, Section 4.4, Fourth Bullet Point, delete the following:

~~The proposed use will not adversely impact nor be adversely impacted by nearby properties. Potential impacts are related but not necessarily limited to: traffic, parking, noise, vibration, odors, resident security and personal safety, and aesthetics, or create demands exceeding the capacity of public services and facilities which cannot be mitigated.~~

### **Suggested Modification 17**

Downtown Specific Plan, Section 4.4, Fifth Bullet Point, shall be revised to include the following:

The proposed use is consistent with the goals, purpose, vision, and guidelines of the Specific Plan, Local Coastal Program, and the City's General Plan and does not adversely impact coastal resources.

### **Suggested Modification 18**

Downtown Specific Plan, Section 4.4, Sixth Bullet Point, shall be modified as follows:

The proposed use will maintain a balanced mix of uses, including an adequate proportion of high priority uses.

### **Suggested Modification 19**

Downtown Specific Plan, Section 4.4, Eighth Bullet Point, shall be modified as follows:

The proposed use will maintain and enhance the ~~residential~~ quality of life for the Manhattan Beach community.

### **Suggested Modification 20**

Downtown Specific Plan, Chapter 5, Goal 1 (land use policy) shall be modified as follows:

Goal 1: Provide a balanced transportation system to support vehicular movement and parking while still providing safe use of roads for bicyclists, pedestrians, ~~and~~ transit users, and visitors to the coast.

### **Suggested Modification 21**

Downtown Specific Plan, Chapter 5, Section 5.2.F Alleys, 3<sup>rd</sup> sentence shall be modified to include the following:

The commercial alleys provide necessary circulation for the businesses, restaurants, and offices, and also serve as secondary pedestrian accessways. Both residential and commercial alleys also function as pedestrian and bicycle circulation routes.

### **Suggested Modification 22**

Downtown Specific Plan, Table 5.2 Parking Strategy Recommendations. Delete the following:

~~14. Establish intra-Downtown resident parking system.~~

### Suggested Modification 23

Downtown Specific Plan, Chapter 8, Section 8.2 Recreation & Parks, 1<sup>st</sup> paragraph shall be modified as follows:

The project area is served by ~~one~~ two designated open spaces, including Veterans Parkway and the public beach.

### Suggested Modification 24

Downtown Specific Plan, Chapter 8, Section 8.2 Recreation & Parks, 3rd paragraph shall be modified as follows:

The project area is served by two other adjacent recreation and park spaces. This includes the public beach, which is zoned as Open Space, and is located along the district's western edge, and Live Oak Park, an approximately 8.5-acre park located at the district's northeastern corner.

### Suggested Modification 25

*Downtown Specific Plan (LUP) Appendix 3, Section 2, Table 2-1 Suggested Plant Palette shall be revised to delete Washingtonia robusta (Mexican Fan Palm) from the list: ~~Washingtonia robusta (Mexican Fan Palm)~~*

### Suggested Modification 26

Downtown Specific Plan, Appendix 4: Downtown Parking Management Plan Evaluation, p. 8, Proposed Strategy and Objective No. 14 shall be modified to delete the following:

Proposed Strategy	Objective
<del>14. Establish intra-Downtown resident parking system</del>	<del>Consider providing a residential parking permit system that provides residents within the Downtown core, parking privileges in limited areas surrounding their residence.</del>

### Suggested Modification 27

Downtown Specific Plan, Chapter 3, Section 3.2 Vision Goals. The following goal shall be added to Chapter 3 or other appropriate location within the specific plan or LCP as agreed upon by the City and Executive Director:

**Lower-Cost Visitor-Serving Accommodations Program.** The City shall develop a detailed program to ensure that lower cost visitor-serving accommodations are protected, encouraged, and where feasible, provided within the Downtown Specific Plan Area, consistent with Policy I.A.10 of the certified Land Use Plan. The program shall include background research and



data collection, special studies (economic analysis, etc.), and public outreach and stakeholder involvement. The program shall look at the issue from a City and regional perspective, define lower-cost accommodations, including on and off-site replacement, or in-lieu fees. The City should prepare and submit an LCP Amendment to the Commission to incorporate the policies and provisions necessary to implement the program into the certified LCP within 3 years of the date of certification by the California Coastal Commission of the Downtown Specific Plan.

## **VII. FINDINGS FOR DENIAL AS SUBMITTED AND CERTIFICATION OF THE LCP AMENDMENT (LUP/IP) IF MODIFIED AS SUGGESTED**

### **A. Description of the LCP Amendment**

The City is requesting an amendment to certify changes to the City of Manhattan Beach Land Use Plan (LUP) and Local Implementation Plan (LIP) portions of its certified Local Coastal Program (LCP) that resulted from the City's adoption of their 2003 General Plan Update, and to certify their 2016 Downtown Specific Plan that establishes new development standards and guidelines for the Downtown Specific Plan area, which include changes to the Land Use Policy Map, Zoning Map, and text of the LIP as described below.

### **City Setting and Existing Conditions**

Manhattan Beach is a city located 19 miles southwest of the City of Los Angeles on the southerly end of the Santa Monica Bay. Incorporated in 1912, it is part of the County of Los Angeles with a population of 35,135 based on the 2010 census. The City's Coastal Zone extends approximately a third of a mile inland from the shoreline and is highly urbanized. Roughly, the Coastal Zone is the area of the City located seaward of Valley, Manor, and Vista Drives. However, the majority of City land is located outside of the Coastal Zone. Built on a system of sand dunes, the City was constructed at a higher elevation than surrounding coastal cities. The beach is approximately 400 feet wide and 2.1 miles long, which is the City's most prominent feature in the Coastal Zone. Direct vertical access to the beach is provided by the 45 streets and walk-streets running perpendicular to The Strand. The City maintains many access points to the beach, through the utilization of both stairs and bicycle ramps for safe access to beach areas.

