

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904- 5200
FAX (415) 904- 5400
TDD (415) 597-5885



Click here to go to
original staff report

Th11a

ADDENDUM

April 12, 2016

TO: Coastal Commissioners and Interested Parties

FROM: Greg Benoit and Darryl Rance, Commission Mapping Unit Staff

SUBJECT: **MBA-2016-001 (City of Newport Beach) FOR THE COMMISSION MEETING OF THURSDAY, APRIL 14, 2016.**

I. CHANGES TO STAFF REPORT

A. All references to “Map 1- Upper Buck Gully” in both the staff report text and the Map Exhibits should be changed to read “Map 1- Buck Gully”

B. Map 3E – Upper Back Bay – Mesa Drive shall be replaced with new graphic (attached).

The applicant has made a minor correction to Map 3E – Upper Back Bay – Mesa Drive. APN# 439-036-04 (Mslink 5270312, 20272 Bay View Ave) as presented on Map 3E in the original staff report is shown as entirely within the Coastal Zone. Map 3D – Upper Back Bay – Bayview Residential depicts this same parcel as entirely outside the Coastal Zone. As proposed in the staff recommendation, and corrected in the attached graphic, this parcel should be illustrated as outside the Coastal Zone and this graphic corrects this inconsistency so that the parcel is accurately mapped on both Map 3E and 3D.

On Page 23 of the staff report add the following new section:

G. RESPONSE TO CORRESPONDENCE

Response to City’s Correspondence

Commission staff received a comment letter to the staff report addressed to Chair Kinsey from the City of Newport Beach (attached) as well as presentation materials (attached). The following is in response to substantive comments in these correspondences.

A plain language reading of Coastal Act Section 30103(b) allows the Commission to adjust the coastal zone boundary the minimum distance necessary to conform to a readily identifiable feature. In some instances, the minimum distance adjustment to a readily identifiable feature will be to a parcel boundary. In other instances, the minimum distance adjustment will be to a geologic feature (e.g. bluff edge) or subdivision tract boundary. In all cases, to be consistent with the Coastal Act, the adjustment should be the minimum distance necessary to conform to a readily identifiable feature. Through implementation of this section of the Coastal Act, the Coastal Zone Boundary can be minimally adjusted to improve administration of the local coastal program by simplifying and clarifying the location of the Coastal Zone Boundary. The LCP planning process is the appropriate vehicle to address planning related issues.

With regards to the City's comments on Maps 1 – Buck Gully, Map 2 – Amigos Way, and Map 3B – Upper Back Bay – University Drive, the City suggests that there are a number of local controls in-place that would ensure coastal resource protections, even if properties are removed from the coastal zone. Local controls for protection of visual resources, water quality and geologic hazards include zoning development standards for building height and maximum floor area, water quality management plans and a number of best management practices that address site design, source control and treatment control to minimize effects of waste water discharges and runoff control. The City's general plan policies are not, however, an adequate substitute for Local Coastal Plan policies that are specifically designed to be consistent with the Chapter 3 policies of the Coastal Act and that cannot be changed without certification by the Coastal Commission. Staff has not evaluated the adequacy of the City's existing general plan policies to protect coastal resources in these locations, but more importantly, even if they are currently adequate, if these properties are removed from the Coastal Zone, the Commission would not be able to ensure that the City's general plan and zoning code continue to provide the regulations necessary to ensure protection of coastal resources on these parcels.

Response to Correspondence from the Public

Commission staff received two letters of support for the staff recommendation from Still Protecting our Newport (SPON), and James Mosher (both attached). The following is in response to substantive comments in these correspondences.

- 1- Mr. Mosher claims that the minor boundary adjustment provisions of Coastal Act Section 30103(b) only applied for 60 days after the Commission's first meeting. This, however, is not accurate. The Commission had 60 days after its first meeting to prepare and adopt a detailed series of Coastal Zone Boundary maps at a scale of 1 inch equals 24,000 inches (1:24,000 scale). A plain reading of Section 30103(b) demonstrates, however, that this time deadline does not also apply to minor boundary adjustments. Until the Commission adopted the 1:24,000 scale map it would have been difficult for the public or local governments to even know whether they should seek minor boundary adjustments. In addition, if this 60 day timeline had also been intended to apply to boundary adjustments to the Coastal Zone, there would have been no need to promulgate regulations on boundary adjustments, as the window in which boundary adjustments could be approved would have closed before the regulations were adopted.

- 2- James Mosher received notice of the upcoming meeting, postmarked April 2, 2016 but is concerned that he did not receive “conspicuous notice” of the proposed adjustments to the Coastal Zone Boundary.

The City provided public notice of the April 2016 Coastal Commission hearing on the proposed boundary adjustment as follows: an eighth-page ad in the Daily Pilot (newspaper of general circulation), hard copy notice mailed to each of the parcels in the contested areas in addition to approximately 120 persons on the LCP Interested Persons Mailing List, and ‘Select-Alerts’ sent to subscribers of City Council agendas, Planning Commission agendas, and LCP Certification alerts. Each notice included a link to the following City webpage that provides further information:

<http://www.newportbeachca.gov/CZB>.

- 3- Mr. Mosher notes that the Coastal Zone Boundary depicted in this staff report differs from the Coastal Zone Boundary in the map included in the City of Newport Beach’s LUP. The digital version of the Coastal Zone Boundary discussed herein is a conformed copy of the official boundary adopted by the Commission in 1977. The City of Newport Beach created its own digital version of the Coastal Zone Boundary, which was included in the LUP, but which is not considered authoritative nor does it replace the legislatively required and Commission-adopted official maps of the Coastal Zone Boundary.
- 4- The concern has been raised that the proposed changes to the Coastal Zone Boundary in the Upper Buck Gully area (Map1) results in City owned parcels APN#s 458-651-09, 458-011-32, 458-011-30, and 458-011-35 remaining bisected. It is staff’s position that the mapped Coastal Zone Boundary is correct in its location and accurately depicts the adopted Coastal Zone Boundary, as intended by the legislature, for the planning and regulatory activities of the Coastal Commission, local governments and others. Adjustment to the Coastal Zone Boundary on the parcels listed above was not requested by the applicant. Any potential dispute regarding the location of the Coastal Zone Boundary relative to these parcels may be handled through the boundary determination process.
- 5- Mr. Mosher raises concerns regarding the proposed minor boundary adjustment related to the Upper Back Bay – The Bluffs map (Map 3A). The Bluffs development is a planned unit development with common open space, public facilities and infrastructure, with a ‘postage stamp’ parcel configuration of individual residential units. The proposed adjustment avoids bisecting these common area parcels by adjusting the Coastal Zone Boundary the minimum distance necessary both landward and seaward to avoid bisecting the common area parcels (Tract Nos 7052, 7082, 7166, and 7167). Staff believes that the City’s proposed adjustment is consistent with Coastal Act section 30103(b).
- 6- A comment was made about inconsistencies between depiction of the Coastal Zone Boundary in the City’s current LUP map and Commission staff’s rendering of the Coastal Zone Boundary along Galaxy Drive. The comment addresses inconsistent depiction of the Coastal Zone Boundary along the seaward side of the Galaxy Drive right of way (per the City’s Land Use Plan maps), and the landward side of the Galaxy Drive right of way

per the Commissions rendering of the Coastal Zone Boundary. The following motion was adopted by the Commission on March 1, 1977 in conjunction with the jurisdictional maps pursuant to Section 30103(b) of the Coastal Act: “Where the Coastal Zone boundary follows road or railroad rights-of-way, the boundary of the Coastal Zone shall be the inland boundary of the improved right-of-way as it exists as of January 1, 1977, or as modified by closure or additional improvements thereafter provided that it shall not be more than 100 yards inland from the center line.” Commission staff therefore depicts the Coastal Zone Boundary along the inland right-of-way.

- 7- It has been noted that one of the parcel numbers referenced in this report is not known by the Orange County Tax Assessor. Parcel numbers used throughout the staff recommendation are based on the best available parcel data for the County of Orange and do change from time to time.

II. CORRESPONDENCE

Revised Map3E – Upper Back Bay – Mesa Drive- received via email 4/11/16

City of Newport Beach- received via email Friday 4/8/16

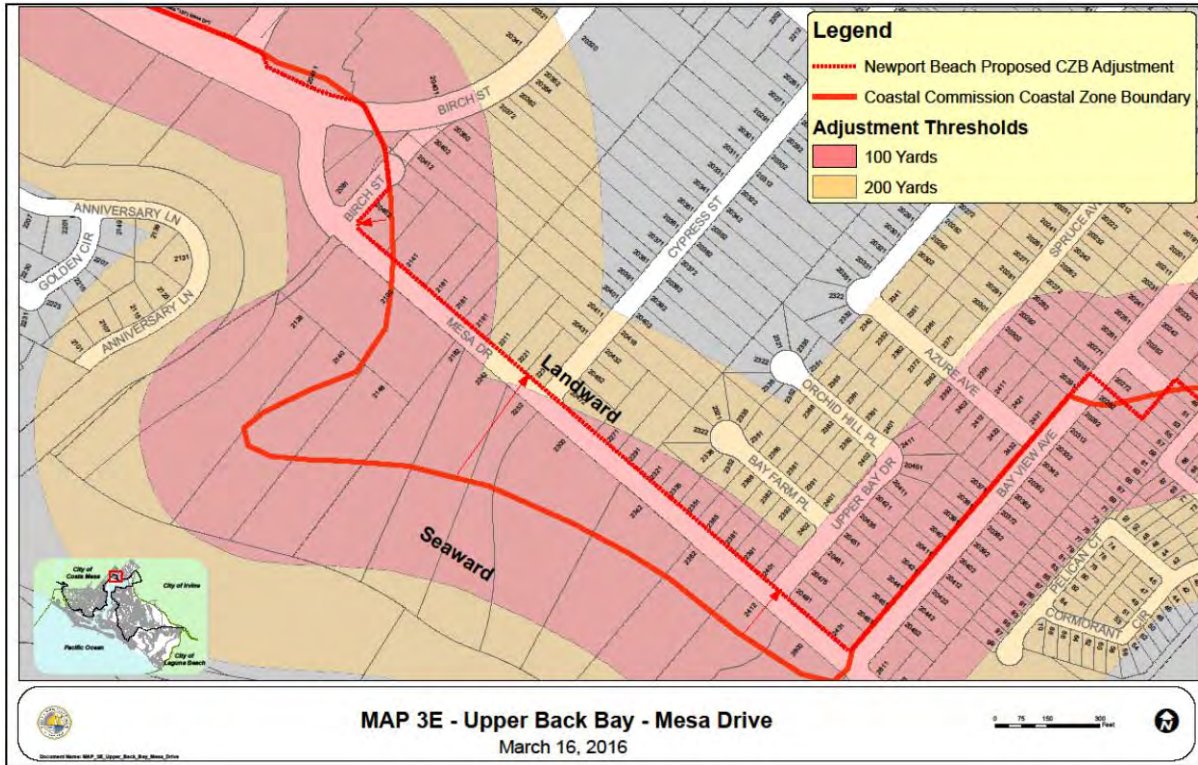
Jim Mosher- received via email Friday 4/8/16

Still Protecting our Newport (SPON)- received via email Friday 4/8/16

Presentation materials prepared by Don Schmitz office of behalf of the City of Newport (applicant)- received via email Monday 4/4/16

Ex parte Communication among Commissioner Windy Mitchell and City of Newport Beach representative Don Schmitz- received via email 4/12/16

MAP 3E – Upper Back Bay – Mesa Drive





April 8, 2016

Via Electronic Mail and United States Mail

Steve Kinsey, Chair
Honorable Commissioners
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 91405

Re: Minor Boundary Adjustment MBA-2016-001

Dear Chair Kinsey and Honorable Members of the California Coastal Commission:

This comment letter is provided to you on behalf of the City of Newport Beach. Allow me to begin by expressing our admiration and appreciation for the Mapping Unit staff. Over the past several months, City staff and the Mapping Unit worked diligently to bring this application before the Commission. We are pleased that we have reached agreement on all but three of the proposed alignments. Furthermore, we believe that the outstanding issues with these three alignments can easily be resolved with a few facts regarding the character of these areas involved and protections offered by existing City regulations.

Map 1 – Upper Buck Gully

The staff report suggests that this adjustment is inconsistent with Coastal Act Section 30103(b) because some of the proposed adjustments to the Coastal Zone Boundary are not the minimum distance necessary to avoid bisecting any single lot or parcel. However, as also stated in the staff report, Coastal Act Section 30103(b) provides that such adjustments may only be the minimum necessary to avoid bisecting a parcel *or to conform to a readily identifiable natural or manmade feature* (emphasis added). The basis for the City's application is that the Coastal Zone boundary should be adjusted in this area to conform to the boundary of a readily identifiable natural feature, the rim of Upper Buck Gully, and a manmade feature, the Harbor Hills community.

There are 443 homes in Harbor Hills, including forty-five (45) on lots that abut the rim of Upper Buck Gully; only seventeen (17), including thirteen (13) on lots that abut the rim of Upper Buck Gully, are within the Coastal Zone.

Development is setback from the canyon edge and the canyon face is protected open space. Harbor Hills is a single-family residential neighborhood has a development pattern that was established over fifty years ago; there are no reasonably foreseeable changes in either the land use or the development intensity in this neighborhood or on the eleven (11) lots that remain in question.

The staff report also suggests that the proposed adjustment could result in new development on these lots that would obstruct views of Upper Buck Gully from prominent public viewpoints. However, this is extremely unlikely. First, the certified Coastal Land Use Plan does not identify any coastal view roads or public viewpoints in this area. Buck Gully Trail runs along the toe of the canyon face; however, views to the homes above are generally obscured by the canyon face and vegetation canopy. Second, these are single-family homes on lots with areas less than 9,000 square feet; therefore, there is little opportunity to design these homes to provide views to Upper Buck Gully. Finally, the Zoning Code limits development in this area to single-family dwellings with a maximum height of twenty-four (24) feet (29 feet to the peak of a sloped roof) and a maximum floor area equal to two times the buildable area (land area minus required setbacks) of each lot. Development in this area is generally at or near its maximum development potential; therefore, any new development within the subject area would not be on a scale that would adversely affect the visual quality of the Coastal Zone.

Finally, the staff report suggests that the proposed adjustment has the potential for a discharge of polluted runoff from these properties into the adjacent Upper Buck Gully. However, City regulations already require that these properties drain to the street and not to the Upper Buck Gully due to water quality and landslide potential concerns. Furthermore, existing City regulations required a Water Quality Management Plan (WQMP) for any new development or significant redevelopment in this area. A WQMP contains best management practices (BMPs) to minimize adverse effects of waste water discharges and control runoff, including:

- Site Design BMPs – Project features that are designed or incorporated into a project to minimize the increase in stormwater runoff from the developed project site. Examples of Site Design BMPs include using porous asphalt or pavers, minimizing the use of decorative concrete, and directing roof drains to landscaped areas.
- Source Control BMPs – Activities or structures aimed at eliminating or minimizing contact between pollutant sources and rainfall or stormwater/urban runoff. Examples of Source Control BMPs include education, sweeping, litter collection, and awnings or tarps to cover materials stored outdoors.
- Treatment Control BMPs – Engineered devices or systems incorporated into the project's drainage system to remove pollutants from runoff before the runoff leaves the project site. Examples of Treatment Control BMPs include vegetated

swales, infiltration trenches, detention/retention basins, catch basin filters, and vortex separators.

Map 2 – Amigos Way

Here again, the City requests that the Coastal Zone boundary be adjusted so that it does not merely avoid bisecting parcels, but rather conforms to the boundary of readily identifiable natural and manmade features; in this case, the rim of Big Canyon and the boundary of the East Bluff Apartment Community, respectively.

The East Bluff Apartment Community does not contain any coastal view road or public view points that require protection. There are public trails on the floor of Big Canyon Park; however, development in this area is generally at or near its maximum development potential. East Bluff consists of one and two-story multiple-family dwelling units. The General Plan and the Zoning Code limit the number of dwelling units to which currently exist on each parcel; therefore, there is no potential for increases in residential density. The Zoning Code sets a maximum height limit of twenty-eight (28) feet (33 feet to the peak of a sloped roof) and a maximum floor area equal to 1.75 times the buildable area (land area minus required setbacks) of the lot; therefore, any new development within the subject area would not be on a scale that would adversely affect the visual quality of the Coastal Zone.

Existing City regulations already require that these properties drain to the street and not to the Big Canyon and require a WQMP to minimize adverse effects of waste water discharges and control runoff.

Map 3 B – Upper Back Bay – University Drive

Lastly, the City requests that the Coastal Zone boundary be adjusted to conform to the boundary of the Newport Canyon Community. This is a planned unit development that is literally cut in two by the Coastal Zone boundary. We believe it makes common sense and results in rational administration for the boundary to conform to this readily recognizable manmade landform.

The staff report suggests that there is the potential for adverse impacts to coastal resources due to the potential for oil and gas development on these parcels. While it is correct that the mineral ownership rights are held separately from the residential land ownership, this is a common practice in the region and is not an indicator of future change in land use in this area. Setting aside the extreme unlikelihood that this would be proposed, such operations would be classified as an Industrial land use, which is not permitted by the North Ford Planned Community Development Plan and the City's Zoning Code. Furthermore, any amendment to the Planned Community Development Plan and the Zoning Code to allow such operations could not be approved as it is inconsistent with the City's General Plan, which prohibits the establishment of new oil processing, refining, or transportation facilities. Finally, the City's Charter expressly prohibits oil and gas operation within the City limits. Charter Section 1401 states:

No drilling, including off shore drilling originating from the ocean's surface, for exploration work of any kind, production or refining of, oil, gas or other hydrocarbon substances shall be permitted within the incorporated area of the City of Newport Beach. These prohibitions shall apply to any actions taken by the City of Newport Beach itself.

Even if the voters were so inclined to amend the Charter to allow the necessary zoning and land use amendments, such operations would still be regulated by the California Department of Conservation, Division of Oil, Gas, and Geothermal Resources (DOGGR). DOGGR does not permit habitable structures within 100 feet of any operational well; therefore, such operations could not occur within this developed residential community.

Since hydrocarbon drilling, production, and refining in this area are prohibited by the City Charter, General Plan, Zoning Code, Planned Community Development Plan, and DOGGR, we believe that the proposed boundary adjustment presents no potential impact to coastal resources.

We are very pleased to be bringing these proposed coastal boundary adjustments to you for your consideration since they are important to the City's local coastal program certification effort. Both City and South Coast District staff are awaiting the outcome of this application, and we expect to bring the City's draft Implementation Plan to you at the very earliest opportunity.

Thank you for your consideration.

Sincerely,



Kimberly Brandt, AICP
Director

Cc: Greg Benoit, California Coastal Commission
Darryl Rance, California Coastal Commission

Date of comment: April 8, 2016
Agenda Item: Th11a-4-2016
Application No.: MBA-2016-001
My position: support CCC staff

California Coastal Commission
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

Re: Minor Boundary Adjustment No. 2016-001 (City of Newport Beach, Orange Co.)

Dear Sirs,

I support Coastal Commission staff's recommended changes to the City's request with these additional comments:

1. Despite the Commission's history of making coastal zone boundary adjustments, and the existence of the detailed regulations provided in Appendix C of the staff report, the code on which Commission and City staff rely (PRC Sec. 30103(b), copied in Appendix B) seems strangely written, for by its plain language the authority given the Commission to make minor adjustments to the boundary established by the Legislature expired 60 days after the Commission's first meeting. Furthermore, the copy provided in Appendix B is not entirely current. According to the California Codes website (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PRC§ionNum=30103.#) Section 30103 was "*Amended by Stats. 2015, Ch. 303, Sec. 434. Effective January 1, 2016.*" However, I believe the changes made to staff's version were non-substantive and primarily clarified the citation to the original enactment.
2. As a person living near the proposed MAP 3F (Upper Back Bay – Private Road) adjustment, I received a mailed notice of the upcoming meeting, postmarked April 2, 2016, but I have not seen any of the "conspicuous notices" that would seem to be required by Regulation 13255.2(c). As a result, although they are located primarily in little-visited residential areas, it is unclear to me that the average coastal user, or even resident, would be aware changes are being proposed.
3. I notice the boundary to be adjusted (the "Coastal Commission Coastal Zone Boundary" as depicted in the current staff report) differs significantly from how the City depicts the boundary in what it says is Map 14 of the certified Coastal Land Use Plan (<http://newportbeachca.gov/government/departments/community-development/planning-division/general-plan-codes-and-regulations/local-coastal-program/coastal-land-use-plan>). For example, the parcels under discussion in Upper Buck Gully (Maps 1 and 1.1 of the current staff report) are *already* shown as lying entirely *outside* the coastal zone on the City's map, even though the Commission's map seems to show them entirely *inside* the boundary. It would seem both helpful and necessary to clarify the significance of the City's CLUP Map 14, especially when the supposedly certified boundary shown on it differs from that shown on the Commission's maps.
4. The presentation of the proposed changes is difficult to follow because the staff report lists in detail what Assessor's Parcel Numbers are proposed to be included or excluded, but the maps show only street numbers, with no cross-reference provided, at least that I am able to find. Perhaps the "Mslink" provides the key, but the term and use of the number provided is unexplained. Regarding the individual proposed maps:
 - a) **MAP 1 – Upper Buck Gully:** as noted above, the City's CLUP map already shows *all* the Sandcastle Drive residential parcels as lying outside the coastal zone, and has presumably

not been notifying Commission staff of development on them. Conversely, by following the outer edge of those properties, the CLUP map shows the City-owned parcels in the gully itself as wholly within the coastal zone – yet the current proposal would leave at least two of them partially in and partially out. If the purpose of the present proposal is to ease administration by removing bisections, why is the boundary not being adjusted to put the City-owned parcels (apparently known as APN 458-011-32, 458-651-09, 458-011-30 and 458-011-35) wholly in the coastal zone as on CLUP map? Leaving them bisected could potentially confuse administration when future City-initiated projects need to be considered.

- b) **MAP 2- Amigos Way:** I support staff's recommendation. It might be noted that the line shown as the "Newport Beach Proposed CZB Adjustment" appears to be the same as the one *already* shown as the coastal zone boundary on what the City claims is its certified CLUP map as well as in its online GIS mapping. The City has presumably not been reporting or asking for exclusions for development on the residential properties in question even though Commission staff believes they are, and should be, in the coastal zone.
- c) **MAP 3A – Upper Back Bay – The Bluffs:** The high bluffs bordering the Upper Bay Nature Reserve are one of the most unique coastal resources in Newport Beach. The proposal (which again matches how the City *already* shows the boundary on its CLUP map) appears to be to place the coastal zone boundary along the top edge of the eastern bluffs, leaving the mesa land at the top (unlike the mesa land on the west) completely unprotected, save for the good graces of the homeowners association that has developed the immediate edge as a common area open space and trail accessible to the public. On the left side of Map 3A, it is good to see the "Coastal Commission Coastal Zone Boundary" being adjusted landward to place a portion of unprotected bluff face within the coastal zone. However, the seaward adjustment to the right of that seems problematic. The reason for this is that the parcel boundaries are not clearly shown on the staff report map and I believe they are much more complicated than the way they are described in the text portion of the report. The report suggests there are just five parcels in question. However, each of the many residential units has a separate Assessor's Parcel Number. And the statutory authority of PRC Sec. 30103(b) is at best ambiguous as to whether adjusting the boundary to avoid bisecting a circumferential parcel allows the exclusion or inclusion of parcels *within* that parcel that would otherwise be entirely within or outside the existing coastal boundary. As best I can tell, two of the five numbers listed in the staff report are bluff face properties, and the other three refer to such circumferential common area open space properties that surround the individual residential parcels. It seems impossible to remove those bisected common area parcels from the coastal zone without also removing the individual residential parcels. The seaward proposal shown on the right side of MAP 3A would remove from the coastal zone not only the three parcels listed in the staff report, but more than 20 of the small residential parcels that are currently wholly within the "Coastal Commission Coastal Zone Boundary" and are not themselves bisected. Even if PRC Sec. 30103(b) was intended to give the Commission authority to adjust the boundary for more than 60 days, it is not clear that it gives the Commission the authority to remove *any* non-bisected parcels. Therefore, I would question whether this adjustment is legally possible. To me, the most logical adjustment would be to push the coastal zone boundary uniformly back to the edge of the bluff top *residential* parcels so that the existing set back and public access area is protected from future redevelopment. Although that boundary would bisect the common area parcels, an adjustment to the landward edge of the bluff top greenbelt might be regarded as an adjustment to a readily identifiable manmade feature, and therefore within the Commission's statutory authority. Finally, one wonders if in the region between MAP 2 and MAP 3A (that is the section of the eastern side of the Upper Bay not depicted in the staff report), there might be areas where an adjustment is needed to fully protect the bluffs.

- d) **MAP 3B – Upper Back Bay – University Drive:** This is one of the few areas where the City’s CLUP map shows the coastal zone boundary bisecting residential properties, but it shows the line considerably seaward from where Commission staff believes it currently is. In fact, the City shows it running mostly through the first row of residences along University Drive. Assuming Commission staff knows better than the City where the current line is, its proposed solution seems consistent with the rule of only moving the line the minimum distance necessary to avoid bisecting parcels.
- e) **MAP 3B-1 – Upper Back Bay – La Salud:** I concur with the recommendation to simplify administration by including all of Bonita Creek Park in the coastal zone, but it might be noted the City’s CLUP map shows more of the park outside the coastal zone than Commission staff believes is currently correct.
- f) **MAP 3C – Upper Back Bay – Bayview Commercial:** I have no strong feeling about this, but generally support Commission staff’s analysis. However, towards the left edge of the map, the proposal (repeated in the next map) would seem to remove from the coastal zone at least one parcel (APN 442-284-23) that Commission staff believes is currently entirely within the coastal zone (although the City’s CLUP map already shows that parcel to lie entirely *outside* the coastal zone). If that parcel is not bisected, I’m not sure I understand how that adjustment is possible given the limited authority the Commission believes it has.
- g) **MAP 3D – Upper Back Bay - Bayview Residential:** Continuing the previous comment, the proposal is to remove from the coastal zone the lots labeled on the map as “5 (Cormorant Circle)” (APN 442-284-23) and “37 (Gannet Lane)” (APN 442-284-45) which the text says are bisected, but the map shows as wholly within the coastal zone. Saying in the text that they are bisected when the visual shows they are not is at best confusing (and adding to the confusion the City’s CLUP map shows these and others that after the adjustment will be *in* the coastal zone – such as 39 Gannet Lane – as currently being wholly *outside* the coastal zone).
- h) **MAP 3E – Upper Back Bay – Mesa Drive:** I generally support staff’s recommendation, although it is not entirely clear why the corner lot at 20462 Birch Street (APN 439-382-32, adjacent to Mesa Birch Park) is proposed to be excluded from the coastal zone while the lot across the street is being wholly included in it. From the Commission’s interpretation of the current position of the boundary, including 20462 Birch St would appear to require a smaller adjustment than excluding it. The map also appears to show an adjustment (without an arrow) to fully exclude the commercial parcel at 20411 Birch St (APN 439-392-32). If this is part of the recommendation, I am unable to find it documented in the text portion of the staff report. Finally, the map suggests that fully including 2242 Mesa Drive (APN 439-061-07) requires, in part, an adjustment of more than 100 yards. Does this require the owner’s concurrence per the regulations reproduced at the end of the staff report?
- i) **MAP 3F – Upper Back Bay – Private Road:** As may be noted from my address at the end of this letter, I live on the seaward side of this proposed adjustment. As best I can tell the proposed adjustment is essentially to where the City already puts the boundary on its CLUP map, with the exception that the latter shows the right-of-way of Centella Place as being *in* the coastal zone, where as the proposal would *exclude* it. I agree that the proposal would simplify administration, but according to Commission staff’s interpretation of the current position of the boundary, excluding some of the properties in question appears to require a larger adjustment than including them would, which is possibly in contradiction to the principles explained in the staff report.
- j) **MAP 4 – Dover Shores:** This is another area of significant inconsistency between the City’s current CLUP map and Commission staff’s interpretation of the present coastal zone boundary. Throughout the area shown in MAP 4, the CLUP map shows the boundary running along the *seaward* side of Galaxy Drive. Coastal Commission staff believes in runs

along the *landward* side of Galaxy Drive but with a major seaward jog towards the end of Mariners Drive (excluding parcels the City thinks are included). Even after the proposed adjustment there will be parcels *excluded* from the coastal zone which the City currently shows as *in* it.