### **Relevant LCP History**

The City of Manhattan Beach's Land Use Plan (LUP) was certified by the Commission in June of 1981. From 1992 through 1994, the City adopted and submitted to the Coastal Commission amendments to the LCP LUP which the Coastal Commission partially certified, pending the City's acceptance of suggested modifications to the Coastal Zoning Maps and LUP Policy Map related to designations for the El Porto area, the Metlox site, and the Santa Fe railroad right-of-way, and to certain designation titles, as well as a Coastal Access Map and text amendments to define the City's Coastal Permit jurisdiction as the land inland of the mean high tide line. The City accepted the Commission's suggested modifications, which the Executive Director determined was legally adequate, and the Commission concurred at its May 10-13th meeting in 1994, thus certifying the City of Manhattan Beach LCP. The City began issuing local coastal development permits shortly thereafter.

In 2003, the City adopted a comprehensive General Plan Update, which included a Housing Element and associated amendments to its LUP Map, zoning map and zoning code. These actions resulted in two changes within the Downtown area of the Coastal Zone, which include: 1) a small defined area with 28 properties was re-zoned from Downtown Commercial (CD) to High Density Residential (RH) to reflect current and long-standing land use of those properties and to be consistent with the City's General Plan Housing Element; and 2) a sliver of land north of 13th Street was re-designated from Downtown Commercial (CD) to Public Facilities because of planned construction of a Public Safety Facility. On October 14, 2004, the City submitted to our office a request to amend the City of Manhattan Beach certified Local Coastal Program (LCP). The LCP amendment request, submitted

with City Council Resolution No. 5929 and contained in City Council Ordinance No. 2058, and is comprised of two sets of changes to the coastal zone zoning map (LIP Section A.01.020.B) and an associated change to the Downtown Height Limits Diagram (LIP Section A.16.030.G). In a letter dated October 27, 2004 (attached), our office informed the City that the LCP amendment submittal was incomplete because it did not include the changes to the Manhattan Beach Land Use Policy Map are driving the proposed zone changes. Since no further action was taken and the amendment was not certified, this LCP amendment includes those proposed 2003 changes to the LUP and IP.

### **Ban on Short Term/Vacation Rentals in all Residential Zones**

In December of 2015, the City of Manhattan Beach passed an ordinance prohibiting multi-family and single-family transient uses (also known as Short Term/Vacation Rentals), in all residential zones within the City. According to the City, such land uses were not allowed under the City Zoning code, and “are incompatible with the goals and objectives of the City’s General plan [which] aims to preserve and maintain residential neighborhoods and to protect residential neighborhoods from the intrusion of incompatible and character-changing uses because short-term vacation rentals and other transient uses in residential zones can have a severe negative impact on the character and stability of the residential zones and its residents.” Soon after, the City submitted an LCP amendment for the Commission’s consideration to amend the LCP to certify the ban in all residential zones in the Coastal Zone (LCP-5-MNB-15-0046-1), which was presented within Ordinance No. 15-0010 and Resolution 15-0039. However, the Commission had recently disapproved of similar requests for certification of ordinances that require a complete ban on short-term rentals. Given Commission staff’s inability to recommend to the Commission a complete ban of Short Term/Vacation Rentals (STVRs) in the residential zone of the City’s Coastal Zone, the City withdrew the amendment request on May 11, 2017, and the ban on STVRs in residential zones of the coastal zone was not certified. Therefore, the City’s ordinances prohibiting STVRs do not apply to areas of the City in the Coastal Zone; including within the area covered by the proposed Downtown Specific Plan that is the subject of this amendment to the City’s certified LCP.

### **2003 General Plan Update**

In 2003, the City adopted a General Plan Update with a Housing Element and associated amendments to its zoning map and zoning code, which resulted in two changes within the Downtown area of the Coastal Zone: 1) a defined area including 28 properties were re-zoned from Downtown Commercial (CD) to High-Density Residential (RH) to reflect long-standing and current land uses; and 2) a sliver of land north of 13<sup>th</sup> Street was re-zoned from Downtown Commercial (CD) to Public Facilities (PS) because of the planned construction of a Public Safety Facility which has already been built. In 2004, the City submitted corresponding amendments to the LCP to reflect these changes, however the Coastal Commission deemed the submittal incomplete pending more information regarding the inconsistency of such action (downzoning parcels from a higher priority use (commercial development) to a lower priority use (High Density Residential and Public Facilities) with Chapter 3 Policies of the Coastal Act and the Certified LUP. Since no further action was taken, the portions of the 2003 General Plan Update that affected the coastal zone were not certified. To ensure consistency between the City’s LCP and the City’s adopted General Plan, the City seeks to reconcile these discrepancies and formalize these prior amendments as part of this LCP Amendment which includes replacing the Coastal Zone Zoning Map (Map IV-1, certified in 1981) with the new Coastal Zone Land Use Plan, Land Use Policy Map, adopted by the City in 2004.