- k) **MAP 5 – Hoag Hospital:** The proposed adjustment seems reasonable, although it is not entirely clear why the properties fronting Superior Avenue, which line a major entrance to the City's coastal resources, are being excluded from the coastal zone. Moreover, the staff report is confusing because it refers to only three parcels, two of which appear to be common area parcels within the Versailles on the Bluffs at Newport Planned Community and the third of which (APN 423-011-17) is unknown to the Orange County Tax Assessor (is that number a typo?). As with MAP 3A, excluding the common area Versailles parcels would require excluding a multitude of individual parcels within them, many of which are not currently bisected. Is this legally possible given the Commission's limited statutory authority? Also, based on its CLUP map, the City seems to believe the Hoag "Upper Campus" and its parking structure along Newport Boulevard (APN 423-011-30) are already wholly outside the coastal zone, and has probably been treating development there as such. MAP 5 appears to be making a major adjustment to the coastal zone boundary to generally conform to the City's CLUP map interpretation of the boundary in that area, but the Hoag parcel number is not mentioned in the staff report text. Is this an oversight? Finally, it might be mentioned that although Hoag Hospital is a highly respected local institution, its development over the years has destroyed coastal bluffs, and its exclusion from the coastal zone, and the regulation that goes with that, seems problematic.
5. Although many of the parcels proposed for exclusion from the coastal zone are fully developed today, mostly residential, and many even in the categorical exclusion area (allowing continued residential development with little coastal oversight) I think it should be kept in mind that there is a possibility the land use designations could change in the distant future. Should that happen, since the modified boundary would no longer bisect the parcels, I suspect it would be much more difficult to bring them back under Coastal supervision. To me, that makes the desirability of making the proposed adjustments less than obvious.
6. As an example of the difficulty of bringing parcels back within Coastal regulation, it seems to me that one of the most serious lacks of coastal resource protection in Newport Beach is the fact that the bluffs below Kings Road, facing Dover Drive and the adjacent "Mariners Mile" portion of Pacific Coast Highway -- the historic center of commercial activity in Newport Beach -- lie entirely *outside* the coastal zone. It is very difficult to understand why this area was not originally protected (assuming that is indeed the case), but even as immense degradation of those bluffs continues, it would apparently require an act of the Legislature to put them in the coastal zone.

Yours sincerely,

James M. Mosher, Ph.D.
2210 Private Road
Newport Beach, CA. 92660
jimmosher@yahoo.com



P O B o x 1 0 2 | B a l b o a I s l a n d , C A 9 2 6 6 2 | 9 4 9 . 8 6 4 . 6 6 1 6

April 8, 2016

OFFICERS

PRESIDENT
Marko Popovich

VICE PRESIDENT
Elaine Linhoff

TREASURER
Dennis Baker

SECRETARY
Allan Beek

—

Chair Steve Kinsey,
Vice Chair Dayna Bochco & Commissioners

Via email to Coastal staff cc'd below

Subject: Newport Beach: Minor Boundary Adjustment to Coastal Zone
Boundary MBA-2016-01

Dear Chair Kinsey, Vice Chair Bochco and Commissioners,

BOARD MEMBERS

Nancy Alston
Don Harvey
Dorothy Kraus
Donald Krotee
Andrea Lingle
Bobby Lovell
Jeanne Price
Melinda Seely
Jack Skinner
Nancy Skinner
Jean Watt
Portia Weiss
Terry Welsh

SPON, founded in 1974, is a non-profit public education organization dedicated to protecting and preserving the environmental and residential qualities of Newport Beach. SPON supports staff's recommended changes to the City's request and would like to include the additional comments below.

- Regarding Map 1, Upper Buck Gully, and Map 2, Amigos Way: Staff has effectively pointed out that many of the proposed boundary adjustments are not the minimum distance necessary to avoid bisecting any single lot or parcel. Additionally, the proposed adjustments could potentially put the scenic and visual qualities available to the public and water quality at risk.



A 501(c)(3) non-profit public education organization working to protect and preserve the residential and environmental qualities of Newport Beach.

www.SPON-NewportBeach.org | Info@SPON-NewportBeach.org
FB SPON-Newport Beach | Twitter @SPONNewport



P O B o x 1 0 2 | B a l b o a I s l a n d , C A 9 2 6 6 2 | 9 4 9 . 8 6 4 . 6 6 1 6

April 8, 2016

California Coastal Commission

Newport Beach: Minor Boundary Adjustment to Coastal Zone Boundary MBA-2016-01

Page 2

- Regarding Map 3B, Upper Back Bay – University Avenue: The staff report states:

“The proposed adjustment does not adjust the Coastal Zone the minimum distance necessary to avoid bisecting these parcels, the majority of which are not bisected”,

and goes on to state,

“Of the 57 parcels associated with the proposed adjustment, only 12 are currently bisected by the Coastal Zone Boundary. The proposed adjustment would remove 45 parcels that are currently located entirely within the coastal zone and could adversely impact coastal resources. Additionally, by removing these parcels from the Coastal Zone, all oil, oil and gas, minerals mineral rights, natural gas rights, and other hydrocarbons by whatever name known associated with the proposed adjustment would also be removed from the coastal zone. According to Grant Deed 87-355427, the hydrocarbon ownership rights are held separately from the residential ownership by two different corporations: The Irvine Company and the Donald Bren Company.”

Staff then points out the possibility of adverse impacts if the proposed adjustments are approved as requested by the City:



A 501(c)(3) non-profit public education organization working to protect and preserve the residential and environmental qualities of Newport Beach.

www.SPON-NewportBeach.org | Info@SPON-NewportBeach.org
FB SPON-Newport Beach | Twitter @SPONNewport



P O B o x 1 0 2 | B a l b o a I s l a n d , C A 9 2 6 6 2 | 9 4 9 . 8 6 4 . 6 6 1 6

April 8, 2016

California Coastal Commission

Newport Beach: Minor Boundary Adjustment to Coastal Zone Boundary MBA-2016-01

Page 3

“Thus, if the parcels are removed from the Coastal Zone, then there is the potential for adverse impacts to coastal resources if the oil, gas and other mineral rights on these properties are developed in the future. In order to ensure that the boundary adjustment does not interfere with the achievement of the policies of Chapter 3, these parcels should remain in the Coastal Zone.”

SPON is concerned that the City is not following the principles of the Coastal Act for the proposed boundary adjustments of these three maps. To that end, SPON would appreciate if you support your staff’s recommendation, which we find to be a complete and thorough analysis and reasonable recommendation.

In closing, SPON is puzzled that this item is not being heard by the Commission in closer proximity to Newport Beach, creating the opportunity for public participation. The May hearing is in Newport Beach which would have allowed for this opportunity. We are unaware of any time parameters for minor coastal zone boundary adjustments to be processed by the Coastal Commission; but in any event it is unfortunate that this item will be heard in Santa Rosa, and that the Commission won’t have the full benefit of hearing from the public.



A 501(c)(3) non-profit public education organization working to protect and preserve the residential and environmental qualities of Newport Beach.

www.SPON-NewportBeach.org | Info@SPON-NewportBeach.org
FB SPON-Newport Beach | Twitter @SPONNewport



P O B o x 1 0 2 | B a l b o a I s l a n d , C A 9 2 6 6 2 | 9 4 9 . 8 6 4 . 6 6 1 6

April 8, 2016
California Coastal Commission
Newport Beach: Minor Boundary Adjustment to Coastal Zone Boundary MBA-2016-01
Page 4

Thank you for the opportunity to share these comments. We look forward to live streaming the hearing next week and hope for a good outcome.

Sincerely,

Marko Popovich

President

cc:

Sherilyn Sarb, sherilyn.sarb@coastal.ca.gov
Karl Schwing, karl.schwing@coastal.ca.gov
Greg Benoit, Greg.Benoit@coastal.ca.gov
Darryl Rance, Darryl.Rance@coastal.ca.gov
Patrick Alford, PAIford@newportbeachca.gov



A 501(c)(3) non-profit public education organization working to protect and preserve the residential and environmental qualities of Newport Beach.

www.SPON-NewportBeach.org | Info@SPON-NewportBeach.org
FB SPON-Newport Beach | Twitter @SPONNewport

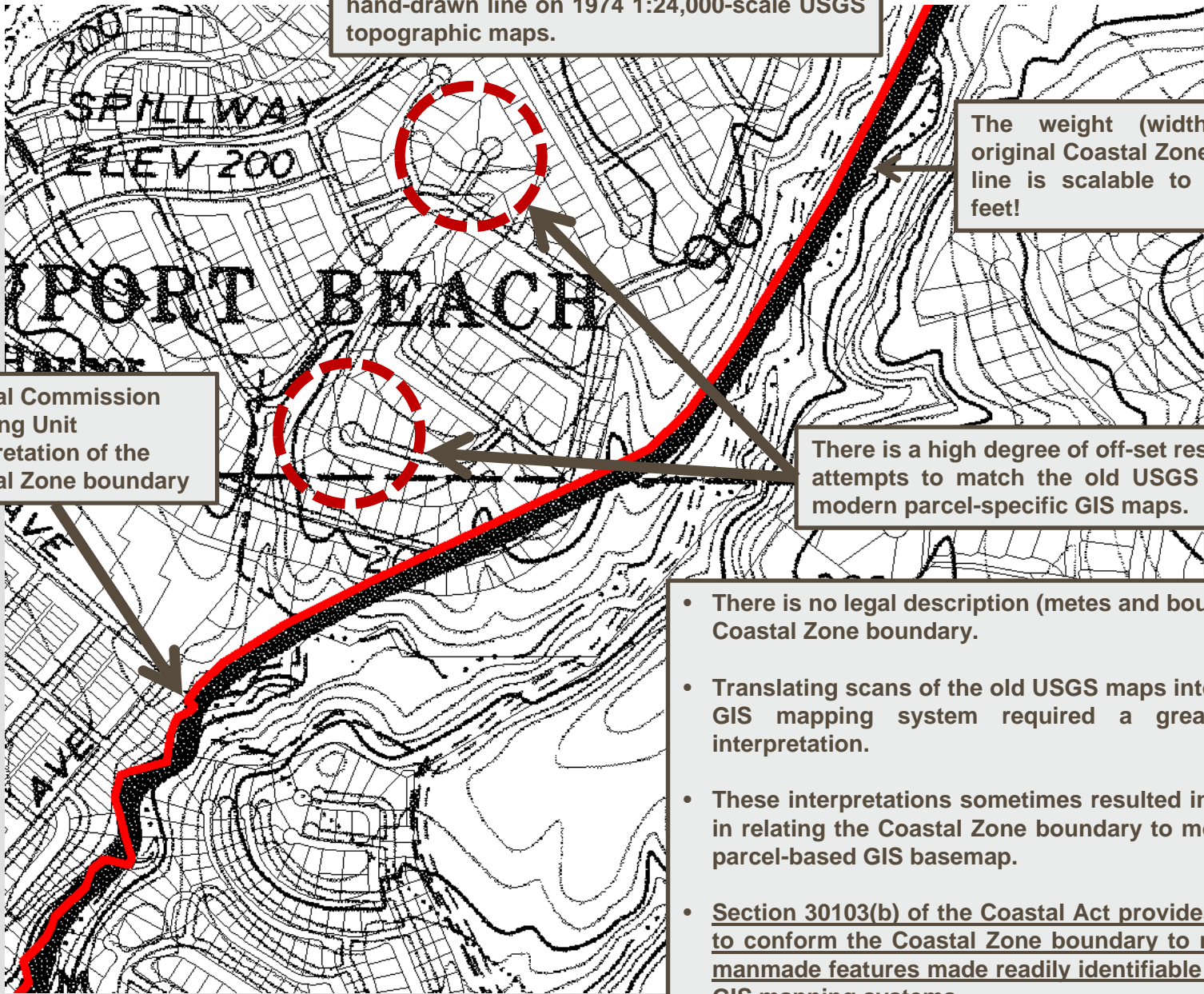
City of Newport Beach

Coastal Zone Boundary Adjustments

Map 1 - Buck Gully

Map 2 - Amigos Way

Map 3 - Upper Back Bay—University Drive



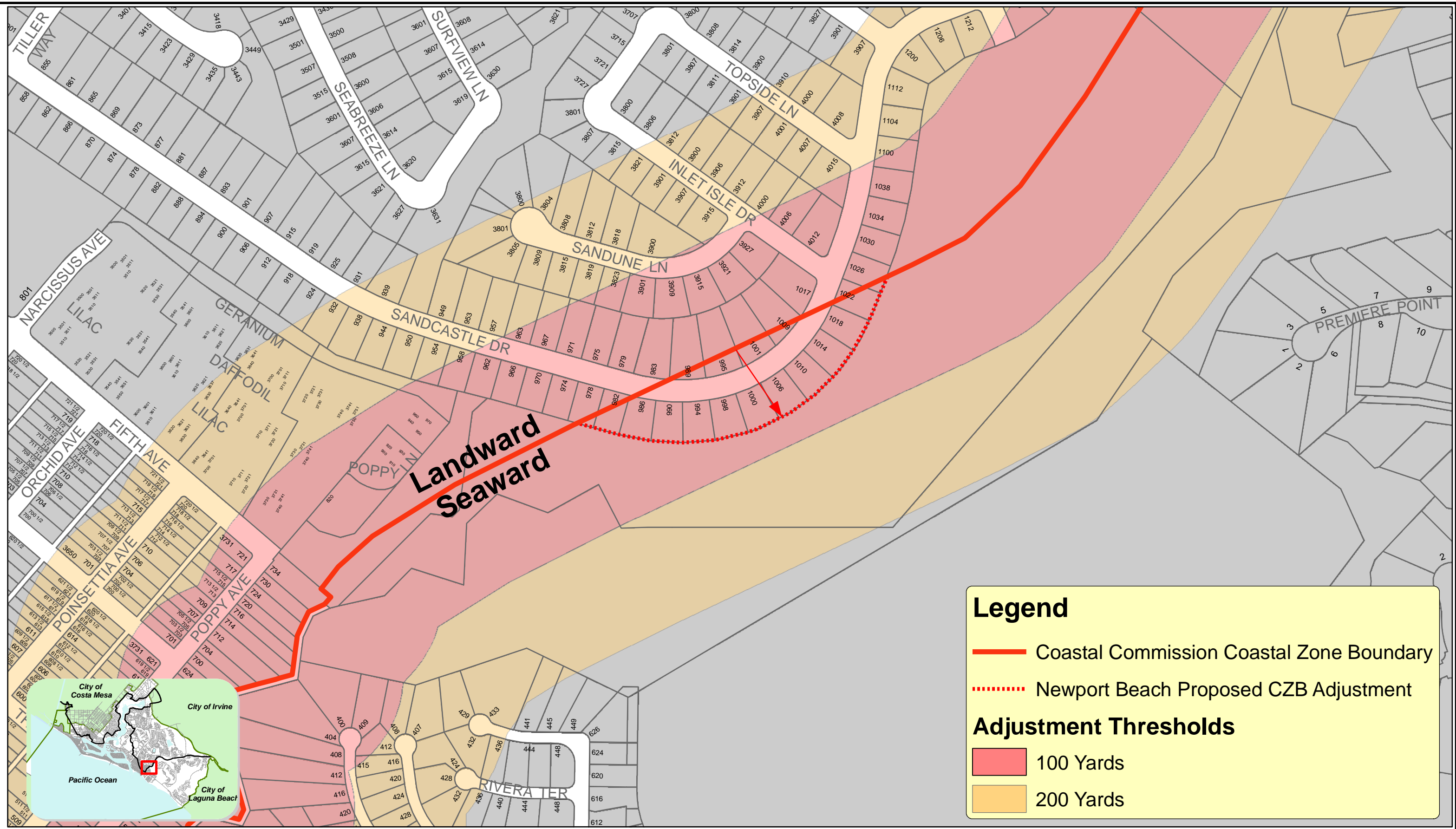
The Coastal Zone boundary is based on a hand-drawn line on 1974 1:24,000-scale USGS topographic maps.

The weight (width) of the original Coastal Zone boundary line is scalable to 80 to 100 feet!

Coastal Commission
Mapping Unit
Interpretation of the
Coastal Zone boundary

There is a high degree of off-set resulting from attempts to match the old USGS maps with modern parcel-specific GIS maps.

- There is no legal description (metes and bounds) of the Coastal Zone boundary.
- Translating scans of the old USGS maps into a modern GIS mapping system required a great deal of interpretation.
- These interpretations sometimes resulted in ambiguity in relating the Coastal Zone boundary to more precise parcel-based GIS basemap.
- Section 30103(b) of the Coastal Act provides a method to conform the Coastal Zone boundary to natural and manmade features made readily identifiable by modern GIS mapping systems.



Legend

- Coastal Commission Coastal Zone Boundary
- Newport Beach Proposed CZB Adjustment

Adjustment Thresholds

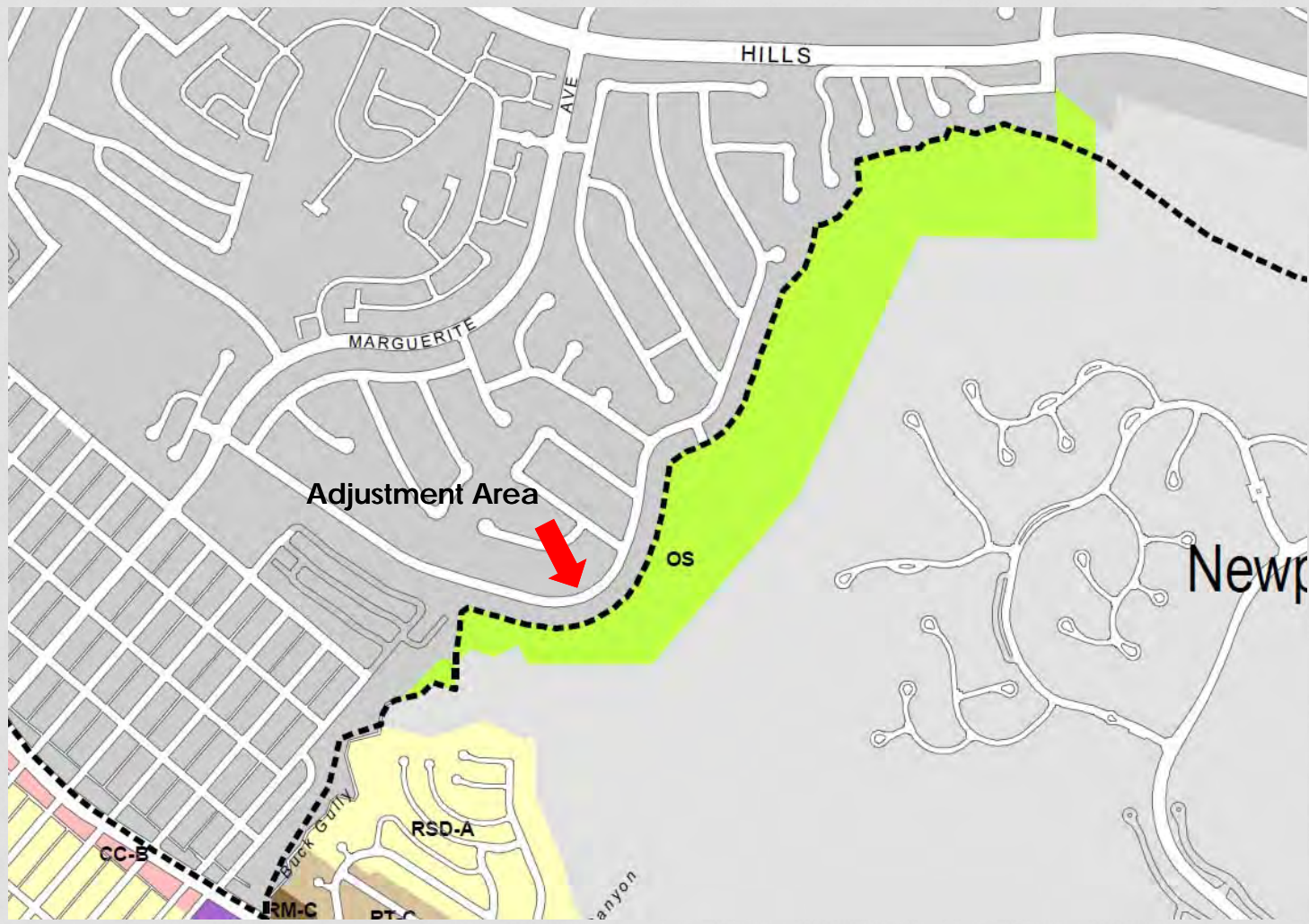
- 100 Yards
- 200 Yards



MAP 1 - Buck Gully
 March 16, 2016





Map 1 – Buck Gully Coastal Land Use Plan (Coastal Commission Approval February 2009)





**Landward
Seaward**

Legend

-  Coastal Commission Coastal Zone Boundary
-  Newport Beach Proposed CZB Adjustment

**MAP 1 - Buck Gully
Coastal Land Use Plan**



Map 1 – Buck Gully (Area Perspective)

CZB CCC Mapping Unit Recommendation



CZB City of Newport Beach Proposal

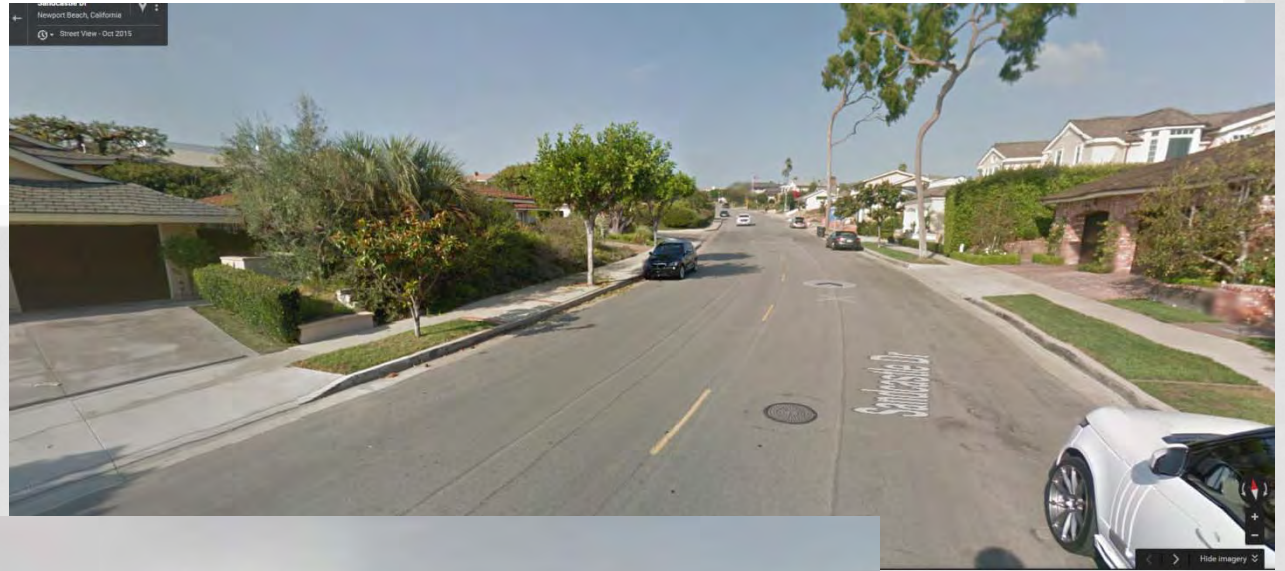


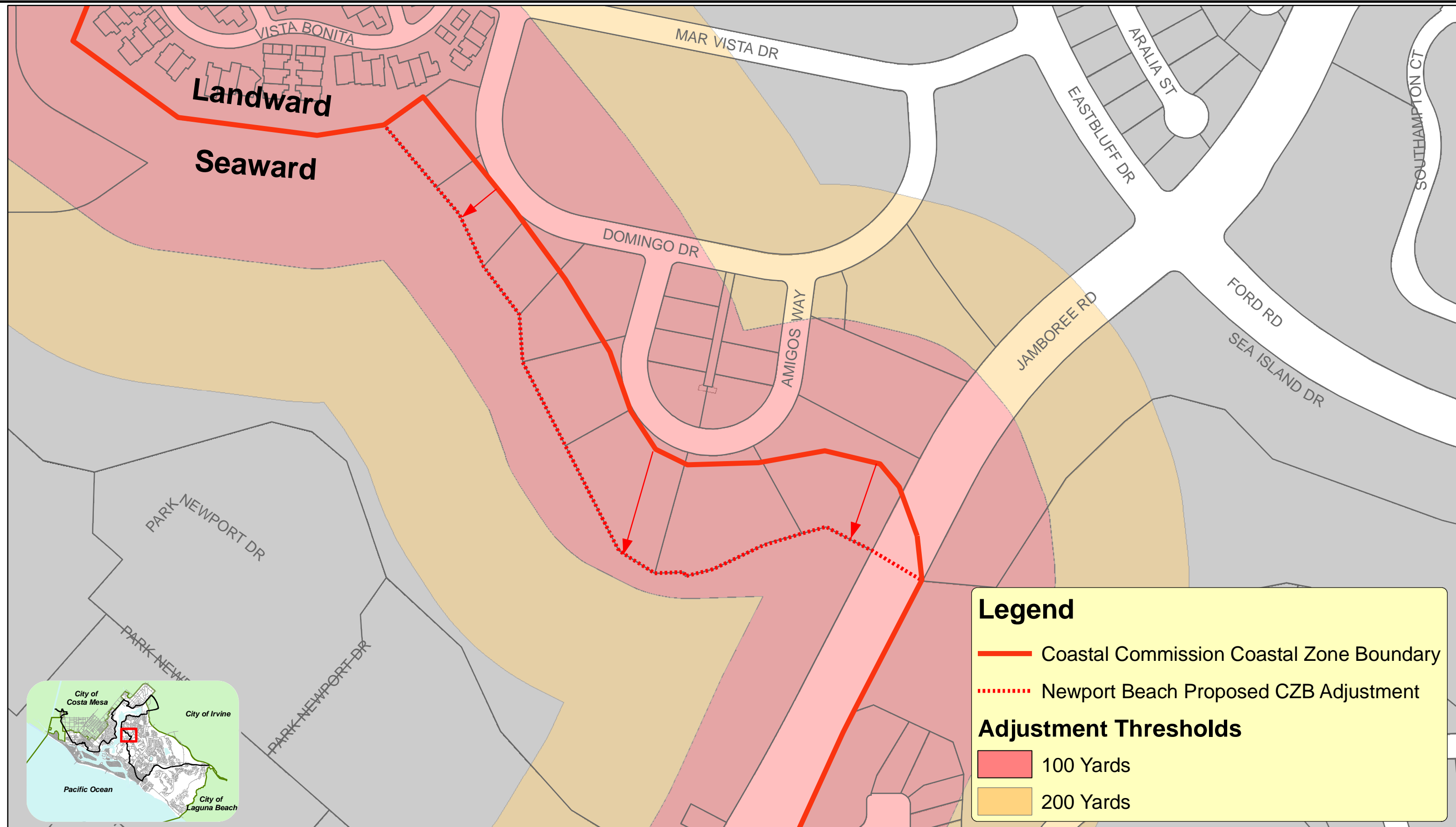
Reason for Adjustment

1. To Avoid Bisecting Parcels
2. Conform to manmade feature TR 6425)
3. Conform to a natural landform (the rim of Upper Buck Gully)
4. Not included in the City's Certified Land Use Plan



Map 1 – Buck Gully (Street Perspective)





Legend

- Coastal Commission Coastal Zone Boundary
- ⋯ Newport Beach Proposed CZB Adjustment

Adjustment Thresholds

- 100 Yards
- 200 Yards



MAP 2 - Amigos Way
 March 16, 2016





Legend

- Coastal Commission Coastal Zone Boundary
- Newport Beach Proposed CZB Adjustment

**MAP 2 - Amigos Way
Coastal Land Use Plan**



Map 2 – Amigos Way (Area Perspective)