### **Proposed Downtown Specific Plan Amendment**

The 2016 Downtown Specific Plan (DSP) is an amendment to both the Coastal Zone Land Use Policy Map of the Land Use Plan (LUP) and the Zoning Code of the Implementation Plan (IP) of the Local Coastal Program (LCP) for the City of Manhattan Beach that will be applicable within the downtown area. The DSP establishes new development standards and guidelines for development within the plan area, and the City proposes to replace the previously certified Coastal Zone Zoning Map with a new color map which is consistent with the certified map, but contains both updated land use designations and the boundary of the DSP Plan Area (D8). The changes to the LUP and IP include the addition of new Land Use Classifications, such as “CD\*” referencing the Downtown Specific Plan as a design overlay for the LIP, and also adds “Mixed Use” as a commercial use requiring a use permit in the downtown commercial zone, which is also newly defined in the IP. Additionally, the DSP allows a 2-foot height increase from 26 feet to 28 feet in Area B for elevator shafts only (**Exhibit 6, pg. 7**), which is consistent with the certified IP.

In addition, two new use classifications that have not been certified by the Commission are also included in the Land Use Matrix for the Manhattan Beach DSP Area, as shown in Table 4.2 of the DSP, which include “Multi-Family Transient Use” and “Single-Family Transient Use”, which the City defines as short-term rentals in multi-family and single family areas. As proposed as part of the DSP, all forms of short-term rentals (both “Multi-Family Transient Use” and “Single-Family Transient Use”) would be prohibited in all zones, *including commercial* and residential (**Exhibit 5**).

The 2016 Downtown Specific Plan is organized into ten different sections: (1) an introduction, (2) existing conditions, (3) vision, (4) land use plan, (5) circulation and parking plan, (6) private realm development standards and design guidelines, (7) public realm design guidelines and improvements, (8) infrastructure and public facilities, (9) implementation, and (10) appendices.

The 2016 Downtown Specific Plan (LUP&IP) provides a framework to preserve the Downtown area’s “quaint, small town character”, and ensure its economic viability. This new framework identifies new regulations, guidelines, and recommendations to support the City’s vision to preserve the Manhattan Beach Downtown Specific Plan Area, and contains an implementation action plan to facilitate these objectives which will serve as both land use plan policies and implementation plan measures in the downtown area. The proposed Downtown Specific Plan functions as a design overlay zone for the downtown area, and identifies specific building types, frontage types, design guidelines, parking strategies (including a residential preferential parking plan), and other physical standards for public and private realm development for the next 25 years. Thus, once certified, the new guidelines of the proposed 2016 Downtown Specific Plan would supersede and replace all previous land use and zoning designations in the downtown area. As proposed, the Downtown Specific Plan would rely upon the municipal zoning regulations for permit processing procedures (e.g, noticing, hearing, appeals, and expiration procedures) and is intended to implement the policies and provisions of the City’s certified Land Use Plan.

## **B. PUBLIC ACCESS AND RECREATION**

The protection, enhancement, and provision of public access and recreation are one of the strongest mandates of the Coastal Act. The proposed LCP amendment raises issues with the following Coastal Act policies:

Section 30210 of the Coastal Act states:

*In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 30213 of the Coastal Act states (in relevant part):

*Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*

Section 30221 of the Coastal Act states:

*Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

Section 30222 of the Coastal Act states:

*The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

### **Rejection of the LUP as Submitted and Approval with Suggested Modifications**

The City's LUP was certified in 1981, and it contains some policies for the protection of actual physical public access to the coast, such as maintaining vertical and horizontal access ways, sufficient parking, traffic flow, walk-streets, etc., The LUP amendment submitted by the City is, however, deficient in that it consists of an entirely new plan for development of the downtown area, an area very close to the beach and which attracts visitors to this coastal area, yet the LUP lacks any reference to the Chapter 3 coastal access policies referenced above and does not provide the regulatory framework necessary to allow for the proposed DSP. Specifically, Coastal Act Section 30210 requires that maximum public access and recreational opportunities be provided. This direction to maximize public access to the coast exceeds the threshold of simply providing physical access; it requires that public access be maximized, which includes providing visitor-serving facilities, which include affordable overnight accommodations in the coastal zone to ensure that all people can access the coast and that those from lower socioeconomic backgrounds are not excluded

from accessing the coast. Further, Section 30213 of the Coastal Act provides for the protection and provision of lower cost visitor and recreational facilities. Visitor-serving commercial development is considered a priority use under the Coastal Act.

The following are the only relevant Manhattan Beach LUP Policies Regarding Coastal Access:

***Policy I.A.1.*** *The City shall maintain the existing vertical and horizontal access ways in the Manhattan Beach Coastal Zone.*

***Policy I.A.2.*** *The City shall encourage, maintain, and implement safe and efficient traffic flow patterns to permit sufficient beach and parking access.*

***Policy I.A.3.*** *The City shall encourage pedestrian access systems including the Spider Web park concept (Spider Web park concept: a linear park system linking the Santa Fe railroad right-of-way jogging trail to the beach with a network of walk-streets and public open spaces. See Figure NR-1 of the General Plan).*

***Policy I.A.4.*** *The City shall maintain the use of commercial alleys as secondary pedestrian access ways.*

***Policy I.A.5.*** *The City shall preserve its walk-street resources, shall prohibit non-complying walk-street encroachments, including decks, shall enforce measures to eliminate walk-street noncompliance with existing guidelines and shall provide expedited appeal procedures related thereto.*

The City of Manhattan Beach is a favorable location to provide public amenities that enhance access to the coast and recreational opportunities for the general public. Manhattan Beach is known for its approximately 2 miles of wide, sandy beach, that includes a portion of the California Coastal Trail for pedestrians and bicyclists, and public pier, which includes the newly renovated Roundhouse Aquarium that provides free admission to the public. Pursuant to the public access policies of the Coastal Act and the LCP, the Commission has the responsibility to ensure the priority of visitor-serving uses and public access and to ensure that a range of affordable facilities be provided in new development along the coastline of the State.