CZB CCC Mapping Unit Recommendation



CZB City of Newport Beach Proposal

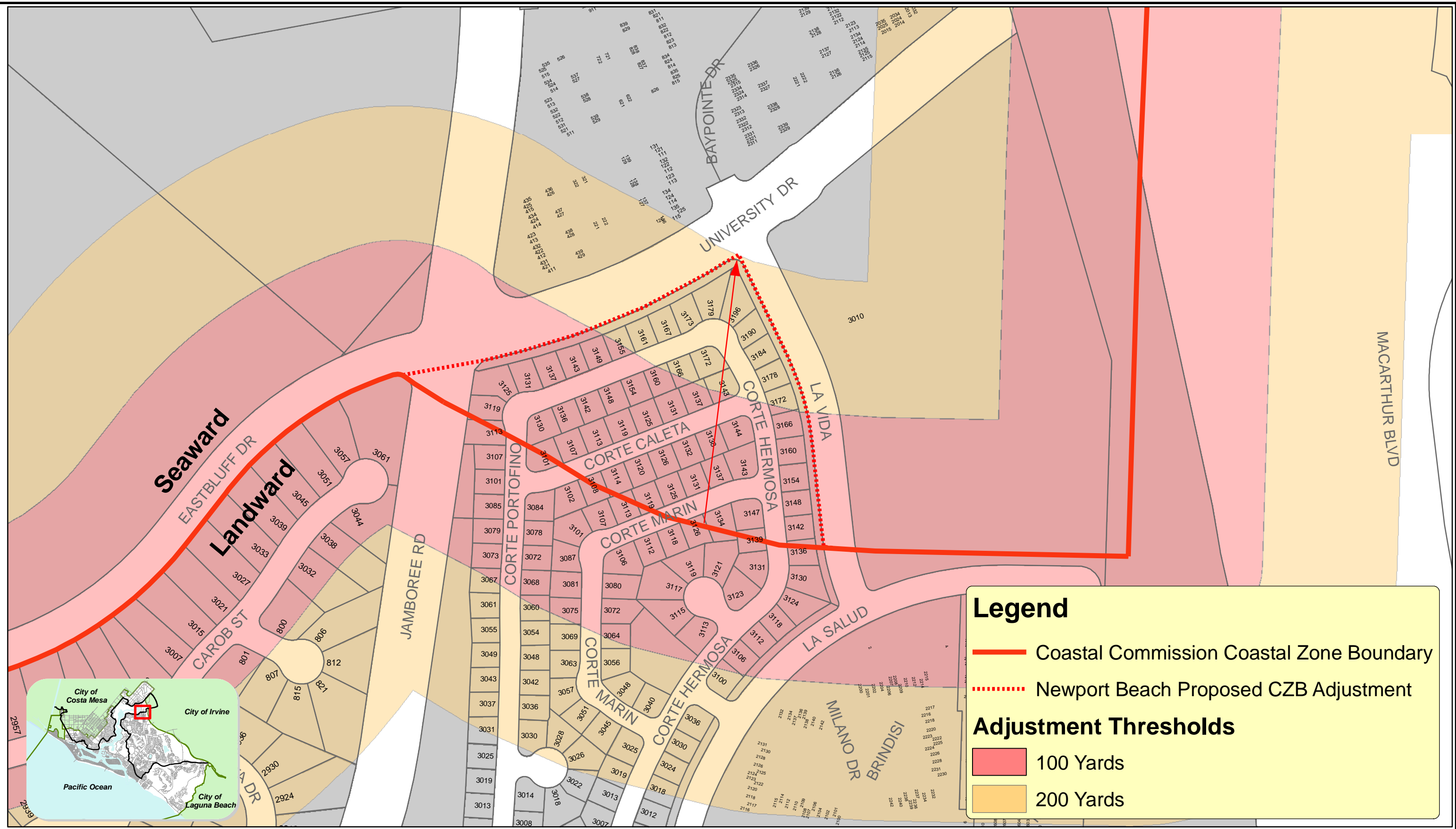


Reason for Adjustment

1. To Avoid Bisecting Parcels
2. Conform to manmade feature TR 5877)
3. Not included in the City's Certified Land Use Plan

Map 2 – Amigos Way (Street Perspective)





Legend

- Coastal Commission Coastal Zone Boundary
- ⋯ Newport Beach Proposed CZB Adjustment

Adjustment Thresholds

- 100 Yards
- 200 Yards

MAP 3B - Upper Back Bay - University Drive

March 16, 2016

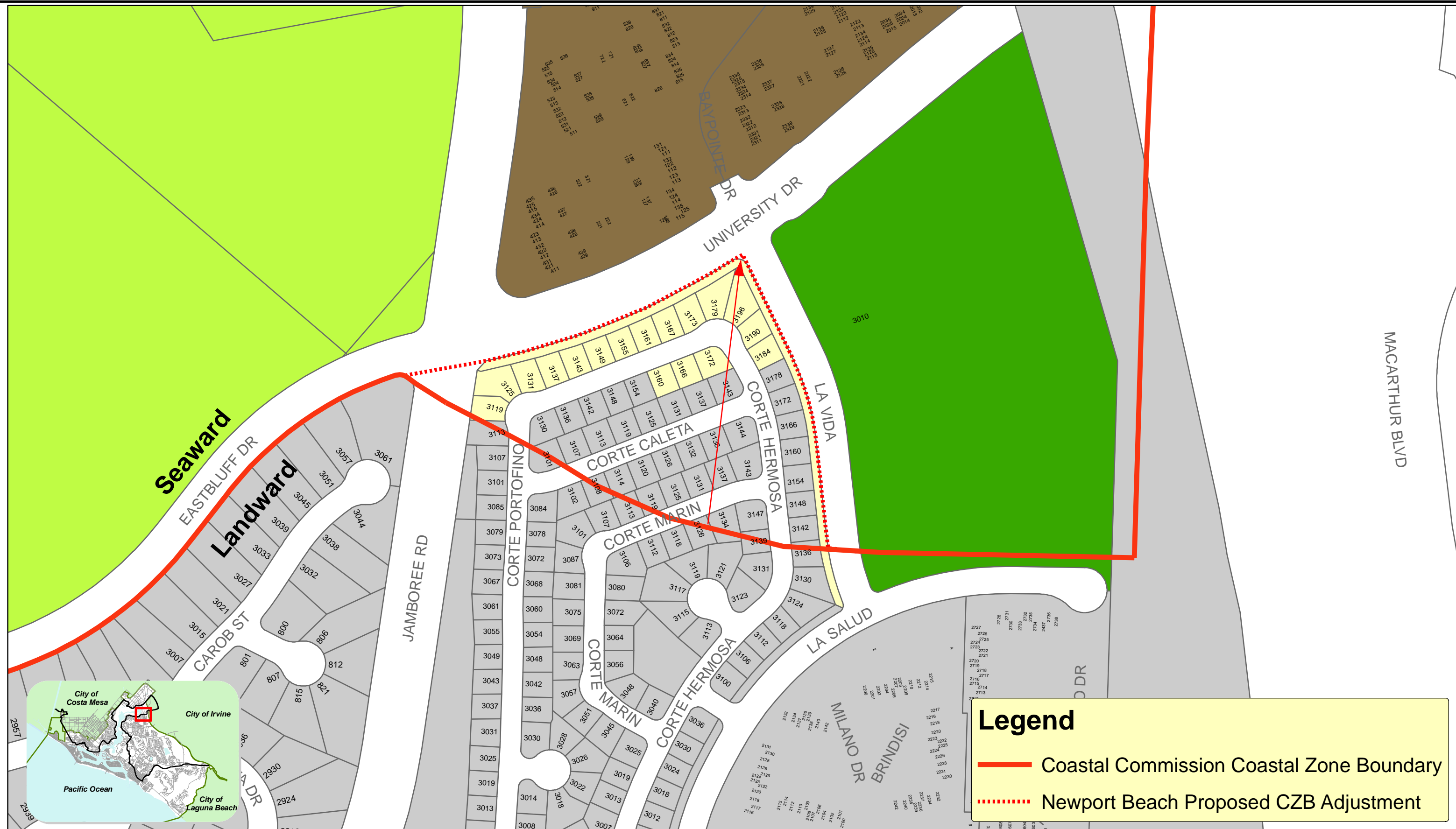


Map 3B- Upper Back Bay - University Drive

Coastal Land Use Plan

(Coastal Commission Approval February 2009)





Legend

- Coastal Commission Coastal Zone Boundary
- ⋯ Newport Beach Proposed CZB Adjustment

**MAP 3B - Upper Back Bay - University Drive
Coastal Land Use Plan**



Map 3B – Upper Back Bay University Drive (Aerial View)

CZB CCC Mapping Unit Recommendation



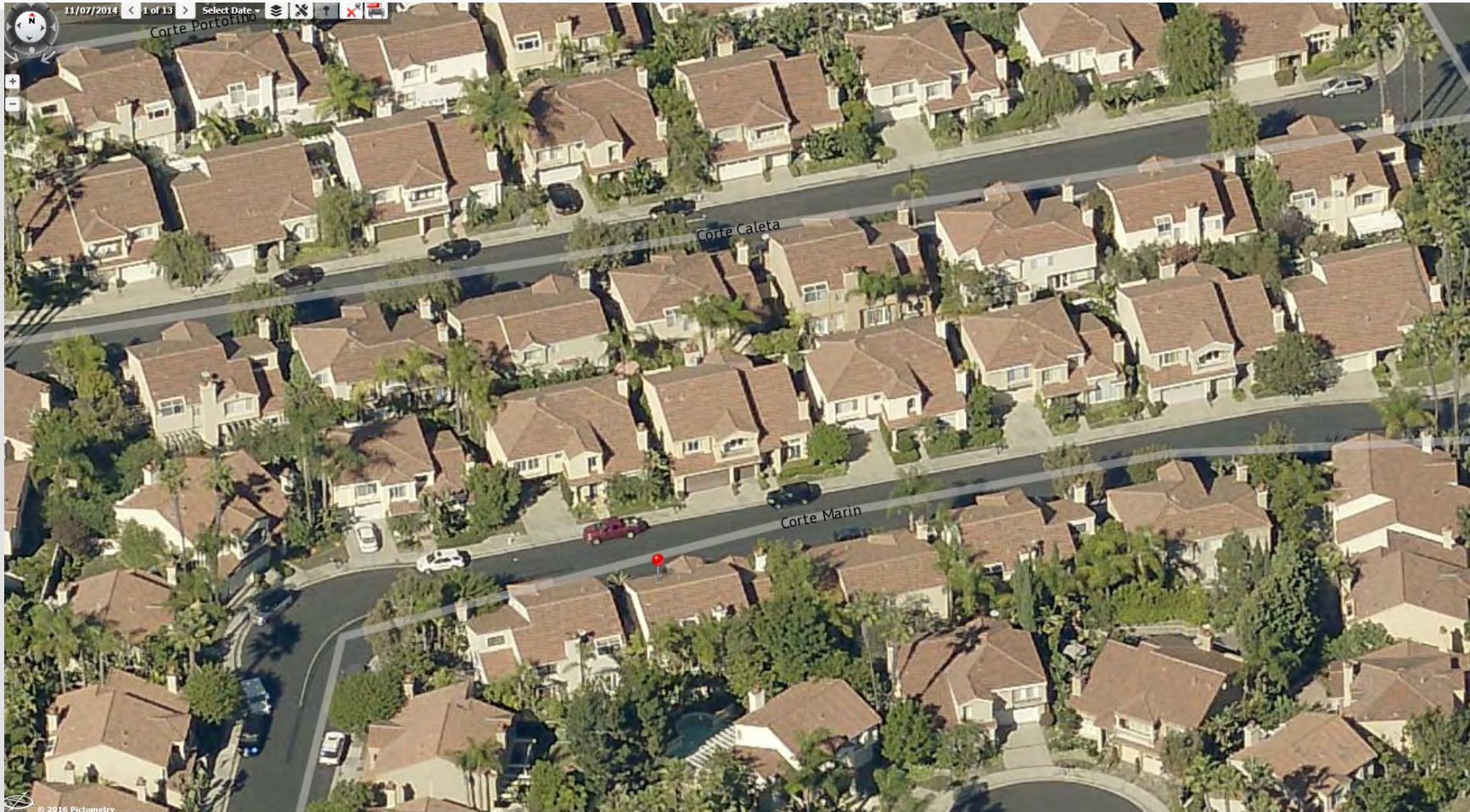
CZB City of Newport Beach Proposal



Reason for Adjustment

1. To Avoid Bisecting Parcels
2. Conform to manmade feature (TR 12271)
3. To conform to a manmade feature, the alignment of University Drive and La Vida

Map 3B – Upper Back Bay University Drive (Development pattern and residential product type)



EX PARTE COMMUNICATION DISCLOSURE FORM

Filed by Commissioner: Wendy Mitchell

1) Name or description of project: Newport City

2) Date and time of receipt of communication: 4/7/16

3) Location of communication: Los Angeles

(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)

4) Identity of person(s) initiating communication: Don Schmitz

5) Identity of person(s) on whose behalf communication was made: _____

Newport City

6) Identity of persons(s) receiving communication: _____

Wendy Mitchell

7) Identity of all person(s) present during the communication: _____

Don Schmitz, Wendy Mitchell

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

Disagreement with staff over
Back Gallery, Amgas Way, Upper
back Bay. Applicant does not
think that the lines are
consistent with existing neighborhoods
We looked at maps and discussed
where city proposed maps and
where CCA proposed lines

4/7/16
Date

[Signature]
Signature of Commissioner

TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication. This form may be filed with the Executive Director in addition to the oral disclosure.

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885



Th11a

Filed: N/A
180th Day: N/A
Staff: GB / DR -SF
Staff Report: 03/25/2016
Hearing Date: 04/14/2016

STAFF REPORT: REGULAR CALENDAR

Minor Boundary Adjustment: **MBA-2016-001**

Local Government: **City of Newport Beach**

Local Government Staff: Kimberly Brandt, Director
Community Development Department

Location: Coastal Zone area within City of Newport Beach, Orange County

Project Description: Minor Boundary Adjustments to the Coastal Zone Boundary the minimum distance necessary both landward and seaward to avoid bisecting parcels or to conform the boundary to readily identifiable natural or manmade features within the Buck Gully, Amigos Way, Upper Back Bay: The Bluffs, University Drive, Bayview Commercial, Bayview Residential, Mesa Drive, and along Private Road, Dover Shores, and Hoag Hospital areas of the City of Newport Beach.