As stated above, the City's current LUP does not contain any Chapter 3 policies regarding public access, and contains very few public access policies at all. Thus, the LUP, as it currently exists, does not provide the regulatory framework necessary to allow for the proposed DSP nor to ensure the proposed LUP changes conform to the requirements of Chapter 3 of the Coastal Act. Moreover, the LUP, as proposed to be amended does not include such policies or similar protections for public access and recreation. Thus, the LUP amendment is inconsistent with the applicable Chapter 3 policies of the Coastal Act. The Commission finds, therefore, that the LUP amendment must be rejected as submitted and that modifications are required to LUP Chapter 1 to assure that the City's proposal conforms to the Coastal Act. Accordingly, **Suggested Modifications 2 and 3** modify the LUP to include the appropriate Coastal Act public access policies to ensure that the city's Certified LUP, as amended, is consistent with the Chapter 3 policies of the Coastal Act in order to protect

coastal resources, including public access, public recreation, and to ensure that hazards within coastal areas are adequately addressed for new development in shoreline areas.

### **Downtown Commercial Designation**

The proposed addition of the Coastal Zone Land Use Plan, Land Use Policy Map could potentially raise issues with regard to Coastal Act policies that prioritize visitor-serving commercial and recreational facilities over private residential development. As noted above, the 2003 General Plan changes the land use designation of 28 properties within the City's downtown area from Downtown Commercial (CD) to High-Density Residential (RH), and a small sliver of land along 13<sup>th</sup> Street from Downtown Commercial (CD) to Public Facilities (PS).

The Coastal Act, as well as the City's LUP standards, prioritize certain sites within the City for public access, visitor-serving commercial and recreational opportunities. In particular, the City's Coastal Zone Zoning Map as originally approved in 1981 and as approved with this LCP amendment designates a relatively small percentage of developed parcels (approximately 4 square blocks) within the downtown area as Downtown Commercial ("CD"), and that designation is only found in the Downtown Specific Plan area (See **Exhibit 4**). The CD zoned parcels are supposed to "provide opportunities for residential, commercial, public and semi-public uses that are appropriate for the downtown area, and is intended to accommodate a broad range of community businesses *and to serve beach visitors*" as defined in the LUP (LUP Zoning Ordinance Section A.16.010, emphasis added). These parcels were undoubtedly given this designation in the Certified LUP because they are located in the heart of the downtown area nearest the beach, oriented on either side of Manhattan Beach Blvd., which is the inland extension of the public pier. The CD designated parcels are within walking distance to the public pier and beach, where such commercial businesses could adequately serve beach visitors.

Nevertheless, Commission staff understands the reality that the land use designation changes that occurred with the 2003 General Plan Update simply reflect current and long-standing land uses. The subject 28 properties were occupied with residences prior to the certification of the LCP, and have been utilized as such since the 1920s. In addition, the 2003 General Plan Update rezoned the sliver of land along 13<sup>th</sup> Street (See **Exhibit 4**) from Downtown Commercial to Public Facilities in order to build a public safety facility, which has already been built. Although the re-designation of lands to residential typically raises concerns regarding the loss of higher-priority uses in the coastal zone to lower priority uses, in this case the re-designation is not actually changing the existing pattern of use. Moreover, the lands designated for residential are not located along any of the main thoroughfares or commercial corridors within the downtown area. They are instead located along side streets along the periphery of the commercially-zoned districts, adjacent to other residential areas. Thus, in this particular case, the re-designation of the parcels to residential does not result in the loss of lands that are suitable for commercial development.

In addition to the modifications to the Coastal Zone Land Use Plan, Land Use Policy Map, the DSP amends both the LUP and IP by adding a new "Mixed Use" land use designation to allow for residential uses on the same site as those designated Downtown Commercial with a Use Permit. The "Mixed Use" designation is intended to allow more flexibility in providing more available residential housing combined with commercial uses consistent with the Downtown Commercial (CD) land use designation.

Although the addition of a “Mixed Use” designation and the re-designation of 28 parcels to residential can be found consistent with Chapter 3 in this particular context, the 2016 DSP, which amends both the LUP and IP contains some language that effectively reduces the priority of visitors, visitor-serving facilities, and visitor-serving commercial uses, in the DSP area. For example, the DSP Chapter 4 Goal 3 and Chapter 5 Goal 1 fail to acknowledge that the downtown business area provides amenities for both visitors and residents. And Section 4.4, the DSP does not emphasize the need to promote higher-priority uses, inconsistent with Coastal Act sections 30213, 30221 and 30222 as well as new LUP policies I.A.11 and I.A.12. Therefore, these provisions of the DSP must be rejected as submitted. **Suggested Modifications 12, 13, 18, 19, and 20**, which emphasize that the downtown area provides amenities for visitors and residents alike and encourages addition of higher priority uses are necessary to ensure consistency with the Chapter 3 policies of the Coastal Act and LUP as amended by this staff report. **Suggested Modification 6** similarly protects higher priority uses by modifying the IP to require in most cases that new residential dwelling units in Mixed Use developments to be located above the ground floor with *visitor-serving retail* uses including office, restaurant, retail, and similar nonresidential located on the ground floor (emphasis added). Finally, Table 4.2 of the Downtown Specific Plan has been modified to include “Other Visitor Serving Uses” as permitted by right or by use permit as shown on **Exhibit 5, p. 5** to ensure that visitor serving uses continue to be prioritized uses by the City.