Staff Recommendation: Approval as Modified by Staff Recommendation

SUMMARY OF STAFF RECOMMENDATION

The Minor Boundary Adjustment (MBA) to the Coastal Zone Boundary (CZB) process helps avoid confusion and to make clear the location of the Coastal Zone Boundary. It does not authorize the Commission to make significant changes to the Coastal Zone Boundary that was defined by the legislature.

Section 30103(b) of the Coastal Act provides the Commission with the authority to make minor adjustments to the inland boundary of the coastal zone up to 100 yards landward and up to 200 yards seaward. These adjustments, however, may only be the minimum necessary to avoid bisecting a parcel or to conform to a readily identifiable natural or manmade feature.

The City of Newport Beach (City) has requested the Commission consider 11 adjustments to the Coastal Zone Boundary affecting 147 parcels. Of the 11 proposed alignments, Commission staff concurs with 8 of the City's proposed alignments, while 3 remain in disagreement. Of the three areas of disagreement, staff recommends an alternative adjustment to the Coastal Zone that differs from the City's request in the following three areas: MAP1 – Upper Buck Gully, MAP 2- Amigos Way, and MAP 3B – Upper Back Bay – University Drive. The City's proposed alignment and the staff's recommended alternative alignments are discussed fully in Section E, Staff Analysis.

The staff recommends that the Commission **approve** the City of Newport Beach proposed adjustments in the location of the Coastal Zone Boundary consistent with California Coastal Act Sections 30103(b)¹ with respect to the following areas within the City:

MAP 3A – Upper Back Bay – The Bluffs

Staff recommends concurrence with the City's proposed alignment.

MAP 3B-1 – Upper Back Bay – La Salud

Staff recommends concurrence with the City's proposed alignment.

MAP 3C – Upper Back Bay – Bayview Commercial

Staff recommends concurrence with the City's proposed alignment.

MAP 3D – Upper Back Bay - Bayview Residential

Staff recommends concurrence with the City's proposed alignment.

MAP 3E – Upper Back Bay – Mesa Drive

Staff recommends concurrence with the City's proposed alignment.

¹ The California Coastal Act is found in the Public Resources Code, sections 30000 *et seq.*

MAP 3F – Upper Back Bay – Private Road

Staff recommends concurrence with the City’s proposed alignment.

MAP 4 – Dover Shores

Staff recommends concurrence with the City’s proposed alignment.

MAP 5 – Hoag Hospital

Staff recommends concurrence with the City’s proposed alignment.

The staff recommends that the Commission **reject** the City’s proposed adjustments in the location of the Coastal Zone Boundary and **approve the proposed alternative alignments** of the location of the Coastal Zone Boundary consistent with California Coastal Act Section 30103(b) with respect to the following areas within the City:

MAP 1 – Upper Buck Gully

Staff recommends rejecting the City’s proposed alignment and recommends an alternative alignment.

MAP 2- Amigos Way

Staff recommends rejecting the City’s proposed alignment and recommends an alternative alignment.

MAP 3B – Upper Back Bay – University Drive

Staff recommends rejecting the City’s proposed alignment and recommends an alternative alignment.

The staff analysis and recommended adjustments are presented in Section E, Staff Analysis and are depicted in the corresponding Map exhibits.

TABLE OF CONTENTS

I. RECOMMENDED MOTION AND RESOLUTION4

II. STAFF NOTE5

III. BACKGROUND6

IV. FINDINGS AND DECLARATIONS.....7

 A. CONFORMANCE WITH SECTION 30103(B) OF THE COASTAL ACT AND SECTION 13256.2 OF THE CALIFORNIA CODE OF REGULATIONS 7

 B. ACHIEVEMENT OF CHAPTER 3 POLICIES AND LOCAL COASTAL PROGRAM PREPARATION 8

 C. COASTAL ZONE RE-ALIGNMENT..... 8

 D. BASIS FOR COASTAL ZONE ALIGNMENT 8

 E. STAFF ANALYSIS 9

 F. CONCLUSION..... 22

MAP EXHIBITS

APPENDICES

[Appendix A – List of Substantive File Documents](#)

[Appendix B – Relevant Public Resources Code Sections](#)

[Appendix C – Relevant Code of Regulation Sections](#)

I. RECOMMENDED MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, **approve** minor Coastal Zone Boundary adjustment MBA-2016-001 (City of Newport Beach) as modified by the staff recommendation in this staff report.

Motion and Resolution I:

***Motion:** I move that the Commission approve minor boundary adjustment MBA-2016-001 (City of Newport Beach) as submitted by the City of Newport Beach, and I recommend a **NO** vote.*

Staff recommends a **NO** vote on the foregoing motion. Following the staff recommendation and rejecting this motion will result in denial of the Minor Boundary Adjustment MBA-2016-001 as submitted and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

***Resolution:** The Commission hereby denies Minor Boundary Adjustment MBA-2016-001 as submitted by the City of Newport Beach and adopts the findings set forth below on grounds that the adjustment as submitted does not meet the requirements of Coastal Act section 30103(b) and will interfere with the achievement of the policies of Chapter 3 of the Coastal Act and prejudice the preparation of a local coastal program conforming to such policies.*

APPROVAL WITH SUGGESTED MODIFICATIONS

Motion and Resolution II:

***Motion:** I move that the Commission approve minor boundary adjustment MBA-2016-001 (City of Newport Beach) as modified by the staff recommendation in this staff report, and I recommend a **YES** vote.*

Staff recommends a **YES** vote on the foregoing motion. Passage of the motion will result in the approval of Minor Boundary Adjustment MBA-2016-001 as modified by the staff recommendation and adoption of the following resolution and findings. The motion to approve

the minor boundary adjustment as modified by staff passes only by affirmative vote of a majority of the Commissioners present.

Resolution: *The Commission hereby approves Minor Boundary Adjustment MBA-2016-001 as modified in this staff recommendation and adopts the findings set forth below on grounds that the adjustment as modified meets the requirements of Coastal Act section 30103(b) and will not interfere with the achievement of the policies of Chapter 3 of the Coastal Act or prejudice the preparation of a local coastal program conforming to such policies.*

II. STAFF NOTE

Section 30103(b) of the Coastal Act of 1976 provides for minor adjustments to the inland Coastal Zone Boundary with certain limitations. The relevant portion of that section states:

“The commission may adjust the inland boundary of the coastal zone the minimum landward distance necessary up to a maximum of 100 yards except as otherwise provided in this subdivision, or the minimum distance seaward necessary up to a maximum of 200 yards, to avoid bisecting any single lot or parcel or to conform it to readily identifiable natural or manmade features.”

The Commission has adopted regulations setting forth procedures for making minor adjustments to the Coastal Zone Boundary, and this adjustment is being processed in conformance with these regulations.²

The primary purpose for minor boundary adjustments made under the provisions of Section 30103(b) of the Coastal Act is clarification of the Coastal Zone Boundary location. The specific language of Section 30103(b) states that the Commission may adjust the boundary and there is no mandate to automatically alter the boundary. The regulations provide procedures for establishing when such adjustments are possible, as well as where adjustments are desirable, and establish a two-step process of investigation. The first step determines whether the proposed adjustment conforms to Section 30103(b). The second step determines whether coastal resources would be affected by the adjustment or if coastal planning issues are present such that an adjustment could prejudice the resolution of those issues in the local coastal planning process. The minor boundary adjustment procedure contains no mechanism for resolving coastal resource or planning issues; it simply allows for very minor adjustments to the Coastal Zone Boundary. If a boundary adjustment would adversely affect coastal resources or involve planning issues, the proper mechanism for resolution of those issues is the local coastal program planning process.

In order to approve a minor boundary adjustment, the Commission must make specific factual findings to support the following legal conclusions:

1. The adjustment conforms to the requirements of the Section 30103(b) of the Coastal Act; and

² See 14CCR Section 13255.0 *et seq.*

2. The adjustment will not interfere with the achievement of the policies of Chapter 3 of the Coastal Act, and will not prejudice the preparation of a local coastal program conforming to Chapter 3 of the Coastal Act.

III. BACKGROUND

When the Coastal Act was passed in 1976, the Coastal Zone was defined as the area depicted on a set of twenty-one 1: 62,500 scale maps (1 inch equals approx. 1 mile) adopted by the legislature. As required by Coastal Act section 30103(b), in March 1977, the Coastal Commission adopted a set of one hundred sixty-one 1: 24,000 scale maps (1 inch equals 2000 feet) that were intended to be a conformed copy of the 1:62,500 scale maps adopted by the legislature. A 1978 Attorney General's opinion (63 Ops.Cal.Atty.Gen.107) confirmed that the maps, rather than the generalized language in the Coastal Act, defined the geographic extent of the Coastal Zone.

Section 30103(b) of the Coastal Act authorizes the Commission to make minor adjustments to the Coastal Zone Boundary under specific circumstances. Additionally, the legislature has also amended the Coastal Zone Boundary on a number of occasions.

The Commission's GIS and Mapping staff has been working in recent years to develop a fully digital cadastral (parcel-level detail) Coastal Zone Boundary. The resulting product is fully consistent with the hand drawn Coastal Zone Boundary maps adopted by the Commission in March of 1977, but provides a vast improvement over the current (paper-based) 1:24,000 scale Coastal Zone Boundary. The digital version of the line is based on the best available current technology and improves the precision with which boundary determinations may be made. There are, however, important considerations that must be given to the limitations of technology as well. The digital line is not without its own technical *and* non-technical complications.³ In

³ The digital version of the Coastal Zone Boundary is a conformed copy of the official 1:24,000 scale boundary, and reflects legislative changes and Coastal Commission minor boundary adjustments made since March 1977. For CZB segments where a road or railroad right of way, a property boundary or other boundaries such as municipal boundaries, section lines, and land grants control the precise location of the CZB, polylines representing the CZB were created using the most recent version of each County's parcel dataset as a base. With the current, official 1:24,000 scale CZB maps as a reference, segments of CZB were "heads-up" digitized and snapped to vertices in the parcel layer features (parcels, roads, city boundaries, etc.) that control the location of the boundary. The digitizing and snapping were done at a minimum display scale of 1:1000 creating cadastral level accuracy CZB segments intended primarily for use at 1:2000, 1:5,000 and smaller scales.

For CZB segments where a road or railroad right of way, a property boundary or other boundaries such as municipal boundaries, section lines, and land grants do not control the precise location of the CZB, polylines representing the CZB were created using the georeferenced scans of the current adopted version of the 1:24,000 scale CZB maps. Segments of CZB were "heads-up" digitized along the landward edge of the delineated 1:24,000 scale CZB for all areas where the CZB meanders at varying distances from the shoreline, or along, around, adjacent to, or offset from coastal topographic features such as ridgelines, bays, lagoons, and estuaries, to a maximum of five miles inland from the MHTL. The digitizing was done at a minimum display scale of 1:1,000 and each segment was snapped to the segments created in the other process step described above. These various cadastral CZB segments are intended to follow the parcel layer features that form their basis; however, it is understood that they remain cartographic depictions and are therefore not intended to represent a set of surveyed boundaries. They were prepared with all of the care and precision required for creating thematic boundaries and maps intended for use in the planning and regulatory work of the Coastal Commission. The accuracy of the boundary segment locations is ultimately dependent on the accuracy of the parcel layer, USGS quads, and the georeferencing process. The segments of boundary created in this process are not intended to replace or eliminate the potential need for a formal Coastal Zone Boundary determination made by the Commission staff.

addition to the technical issues of overlaying jurisdiction boundaries on an individual parcel map,⁴ for more than 37 years Commission staff has also been making boundary determinations in individual cases that interpret the Coastal Zone Boundary as depicted on the official maps.

Boundary Adjustment Recommendations that differ from City's Request

The City of Newport Beach has requested the Commission consider 11 adjustments to the Coastal Zone Boundary. In its analysis, Commission staff recognizes that the MBA process adjusts the Coastal Zone Boundary in a manner that helps avoid confusion and to make clear the location of the Coastal Zone Boundary. It is not a process to be used to make significant changes to the legislatively defined Coastal Zone Boundary.

Considering the total number of parcels affected in the 11 areas with proposed adjustments to the Coastal Zone, one might assume that there would be numerous disagreements about where or whether the Coastal Zone Boundary should be adjusted. However, because of the thoroughness of the City staff's work in evaluating the boundary, and their cooperation with the Commission staff's review of this request and recommendations, most areas of potential disagreement were resolved. Of the 11 proposed alignments, Commission staff concurs with 8 of the City's proposed alignments, while only 3 remain in disagreement.

Of the three areas of disagreement, staff recommends an alternative adjustment to the Coastal Zone that differs from the City's request in the following three areas: MAP1 – Upper Buck Gully, MAP 2- Amigos Way, and MAP 3B – Upper Back Bay – University Drive. The City's proposed alignment and the staff's recommended alternative alignment are discussed fully in Section E, Staff Analysis.

IV. FINDINGS AND DECLARATIONS

A. CONFORMANCE WITH SECTION 30103(B) OF THE COASTAL ACT AND SECTION 13256.2 OF THE CALIFORNIA CODE OF REGULATIONS

The Minor Boundary Adjustment process allows the Commission to approve minimal adjustments to the Coastal Zone Boundary to help avoid confusion and to make clear the location of the Coastal Zone Boundary. It does not authorize the Commission to make significant changes to the Coastal Zone Boundary that was defined by the legislature.

Section 30103(b) of the Coastal Act allows minor adjustments to the inland boundary of the coastal zone up to 100 yards landward and up to 200 yards seaward. These adjustments, however, may only be the minimum necessary to avoid bisecting a parcel or to conform to a readily identifiable natural or manmade feature. In the review and analysis of proposed adjustments, staff must conclude whether the proposed adjustment will either eliminate a condition where a parcel is bisected, or conforms the boundary to readily identifiable natural or

⁴ These can include positional accuracy issues of features and boundaries depicted in the parcel map, errors in the geometry of the parcel base map that affect the transformation or "georeferencing" process necessary to overlay boundaries from two different maps, changes in the coordinate system or map projection used in creating the map.

manmade feature; and whether the adjustment is the minimum distance necessary to accomplish this purpose.