In addition, as proposed, the new Land Use Table in the DSP would allow for new residential development in the commercial (CD) zone. As discussed above, the purpose of the commercial zone is to provide for commercial and visitor-serving land uses which constitute a higher priority land use under the Coastal Act than residential development. Although residential uses are currently allowed in commercial zones under the certified LCP, the Commission finds that the conversion of commercially developed properties in the DSP area (which is an important commercial hub providing visitor-serving uses within the City adjacent to coastal areas) area to lower priority residential uses, would result in potential adverse impacts to visitor-serving public recreational opportunities inconsistent with the public access and recreation policies of the Coastal Act. Therefore, **Suggested Modification 6** is necessary to modify then new proposed Land Use Table in the DSP to provide that new residential development in the designated commercial (CD) zone should be allowed where it would serve to support commercial development. The modification would pertain to new residential development only and existing residential development would be allowed to remain.

Specifically, the modification would also clarify that development in the CD District is intended provide focal points for local shopping, civic and social activities and for visitor-serving commercial uses. New residential uses (including but not limited to single family and multi-family) in the CD District shall be developed in concert with commercial uses, with the exception that senior citizen housing, daycare uses, group homes, and residential care, may be developed without any commercial component. Residential uses should be secondary and supportive of its related commercial development and may be allowed in mixed-use developments. Mixed-use development should be designed to use designs that, to the extent feasible, vertically integrate residential dwelling units above the ground floor with retail uses including restaurant, retail, and similar nonresidential uses located on the ground floor or above. The integration and mixing of uses shall be designed to increase opportunities for employees to live near jobs and residents to live near shopping. Overnight visitor-serving uses, such as hotels and youth hostels, are encouraged uses in the CD District.



Thus, for the reasons discussed above, this DSP, as submitted, would diminish the visitor-serving potential of the subject sites and the surrounding beachside community, contrary to the Chapter Three policies of the Coastal Act and the LUP, as amended. Therefore, **Suggested Modifications 5, 6, 12, 13, 19 and 20** are necessary to ensure that adequate visitor-serving uses are provided in the Downtown Commercial zone and that the amendments to the LUP are consistent with the Chapter 3 and that the amendments to the IP are in conformity with and adequate to carry out Land Use Plan priorities, including the provision of visitor-serving commercial uses and public access requirements within the “CD” designation.

### **Rejection of the LUP as Submitted and Approval with Suggested Modifications Lower Cost Overnight Visitor Accommodations/Short Term Vacation Rentals**

Section 30213 of the Coastal Act requires that lower cost visitor facilities be protected, encouraged, and, where feasible, provided. Visitor-serving commercial development is considered a priority use under the Coastal Act, and includes overnight accommodations. Pursuant to the public access policies of the Coastal Act, the Commission has the responsibility to ensure that a range of affordable overnight facilities be provided in new development along the coast. The City of Manhattan Beach certified LUP does not contain policies for the protection of lower-cost overnight accommodations. As submitted, the DSP plans for development of the core downtown commercial area without providing protections for this high priority use. Thus, the DSP must be rejected as submitted.

In order to ensure adequate protection of lower cost visitor-serving commercial development, including overnight accommodations, **Suggested Modification 2** adds Policy I.A.10 to the LUP. This policy requires the encouragement, protection, and where feasible, the provision of lower cost visitor and recreational facilities.

In addition, as explained above, the City’s proposed DSP includes a Land Use Matrix that effectively bans short-term rentals (Short Term Vacation Rentals or STVRs) in single-family and multi-family uses in the downtown area, shown in Table 4.2 (**Exhibit 5**).<sup>1</sup> This proposed change to the LUP raises significant issues as to conformity with Chapter 3 public access policies. Encouraging visitor-serving commercial development, including more (and more affordable) overnight lodging opportunities, is an important part of protecting public access to the coast, as required by Sections 30210, 30213, and 30222.

However, Manhattan Beach is the third most expensive beach city in the United States, and a limited stock of overnight lodging and high real estate values contributes to expensive lodging options in the coastal city,<sup>2</sup> thereby resulting in already reduced opportunities for non-residents to access this part of

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<sup>1</sup> The City previously adopted an ordinance that prohibits short-term rentals in all residential zones in the City, but that ordinance was not certified by the Commission and so it does not apply in the coastal zone, including the DSP area.

<sup>2</sup> Although there are a total of 12 hotels in the entire City of Manhattan Beach, only three are located in the coastal zone: The Manhattan Beach Motel (14 rooms), The Sea View Inn (37 rooms), and The Shade Hotel (38 rooms), which is the only hotel located in the proposed DSP area, and the Manhattan beach Motel and The Sea View Inn are located approximately two miles up-coast from the DSP area. These three hotels offer rates ranging from around \$200 to \$450/night, which is not considered affordable based on the statewide average discussed above.

the coast.<sup>3</sup> Given the high price of the limited available lodging options in the DSP area discussed above, short-term rentals (STVRs) of residentially developed properties in Manhattan Beach have provided additional lodging opportunities for budget-conscious visitors to the City, adding to the available stock of overnight accommodations to coastal visitors. However, the DSP Land Use Matrix proposes to prohibit all STVRs in the downtown area, which is zoned to serve beach visitors, will further reduce available lodging opportunities and exacerbate this serious coastal access problem.

In addition, in past actions on LCP amendments for other local jurisdictions, the Commission has found that although short-term rentals can provide an important form of visitor-serving overnight accommodation; the unrestricted conversion of residential properties, particularly properties developed with multi-family rental units, to short-term rentals may result in adverse impacts to housing supply. Specifically, if the trend of converting existing housing and rental stock to short-term rentals continues, the existing character of residential communities would be impacted due to the loss of permanent residents and exacerbate the problem of the lack of affordable housing and long-term rental units available within the area. Thus, it is important that the short term rentals be provided in a manner that balances the protection of long-term work-force housing and rental stock with the provision of overnight accommodations for visitors to an area.