The City's proposed adjustments, with the exception of Maps 1, 2, and 3B, and the alternative adjustments proposed by staff to Maps 1, 2, and 3B, are consistent with the provisions of California Code of Regulations Section 13256.2 and PRC Section 30103(b), specifically adjusting the Coastal Zone the minimum distance necessary to avoid bisecting any single lot or parcel. Furthermore, all proposed alternative adjustments are fully within the allowable distance tolerances as described in PRC Section 30103(b), specifically "... the minimum landward distance necessary up to a maximum of 100 yards except as otherwise provided in this subdivision, or the minimum distance seaward necessary up to a maximum of 200 yards, to avoid bisecting any single lot or parcel or to conform it to readily identifiable natural or manmade features." Thus, Commission staff finds that the adjustments, as recommended, conform to the requirements of Section 30103(b) of the Coastal Act and California Code of Regulations Section 13256.2

B. ACHIEVEMENT OF CHAPTER 3 POLICIES AND LOCAL COASTAL PROGRAM PREPARATION

The recommended adjustments will not interfere with the achievement of the Chapter 3 Policies of the Coastal Act or local coastal program preparation for this area. On the contrary, the adjustments will retain areas with the potential to impact sensitive habitat areas in the coastal zone, thereby ensuring they remain subject to Coastal Act's Chapter 3 resource protection policies. The Commission finds that the recommended adjustments will therefore not interfere with the achievement of the Coastal Act's Chapter 3 Policies and will not prejudice the preparation of an LCP in conformance with Chapter 3 of the Coastal Act.

C. COASTAL ZONE RE-ALIGNMENT

The minor boundary adjustment procedure contains no mechanism for resolving coastal resource or planning issues. If a boundary adjustment would adversely affect coastal resources or involve planning issues such as zoning or general plan designations for example, the proper mechanism for resolution of those issues is the local coastal program planning process. The Coastal Zone Boundary adjustment regulations and procedures provide a mechanism to adjust the Coastal Zone Boundary but not to make a wholesale re-alignment of the Coastal Zone. That is left to the legislature. It is staff's position that the mapped Coastal Zone Boundary is correct in its location and accurately depicts the adopted Coastal Zone Boundary, as intended by the legislature, for the planning and regulatory activities of the Coastal Commission, local governments and others. Throughout staff's analysis herein, staff has consistently complied with the provisions of PRC Section 30103(b), specifically adjusting the Coastal Zone the minimum distance necessary to avoid bisecting any single lot or parcel, yet also achieving the desired result of a more readily identifiable location of the Coastal Zone Boundary for ease in its administration.

D. BASIS FOR COASTAL ZONE ALIGNMENT

Section 30103(b) of the Coastal Act states in part: "The commission may adjust the inland boundary of the coastal zone the minimum landward distance necessary.... to avoid bisecting

any single lot or parcel or to conform it to a readily identifiable natural or manmade features.” For the purposes of this analysis, the following “features” were considered as a basis for realignment of the Coastal Zone Boundary: property boundaries as delineated in the County’s parcel dataset, rail road and road rights-of-ways, tract boundaries and bluffs.

E. STAFF ANALYSIS

MAP1 – Upper Buck Gully

Note- Staff recommends rejecting the City’s proposed alignment and recommends an alternative alignment.

City of Newport Beach Proposed Alignment ([Map 1](#))

The City of Newport Beach has proposed a realignment of the Coastal Zone Boundary in a manner listed below to conform to the seaward tract boundary of the Harbor Hills Subdivision which is coincident with the rim of Upper Buck Gully. The City’s proposal is to remove all parcels listed below from the Coastal Zone. Of the 17 parcels associated with the proposed adjustment, 9 are bisected by the Coastal Zone Boundary. The remaining 8 parcels are not bisected by the Coastal Zone Boundary and as proposed would be entirely removed from the Coastal Zone.

APN	Mslink	Current Status	Proposal	MBA Recommendation
458-062-13	6022821	Bisected	Exclude Entirely	Exclude / Adjust Seaward
458-062-12	6022820	Bisected	Exclude Entirely	Include / Adjust Landward
458-062-11	6022819	Bisected	Exclude Entirely	Include / Adjust Landward
458-062-10	6022818	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
458-062-09	6022817	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
458-062-08	6022816	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
458-062-07	6022815	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
458-062-06	6022814	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
458-062-05	6022813	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
458-062-04	6022812	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
458-062-03	6022811	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
458-062-02	6022810	Bisected	Exclude Entirely	Include / Adjust Landward
458-062-01	6022809	Bisected	Exclude Entirely	Exclude / Adjust Seaward
458-061-23	6022799	Bisected	Exclude Entirely	Exclude / Adjust Seaward
458-061-22	6022798	Bisected	Exclude Entirely	Exclude / Adjust Seaward
458-061-21	6022797	Bisected	Exclude Entirely	Exclude / Adjust Seaward
458-061-20	6022796	Bisected	Exclude Entirely	Exclude / Adjust Seaward

Staff Analysis

The proposed adjustment is not consistent with Coastal Act Section 30103(b), as implemented through section 13256.2 of the Coastal Commission’s regulation. Some of the proposed adjustments to the Coastal Zone Boundary are not the minimum distance necessary to avoid bisecting any single lot or parcel. In addition, the proposed adjustment will remove these 17 lots from the coastal zone, thereby eliminating the protections afforded by Chapter 3 of the Coastal Act. These parcels are bluff top parcels adjacent to the Upper Buck Gully Environmental Study

Area and down slope riparian area, so development on these parcels may have adverse visual impacts, may affect erosion and water quality and could disturb adjacent habitat areas.

Impact to Coastal Resources

The City's proposed adjustment excludes all parcels mentioned above from the Coastal Zone. These parcels are adjacent to the Upper Buck Gully Environmental Study Area (ESA), which is located east and southeast of the proposed boundary adjustment. The Upper Buck Gully ESA is a broad, open canyon dominated by coastal sage scrub and mixed chaparral, important for both its habitat values as well as scenic and visual resource values, as well as a riparian corridor along the canyon bottom. The Upper Buck Gully ESA is City-owned, protected open space and will remain inside the coastal zone. Much of this area is surrounded by steep coastal bluffs which serve as a scenic backdrop for Upper Buck Gully and contribute to its scenic and visual qualities.

Visual Resources

Section 30251 of the Coastal Act states, in relevant part:

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...

The parcels that are candidates for exclusion from the Coastal Zone are located above scenic bluffs located along the Upper Buck Gully ESA. New development or redevelopment on these parcels could adversely affect these scenic views if not sighted and designed consistent with Coastal Act section 30251. Although the proposed parcels are currently subject to the height limits in the City's certified Land Use Plan and must be developed consistent with the Coastal Act scenic resource protection policies, if these parcels are removed from the Coastal Zone, such protections would be removed. If approved as submitted, the proposed adjustment could result in new development on these lots obstructing views of Upper Buck Gully from prominent public viewpoints. Thus, approval as submitted would interfere with the achievement of the visual resource protection policies of Chapter 3, making the proposed adjustment inconsistent with section 13256.2 of the Commission's regulations. Staff therefore recommends leaving most of these parcels entirely within the Coastal Zone.

Water Quality

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Most of the parcels proposed for adjustment are in a location where there is a potential for a discharge of polluted runoff from the properties into the adjacent Upper Buck Gully ESA. This

could result in the discharge of debris or waste into this protected area, resulting in an adverse effect on the riparian and natural area of Upper Buck Gully. Development or redevelopment of these parcels must be conditioned to ensure the protection of water quality in the Upper Buck Gully ESA. Should these parcels be removed from the Coastal Zone, they would no longer need to be developed consistent with Coastal Act section 30231, potentially resulting in adverse water quality impacts and therefore interfering with the achievement of the policies of Chapter 3. Staff recommends leaving most of these parcels in the Coastal Zone in their entirety.

Staff Recommended Alternative Alignment ([Map 1.1](#))

Staff recommends the following alternative alignments that are consistent with Coastal Act Section 30103(b) and regulations section 13256.2, specifically adjusting the Coastal Zone the minimum distance necessary to avoid bisecting any single lot or parcel and ensuring that the adjustment will not interfere with the achievement of the policies of Chapter 3. Staff has recommended an alternative alignment to the City's proposed alignment that still accommodates the City's request for a Coastal Zone alignment that facilitates its administration.

Parcels 458-062-13 and 458-062-01 are currently bisected. Staff is in concurrence with the City's proposed adjustment on these parcels. Staff recommends adjusting the boundary seaward to avoid bisecting these parcels. While these particular parcels are adjacent to and along the bluff above the protected open space of the Upper Buck Gully ESA, staff believes the impact to coastal resources associated with the removal of these two parcels from the Coastal Zone are negligible. APN 458-062-01 is 8276 square feet and the minimum distance adjustment would remove approximately 1000 square feet (~ 12% of lot) of a fully developed residential parcel from the coastal zone. APN 458-062-13 is 7920 square feet and the minimum distance adjustment would remove approximately 400 square feet (~5%) of a fully developed residential parcel from the coastal zone.

Parcels 458-062-12, 458-062-11, and 458-062-02 are currently bisected. Staff concludes that the appropriate adjustment on these parcels is landward to the parcel boundary as this results in the minimum adjustment to the Coastal Zone Boundary on these parcels. In addition, keeping these parcels in the coastal zone will ensure that the visual and water quality protection policies continue to apply to these bluff top lots, thus protecting coastal resources.

Parcels 458-061-23 thru 458-061-20 are currently bisected. Staff recommends adjusting the Coastal Zone seawards resulting in exclusion from the Coastal Zone. Alignment to the inland right of way of Sandcastle Drive is most consistent with 30103(b) because it is the minimum necessary to adjust the Coastal Zone Boundary to avoid bisecting these parcels. In addition, these parcels are landward of the first row of parcels adjacent to the Upper Buck Gully ESA, thus the potential for adverse impacts to visual resources and water quality due to their proximity to Upper Buck Gully are reduced. Excluding these parcels from the Coastal Zone will not interfere with the achievement of the policies of Chapter 3.

Parcels 458-062-10 thru 458-062-03 are not bisected and are entirely within the Coastal Zone. The City's proposal is to remove them entirely by adjusting the Coastal Zone seaward to the seaward parcel boundaries along Buck Gully. These parcels are immediately adjacent to the bluff and the Upper Buck Gully ESA. Their removal from the Coastal Zone will remove the Chapter

3 visual resources and water quality protection from these parcels, potentially resulting in adverse impacts to coastal resources. Staff therefore proposes that the Coastal Zone Boundary on these parcels not be adjusted and that they remain within the Coastal Zone in their entirety.

MAP 2- Amigos Way

Note- Staff recommends rejecting the City’s proposed alignment and recommends an alternative alignment.

City of Newport Beach Proposed Alignment (Map 2)

The City of Newport Beach has proposed a realignment of the Coastal Zone Boundary in the manner listed below to conform to the seaward boundary of Tract No. 5877. The City’s proposal is to remove all parcels listed below from the Coastal Zone.

APN	Mslink	Current Status	Proposal	MBA Recommendation
440-102-01	5221821	Bisected	Exclude Entirely	Include / Adjust Landward
440-102-02	5221822	Bisected	Exclude Entirely	Include / Adjust Landward
440-102-03	5221823	Bisected	Exclude Entirely	Include / Adjust Landward
440-102-04	5221824	Bisected	Exclude Entirely	Include / Adjust Landward
440-102-05	5221825	Bisected	Exclude Entirely	Include / Adjust Landward
440-102-06	5221826	Bisected	Exclude Entirely	Include / Adjust Landward
440-102-07	5221827	Bisected	Exclude Entirely	Include / Adjust Landward
440-102-12	5221840	Bisected	Exclude Entirely	Include / Adjust Landward

Staff Analysis

The proposed adjustment is not consistent with Coastal Act Section 30103(3), as implemented through section 13256.2 of the Commission’s regulations. The proposed adjustments are not the minimum distance necessary to avoid bisecting any single lot or parcel. In addition, removing all of these parcels from the Coastal Zone could result in adverse impacts to coastal resources in terms of preserving visual impacts and water quality as all of the parcels proposed for exclusion from the Coastal Zone are bluff top parcels adjacent to the Big Canyon Environmental Study Area (ESA) and up slope from the wetland complex at the base of the bluff.

Impact to Coastal Resources

The parcels subject to this proposed boundary adjustment are located northeast of the Big Canyon Environmental Study Area (ESA). The 52.0-acre Big Canyon ESA plant communities include southern willow scrub, Diegan coastal sage scrub, nonnative grassland, southern coastal bluff scrub, southern coastal salt marsh, southern cottonwood willow riparian forest, and coastal freshwater marsh. The Big Canyon ESA is protected open space and will remain inside the coastal zone.

Visual Resources

The parcels that are candidates for exclusion from the Coastal Zone are located above scenic bluffs located adjacent to the Big Canyon ESA. New development or redevelopment on these parcels could adversely affect these scenic views if not sighted and designed consistent with Coastal Act section 30251. Although the proposed parcels are currently subject to the height limits in the City’s certified Land Use Plan and must be developed consistent with the Coastal

Act scenic resource protection policies, if these parcels are excluded from the Coastal Zone, such protections would be removed. If approved as submitted, the proposed adjustment could result in new development on these lots obstructing views of the Big Canyon ESA from prominent public viewpoints. Thus, approval as submitted would interfere with the achievement of the visual resource protection policies of Chapter 3, making the proposed adjustment inconsistent with section 13256.2 of the Commission’s regulations. Staff therefore recommends leaving most of these parcels entirely within the Coastal Zone.

Water Quality

The parcels proposed for adjustment are in a location where there is a potential for a discharge of polluted runoff from the properties into the adjacent Big Canyon ESA. This could result in the discharge of debris or waste into this protected area, resulting in an adverse effect on the riparian and natural area of Big Canyon. Development or redevelopment of these parcels must be conditioned to ensure the protection of water quality in the Big Canyon ESA. Should these parcels be removed from the Coastal Zone, they would no longer need to be developed consistent with Coastal Act section 30231, potentially resulting in adverse water quality impacts and therefore interfering with the achievement of the policies of Chapter 3. Staff recommends leaving these parcels in the Coastal Zone in their entirety.