Therefore, the Commission finds, therefore, that the proposed changes to the LUP relating to short-term rentals do not conform to Chapter 3 of the Coastal Act, and that modifications to LUP Chapter 1 are necessary to ensure compliance with the Coastal Act. **Suggested Modifications 3 and 7 and 14** are required to ensure that the City allows short-term rentals in single family residences in residential, commercial, and mixed-use zones, but allow that such uses may be regulated to address any potential adverse impacts of such uses on neighborhoods or coastal resources.

Recently, the City's planning staff has communicated to Commission staff that the City is in the process of considering a new City Ordinance to regulate short-term rentals/STVRs. However, the existing LUP does not include a policy regarding this emerging issue. The specific zones and areas of the City's coastal zone where STVRs will be permitted or not permitted will be addressed with an LCP Amendment, and **Suggested Modification 7** provides for further City regulations on short-term rentals through approval of an LCP Amendment. In order to strike a balance between provision of overnight accommodations for visitors and protection of housing stock, particularly potential rental stock, in the interim, this suggested modification would only change the new proposed Land Use Regulations in the Table 4.2 Land Use Matrix for the DSP Area (**Exhibit 5**), to allow Single Family Transient Uses as a Permitted Use, while allowing the City to prohibit short term rentals on properties that are developed with multi-family structures.

The City has not provided any specific implementation measures in the amendment to assure that lower-cost overnight accommodations are preserved or protected in this part of the coastal zone. The DSP proposes to prohibit short term rentals, or "transient uses" in both single family and multi-family uses, in the downtown area. The LUP, as amended, requires that such uses be protected. Thus, as submitted, the IP is inadequate to carry out the LUP.

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Furthermore, among these three hotels in the coastal zone, they offer a total of 89 rooms, which is not sufficient to serve the millions of people visiting this coastal area each year.

<sup>3</sup> Phillips, Lauren. "The Most Expensive Beach Towns in America." [www.coastalliving.com](http://www.coastalliving.com), July 21, 2018.

Further, as discussed above, there are currently three existing hotels that provide overnight accommodations within the DSP. Conversion of these existing hotels to other lower-priority uses or to even higher-cost hotel facilities would result in new adverse impacts to public access and recreational opportunities along the coast. However, neither the DSP or the certified LCP currently contain policies or provisions adequate to address this issue. Therefore, **Suggested Modification 27** would require the City to develop a detailed program to ensure that lower cost visitor-serving accommodations are protected, encouraged, and where feasible, provided within the DSP Area, consistent with Policy I.A.10 of the certified LUP. The program shall include background research and data collection, special studies (economic analysis, etc.), and public outreach and stakeholder involvement. The program shall look at the issue from a City and regional perspective, define lower-cost accommodations, including on and off-site replacement, or in-lieu fees. The City should prepare and submit an LCP Amendment to the Commission to incorporate the policies and provisions necessary to implement the program into the certified LCP within 3 years of the date of certification by the California Coastal Commission of the DSP.

Therefore, for the reasons outlined above, the Commission finds that only if modified as suggested can the proposed LUP amendment be found to be consistent with Sections 30210, 30213 and 30222 and all the public access and recreation policies of the Coastal Act, and the proposed LUP changes found consistent with the certified LUP provisions as modified related to public access and recreation policies and priority visitor serving uses.

### C. COASTAL HAZARDS AND SHORELINE PROCESSES

In regard to coastal hazards and shoreline processes, Section 30235 of the Coastal Act states:

*Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.*

In addition, Section 30253 of the Coastal Act states that 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, geological 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 Control Board as to each particular development.*
- (d) *Minimize energy consumption and vehicle miles traveled.*
- (e) *Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.*

The LUP amendment creates a new specific plan for the City's downtown district, which is adjacent to the beach and ocean, but the LUP, as submitted, contains no policies regarding coastal hazards.

Sea level rise is an important consideration for the planning and design of projects in coastal settings, such as the City's downtown district. Such changes in sea level will exacerbate the frequency and intensity of wave energy received at shoreline sites, including both storm surge and tsunamis, resulting in accelerated coastal erosion and flooding. There are many useful records of historic sea level change, but no certainty about how these trends will change with possible large increases in atmospheric greenhouse gas emissions and air temperatures. Notwithstanding the uncertainties about future global or local sea levels, guidance on how to address sea level rise in planning and permitting process is evolving as new information on climate change and related oceanic responses become available. Regardless of its particular rate, over time elevated sea level will have a significant influence on the frequency and intensity of coastal flooding and erosion of beaches and shoreline areas. Accordingly, rising sea level must be considered in the City's LUP to assure that full consistency with sections 30235 and 30253 can be attained in the review and approval of new development in shoreline areas.

To date, Commission staff is unaware of any formal sea level rise vulnerability assessment that has been conducted for the City of Manhattan Beach. However, communication between City staff and Commission staff indicates that the City is currently developing local policies regarding the impacts of sea level rise in Manhattan Beach. Commission staff's preliminary evaluation of CoSMoS<sup>4</sup> modeling for the project area of the DSP area indicates that the private and public development nearest the coastline is relatively resilient to sea level rise impacts over the next 100 years due to its high elevation relative to surrounding, low-lying beach cities; however, the best available science indicates that there are many uncertainties when it comes to predicting future sea level rise, including significant uncertainty as to the role that melting ice sheets may play in increasing sea level rise beyond that which is currently predicted for coastal areas. Moreover, shoreline areas are inherently dynamic environments. To ensure compliance with Chapter 3 hazards policies, coastal cities must take into account the risks of rising sea level when planning and designing coastal projects.

Here, the DSP establishes new development standards and guidelines for development in the Manhattan Beach downtown area, an area that is near the shoreline and includes the first row of development adjacent to The Strand between the downtown area and the beach. Sea level rise adaptation is a critical component of planning for development in coastal areas to ensure consistency with sections 30235 and 30253 of the Coastal Act. Although there are reasons to believe this portion of the southern California coastline is less threatened from sea level rise than other coastal cities, as discussed above, there is significant uncertainty as to the actual risks to the downtown area. Because the LUP, as submitted, does not contain any policies related to coastal hazards, the LUP is currently inadequate to address potential risks of sea level rise relevant to the downtown area. Accordingly, it is not in conformity with Chapter 3 and must be denied, as submitted.

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<sup>4</sup> The Coastal Storm Modeling System (CoSMoS) is a dynamic modeling approach that has been developed by the United States Geological Survey in order to allow more detailed predictions of coastal flooding due to both future sea level rise and storms integrated with long-term coastal evolution (i.e., beach changes and cliff/bluff retreat) over large geographic areas (100s of kilometers).  
[https://walrus.wr.usgs.gov/coastal\\_processes/cosmos/](https://walrus.wr.usgs.gov/coastal_processes/cosmos/)

The Commission finds that **Suggested Modification 8**, which includes policies to require consideration of sea level rise in review of coastal development permit applications in hazardous areas is necessary to ensure that the LUP conforms with sections 30235 and 30253 of the Coastal Act. **Suggested Modification 8** includes requirements to use the best available science on sea level rise, to require limits on future shoreline protection devices for new development, and to require that applicants proposing to develop in hazardous areas assume the risk of such development.

Therefore, the proposed LUP Amendment is not in conformity with Chapter 3 of the Coastal Act and must be denied as submitted. The LCP Amendment can be approved only with **Suggested Modification 8**, which modifies the LUP to meet the requirements of the hazards policies of Chapter Three.

## **D. TRANSIT, CIRCULATION AND PARKING**

Section 30250 of the Coastal Act states, in relevant part:

- (a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*
- (b) Where feasible, new hazardous industrial development shall be located away from existing developed areas.*
- (c) Visitor-serving facilities that cannot feasibly be located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.*

Section 30252 of the Coastal Act states:

*The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.*

Section 30253 of the Coastal Act states, in relevant part:

*New development shall: (4) Minimize energy consumption and vehicle miles traveled.*

In addition, the City's certified LUP contains eight transit policies and seventeen parking policies:

***POLICY I.B.1:*** *The City shall encourage transportation service to mitigate excess parking demand and vehicular pollution. All transportation/ congestion management plans and mitigation measures shall protect and encourage public beach access.*

***POLICY I.B.2:*** *The City shall work toward a long-range program to provide a shuttle service to the beach at El Porto to alleviate traffic problems through the narrow streets of the El Porto area.*

***POLICY I.B.3:*** *The City shall encourage pedestrian and bicycle modes as a transportation means to the beach.*

***POLICY I.B.4:*** *The City shall maintain the use of the Santa Fe right-of-way as a non-automobile transportation corridor between the northern city boundary and the intersection of Valley-Ardmore and Manhattan Beach Boulevard, as the closest link to the commercial business district and beach use.*

***POLICY I.B.5:*** *The City shall maintain a pathway to facilitate jogging and pedestrian usage along the Santa Fe right-of-way.*

***POLICY I.B.6:*** *The Strand shall be maintained for non-vehicular beach access.*

***POLICY I.B.7:*** *The City shall provide adequate signing and directional aids so that beachgoers can be directed toward available parking.*

***POLICY I.B.8*** *Consider the establishment of alternative transportation system and park-mall facilities, including a shuttle service to the El Porto beach area.*

***POLICY I.C.1:*** *The City shall maintain and encourage the expansion of commercial district parking facilities necessary to meet demand requirements.*

***POLICY I.C.2:*** *The City shall maximize the opportunities for using available parking for weekend beach use.*

***POLICY I.C.3:*** *The City shall encourage additional off-street parking to be concentrated for efficiency relative to the parking and traffic system.*

***POLICY I.C.4:*** *The City shall ensure that future residential and commercial development provides the parking necessary to meet the standards set forth in Section A.64 of Chapter 2*

*of the Implementation Plan, except that residential parking requirements shall not be reduced for units less than 550 square feet.*

***POLICY I.C.5:*** *The City shall encourage the use of private residential garage spaces for parking rather than storage in order to help mitigate on-street parking pressures.*

***POLICY I.C.6:*** *The City shall require existing residential and commercial buildings to comply with parking standards set forth in Section A.64 of Chapter 2 of the Implementation Plan upon substantial remodeling or expansion, as defined in Sections A.64.020 and A.68.030 of Chapter 2 of the Implementation Plan except that residential parking requirements shall not be reduced for units less than 550 square.*

***POLICY I.C.7:*** *The City shall require, when feasible, that commercial development using on-site ground level parking provide vehicular access from the rear of the lot only, so as not to conflict with pedestrian traffic.*

***POLICY I.C.8:*** *Use of the existing public parking, including, but not limited to, on-street parking, the El Porto beach parking lot, and those parking lots indicated on Exhibit #9, shall be protected to provide public beach parking. The City shall continue the implementation of the residential parking permit program for the El Porto parking lot or ensure that the County continues such efforts if, at some future time, the County assumes operational functions. Any change in the El Porto parking permit program shall not reduce existing public access opportunities, and shall require a coastal development permit.*

***POLICY I.C.9:*** *The City shall ensure continuous public use of the El Porto beach parking lot by participation in a joint maintenance agreement with Los Angeles County and work toward making the lot a City controlled pay-at-the-entrance lot (to help alleviate commuter traffic through the area). Any change in the parking fee system shall not reduce existing public access opportunities, and shall require a coastal development permit.*

***POLICY I.C.10:*** *Concentrate new parking in the Downtown Commercial District to facilitate joint use opportunities (office and weekend beach parking uses).*

***POLICY I.C.11:*** *Maintain the existing public parking system in the vicinity of Valley/Ardmore/Manhattan Beach Boulevard to provide parking out of the downtown area.*

***POLICY I.C.12:*** *Require surface or on-site parking for commercial uses that exceed 1.5 times the area of the lot as prescribed in Section A.16.030 of Chapter 2 of the Implementation Plan.*

***POLICY I.C.13:*** *Require off-street parking for the Highland commercial strip where feasible.*

***POLICY I.C.14:*** *Work toward an attendant supervised pay/City controlled parking program for The Strand parking lot at El Porto.*

***POLICY I.C.15:*** *Continue management of existing parking facilities through enforcement to improve efficiency by keeping on-street spaces available for short-term users and encouraging the long-term parkers to use off-street parking lots.*

***POLICY I.C.16:*** *Improve information management of the off-street parking system through improved signing, graphics and public information maps.*

***POLICY I.C.17:*** *Provide signing and distribution of information for use of the Civic Center parking for beach parking on weekends days.*

The Coastal Act policies cited above address transit and the need to prioritize provision of convenient public transit, and to site and design development, in a manner that facilitates provision of public transit. Major coastal recreational areas should be well served by public transit and easily accessible to pedestrians and bicyclists. Street, sidewalk, bicycle path, and recreational trail networks (including the Coastal Trail, which in this case includes The Strand) should be designed and regulated to encourage walking, bicycling, and transit ridership. Commercial and retail developments should be required to design their facilities to encourage walking, bicycling, transit ridership, and ridesharing.

The peak visitor season tends to be during summertime. During these periods, traffic congestion and inadequate parking can impact public access to the beach. Alternative forms of transit should be available, particularly during these time periods that provide convenient transportation to and along the beach and bay. The DSP contains policies to specifically encourage the provision of alternative forms of transportation, particularly if and when new development creates demand for such service. The DSP contains a Chapter on transportation and circulation: “Chapter 5: Circulation and Parking Plan” which “identifies major circulation features and parking facilities and summarizes planned enhancements to improve multi-modal transportation and parking in the DSP area.”

Proposed strategies within the chapter, and within Appendix 4: Downtown Parking Management Plan Evaluation, include redesigning parking wayfinding signs, utilizing smart parking technologies, maintaining parking enforcement, providing remote parking with a City shuttle service for visitors and customers, locating employee parking in remote locations near the Downtown Area, and creating shared parking opportunities with local businesses to create parking opportunities during business off-hours. In general, these parking management strategies are consistent with the parking policies enumerated in the LUP.

The proposed DSP, however, modifies the LUP to include a policy requiring establishment of an intra-Downtown resident parking system, but does not provide any detail regarding required contents of the parking system. The plan lists an objective to “consider providing a residential parking permit system that provides residents within the Downtown core, parking privileges in limited areas surrounding their residence.” Resident preferential parking systems can reduce available parking in coastal areas and thereby impede coastal access, contrary to Chapter 3 policies. For example, section 30252 of the Coastal Act requires that new development shall “provide adequate parking facilities,” and section 30253 requires that new development must “minimize energy consumption and vehicle miles traveled.” The DSP does not contain any justification or guidance as to how to



implement a resident parking system consistent with the Coastal Act, which would adversely affect public access by reducing the amount of public parking available to beach visitors.

Therefore, the Commission finds that the DSP, as submitted, does not conform to Sections 30250, 30252, and 30253 of the Coastal Act. The Commission finds that removal of the requirement to prepare a resident parking system is required to ensure conformance to the Chapter 3 policies discussed above, and it therefore approves the proposed plan only with **Suggested Modifications 22 and 26**, which remove such requirements from the DSP.

## **VII. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The California Environmental Quality Act (CEQA) exempts local governments from the requirement of preparing CEQA documentation in connection with development of its local coastal program. (Pub. Res. Code § 21080.9; 14 CCR § 15265(a)(1).) The Commission notes that the City made CEQA findings and adopted a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the project in association with their December 6, 2016 Resolution approving the Update to the Coastal Land Use Plan.

However, CEQA does apply to the certification of an LCP by the Coastal Commission. (14 CCR § 15265(b).) The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the CEQA process. (14 CCR § 15251(f).) Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare CEQA documentation for certification of an LCP. Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with relevant CEQA provisions, including the requirement in Section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternative or feasible mitigation measures available that would substantially lessen any significant adverse impact which the activity may have on the environment. See also, CEQA Guidelines Sections 13542(a), 13540(f), and 13555(b).

As submitted, the City of Manhattan Beach LCP Amendment is not consistent with the hazard, public access, or visitor-serving land use development policies of the Coastal Act. Suggested modifications have been added as described in this staff report. If modified as suggested, no significant adverse impacts to coastal resources will result from the LCP Amendment. If modified as suggested, there are no further feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the amendment may have on the environment. The Commission therefore finds the proposed LCP amendment, if modified as suggested, is consistent with the California Environmental Quality Act.

In addition, any specific impacts associated with individual development projects would be assessed through the environmental review process required by the Coastal Act at that time. Therefore, an individual project's compliance with CEQA is assured at the project-level through Commission review of application for coastal development permits consistent with the Chapter 3 policies of the Coastal Act.