Staff Recommended Alternative Alignment ([Map 2.1](#))

The City’s proposal is to remove all parcels listed above from the Coastal Zone by adjusting the Coastal Zone Boundary seaward to the seaward boundary of Tract No. 5877, coincident with the top of bluff. However, staff has concluded that the proposed adjustment could not be considered the minimum distance necessary to avoid bisecting the parcels in question and it would interfere with the achievement of the policies of Chapter 3 and the ability of the City to prepare a local coastal program. The minimal distance criterion would be satisfied by a landward adjustment of the Coastal Zone Boundary, and such adjustment would provide protection for coastal resources. As such, staff has identified an alternative adjustment, in this case landward, that is consistent with the Coastal Act and yet also achieves the City’s desired result of a more readily identifiable location of the Coastal Zone Boundary for ease in its administration. The parcels subject to the recommended adjustment would no longer be bisected but would be entirely within the Coastal Zone. As a result, coastal resources on the affected parcels and adjacent lands would not be affected, nor would the recommended adjustment affect the ability of the City of Newport Beach to prepare an LCP in conformance with the goals, objectives and policies of the Coastal Act.

MAP 3A – Upper Back Bay – The Bluffs

Note- Staff recommends concurrence with the City’s proposed alignment.

City of Newport Beach Proposed Alignment ([Map 3A](#))

The City of Newport Beach has proposed a realignment of the Coastal Zone Boundary to avoid bisecting parcels in a manner listed below. The proposal is to align the Coastal Zone Boundary with the north parcel boundary of Tract Nos. 7052, 7082, 7083, 7166 and 7167.

APN	Mslink	Current Status	Proposal	MBA Recommendation
440-092-71	5221807	Bisected	Include Entirely	Include / Adjust Landward
440-092-72	5221808	Bisected	Include Entirely	Include / Adjust Landward
440-201-02	5222198	Bisected	Exclude Entirely	Exclude / Adjust Seaward

440-231-51	5222344	Bisected	Exclude Entirely	Exclude / Adjust Seaward
440-261-42	5222393	Bisected	Exclude Entirely	Exclude / Adjust Seaward

Staff Analysis

The Upper Back Bay – The Bluffs development is a planned unit development with common open space, public facilities and infrastructure, with a ‘postage stamp’ parcel configuration of individual residential units. The proposed adjustment avoids bisecting these common area parcels by adjusting the Coastal Zone Boundary both landward and seaward to the seaward boundaries of Tract Nos 7052, 7082, 7166, and 7167, coincident with the bluff face. The proposed adjustment adjusts the Coastal Zone the minimum distance necessary to avoid bisecting any single lot or parcel. The proposed alignment achieves the City’s desired result of a more readily identifiable location of the Coastal Zone Boundary for ease in its administration.

The proposed adjustment does not impact coastal resources in that the proposed alignment includes the Upper Newport Bay Regional Park in its entirety. Neighboring bluff parcels that do have coastal resources remain in the Coastal Zone. Coastal resources on the common area parcels being removed from the Coastal Zone are not an issue. These common area parcels are fully developed and landscaped as part of the planned unit development and do not raise other concerns related to coastal resource impacts. Public access opportunities to or along the coast would not be affected. None of the properties affected by the proposed adjustment provide public access to coastal areas, the upper Newport Bay in this case. Adequate public access to Newport Bay is provided by Upper Newport Bay Regional Park, access to and along Back Bay Drive and physical and visual access to Newport Bay provided by Vista Point (Upper Newport Bay) access on the east side of the proposed alignment. The proposed alignment also would not affect the ability of the City of Newport Beach to prepare a LCP in conformance with the goals, objectives and policies of the Coastal Act.

MAP 3B – Upper Back Bay – University Drive

Note- Staff recommends rejecting the City’s proposed alignment and recommends an alternative alignment.

City of Newport Beach Proposed Alignment ([Map 3B](#))

The City of Newport Beach proposes to realign of the Coastal Zone Boundary in the manner listed below to conform to the seaward boundary of the Newport Canyon subdivision, Tract No. 12271, the landward side of University Drive and landward side of La Vida. The City’s proposal would remove all residential parcels listed below from the Coastal Zone. Of the 57 parcels associated with the proposed adjustment, only 12 are currently bisected by the Coastal Zone Boundary. The proposed adjustment would remove 45 parcels that are currently located entirely within the coastal zone and could adversely impact coastal resources. Additionally, by removing these parcels from the Coastal Zone, all oil, oil and gas, minerals mineral rights, natural gas rights, and other hydrocarbons by whatever name known associated with the proposed adjustment would also be removed from the coastal zone. According to Grant Deed 87-355427, the hydrocarbon ownership rights are held separately from the residential ownership by two different corporations: The Irvine Company and the Donald Bren Company.

MBA-2016-001 (City of Newport Beach)

APN	Mslink	Current Status	Proposal	MBA Recommendation
442-054-06	5360178	Bisected	Exclude Entirely	Exclude / Adjust Seaward
442-054-07	5360179	Bisected	Exclude Entirely	Include / Adjust Landward
442-054-08	5360180	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-09	5360181	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-10	5360182	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-11	5360183	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-12	5360184	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-13	5360185	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-14	5360186	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-15	5360187	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-16	5360188	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-17	5360189	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-18	5360190	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-19	5360191	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-20	5360192	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-21	5360193	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-22	5360194	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-23	5360195	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-24	5360196	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-25	5360197	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-055-57	5360290	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-055-56	5360289	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-53	5360225	Bisected	Exclude Entirely	Exclude / Adjust Seaward
442-054-54	5360226	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-55	5360227	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-56	5360228	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-57	5360229	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-58	5360230	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-59	5360231	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-60	5360232	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-61	5360233	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-52	5360224	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-51	5360223	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-50	5360222	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-49	5360221	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-48	5360220	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-47	5360219	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-46	5360218	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-39	5360211	Bisected	Exclude Entirely	Exclude / Adjust Seaward
442-054-40	5360212	Bisected	Exclude Entirely	Include / Adjust Landward
442-054-41	5360213	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-42	5360214	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-43	5360215	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-44	5360216	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-45	5360217	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-31	5360203	Bisected	Exclude Entirely	Exclude / Adjust Seaward
442-054-30	5360202	Bisected	Exclude Entirely	Include / Adjust Landward
442-054-29	5360201	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-28	5360200	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-054-27	5360199	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely

442-054-26	5360198	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-055-38	5360271	Bisected	Exclude Entirely	Exclude / Adjust Seaward
442-055-39	5360272	Bisected	Exclude Entirely	Include / Adjust Landward
442-055-40	5360273	Entirely Within	Exclude Entirely	No Adjustment / Include Entirely
442-055-41	5360274	Bisected	Exclude Entirely	Include / Adjust Landward
442-055-55	5360288	Bisected	Exclude Entirely	Exclude / Adjust Seaward
442-052-21	5360043	Bisected	Exclude Entirely	No Adjustment / Remain Bisected

Staff Analysis

The proposed adjustment does not adjust the Coastal Zone the minimum distance necessary to avoid bisecting these parcels, the majority of which are not bisected. Although the Newport Canyon subdivision is fully developed, there is still the potential for adverse impacts to coastal resources if all of these parcels are removed from the coastal zone. Specifically, there is believed to be the potential for oil and gas development on these parcels, given that the mineral rights for these parcels were separated from the sale of the surface rights. Thus, if the parcels are removed from the Coastal Zone, then there is the potential for adverse impacts to coastal resources if the oil, gas and other mineral rights on these properties are developed in the future. In order to ensure that the boundary adjustment does not interfere with the achievement of the policies of Chapter 3, these parcels should remain in the Coastal Zone.

Staff Recommended Alternative Alignment ([Map 3B.1](#))

The City’s proposal is to remove the entire Newport Canyon Subdivision (all parcels listed above) from the Coastal Zone by a seaward adjustment to the Coastal Zone. However, staff has identified an alternative adjustment, in this case stair stepping through the Newport Canyon Subdivision that adjusts the Coastal Zone the minimum distance necessary to avoid bisecting these parcels, yet also achieve the City’s desired result of a more readily identifiable location of the Coastal Zone Boundary for ease in its administration. The parcels subject to the recommended adjustment would no longer be bisected. Coastal resources on the affected parcels and adjacent lands would not be affected, public access opportunities to or along the coast would not be affected, nor would the recommended adjustment affect the ability of the City of Newport Beach to prepare a LCP in conformance with the goals, objectives and policies of the Coastal Act.

MAP 3B-1 – Upper Back Bay – La Salud

Note- Staff recommends concurrence with the City’s proposed alignment.

City of Newport Beach Proposed Alignment ([Map 3B-1](#))

The City of Newport Beach has proposed a realignment of the Coastal Zone Boundary to avoid bisecting the parcel listed below. The parcel subject to the proposed adjustment would no longer be bisected and would be entirely within the Coastal Zone. The request is made in an effort to conform the Coastal Zone Boundary to the landward extent of Bonita Creek Park and to the landward right-of-way of La Salud.

APN	Mslink	Current Status	Proposal	MBA Recommendation
442-061-12	5360337	Bisected	Include Entirely	Include / Adjust Landward

Staff Analysis

The proposed adjustment is consistent with Coastal Act Section 30103(b) by adjusting the Coastal Zone Boundary the minimum distance necessary to avoid bisecting the parcel at issue. The parcel in question is a developed City Park with sporting facilities and a playground. Staff has concluded the proposed alignment achieves the City’s desired result of a more readily identifiable location of the Coastal Zone Boundary for ease in its administration. The parcel subject to the recommended adjustment would no longer be bisected and would be entirely within the Coastal Zone. As a result, coastal resources on the affected parcels and adjacent lands would not be affected, public access opportunities to or along the coast would not be affected, nor would the recommended adjustment affect the ability of the City of Newport Beach to prepare a LCP in conformance with the goals, objectives and policies of the Coastal Act.

MAP 3C – Upper Back Bay – Bayview Commercial

Note- Staff recommends concurrence with the City’s proposed alignment.

City of Newport Beach Proposed Alignment ([Map 3C](#))

The City of Newport Beach has proposed a realignment of the Coastal Zone Boundary to avoid bisecting parcels in a manner listed below. The parcels subject to the proposed adjustment would no longer be bisected and would be entirely out of the Coastal Zone. The request is made in an effort to conform the Coastal Zone Boundary to the alignments of Bayview Circle and Jamboree Road.

APN	Mslink	Current Status	Proposal	MBA Recommendation
442-282-04	5360350	Bisected	Exclude Entirely	Exclude / Adjust Seaward
442-282-13	5360358	Bisected	Exclude Entirely	Exclude / Adjust Seaward
442-282-12	5360357	Bisected	Exclude Entirely	Exclude / Adjust Seaward
442-282-06	5360351	Bisected	Exclude Entirely	Exclude / Adjust Seaward
442-282-07	5360352	Bisected	Exclude Entirely	Exclude / Adjust Seaward
442-282-09	5360354	Bisected	Exclude Entirely	Exclude / Adjust Seaward

Staff Analysis

The proposed adjustment is consistent with Coastal Act Section 30103(b). The parcels in question are fully built out with commercial infrastructure. Staff has concluded the proposed alignment achieves the City’s desired result of a more readily identifiable location of the Coastal Zone Boundary for ease in its administration and adjusts the Coastal Zone Boundary the minimum distance necessary to avoid bisecting the subject parcels. These parcels are within a fully built out portion of the City and they are not adjacent to habitat areas, wetlands or areas of the City with views to Upper Newport Bay. In addition, there is currently no public access provided through these parcels so the proposed adjustment will not result in the loss of public access opportunities to or along the coast. Coastal resources on the affected parcels and adjacent lands would not be affected, nor would the recommended adjustment affect the ability of the City of Newport Beach to prepare a LCP in conformance with the goals, objectives and policies of the Coastal Act.

MAP 3D – Upper Back Bay - Bayview Residential

Note- Staff recommends concurrence with the City’s proposed alignment.

City of Newport Beach Proposed Alignment (Map 3D)

The City of Newport Beach has proposed a realignment of the Coastal Zone Boundary to avoid bisecting parcels in a manner listed below. The request is made in an effort to conform the Coastal Zone Boundary to portions of the Bay View Heights Tract No. 1507, portions of Bayview Terrace Tract No. 12529 and 12530, and the landward rights of way of Gannet Lane, Cormorant Court, Cormorant Circle, Bayview Circle, and Jamboree Road.

APN	Mslink	Current Status	Proposal	MBA Recommendation
439-036-03	5270311	Bisected	Include Entirely	Include / Adjust Landward
439-036-04	5270312	Bisected	Exclude Entirely	Exclude / Adjust Seaward
442-402-08	5360577	Bisected	Include Entirely	Include / Adjust Landward
442-402-09	5360578	Bisected	Include Entirely	Include / Adjust Landward
442-284-01	5360450	Bisected	Exclude Entirely	Exclude / Adjust Seaward
442-284-02	5360451	Bisected	Exclude Entirely	Exclude / Adjust Seaward
442-284-50	5360499	Bisected	Exclude Entirely	Exclude / Adjust Seaward
442-284-51	5360500	Bisected	Exclude Entirely	Exclude / Adjust Seaward
442-284-52	5360501	Bisected	Exclude Entirely	Exclude / Adjust Seaward
442-284-45	5360494	Bisected	Exclude Entirely	Exclude / Adjust Seaward
442-284-44	5360493	Bisected	Exclude Entirely	Exclude / Adjust Seaward
442-284-18	5360467	Bisected	Exclude Entirely	Exclude / Adjust Seaward
442-284-19	5360468	Bisected	Exclude Entirely	Exclude / Adjust Seaward
442-284-20	5360469	Bisected	Exclude Entirely	Exclude / Adjust Seaward
442-284-59	5360508	Bisected	Exclude Entirely	Exclude / Adjust Seaward
442-284-22	5360471	Bisected	Exclude Entirely	Exclude / Adjust Seaward
442-284-23	5360472	Bisected	Exclude Entirely	Exclude / Adjust Seaward
442-284-60	5360509	Bisected	Exclude Entirely	Exclude / Adjust Seaward

Staff Analysis

The proposed adjustment is consistent with Coastal Act Section 30103(b); it adjusts the Coastal Zone the minimum distance necessary to avoid bisecting any single lot or parcel. The parcels in question are fully built out with residential development. Staff has concluded that the parcels subject to the recommended adjustment would no longer be bisected and the proposed alignment achieves the City’s desired result of a more readily identifiable location of the Coastal Zone Boundary for ease in its administration. Coastal resources on the affected parcels and adjacent lands would not be affected because these parcels are within a fully built out portion of the City and they are not adjacent to habitat areas, wetlands or areas of the City with views to Upper Newport Bay or the neighboring Upper Newport Bay Regional Park to the southwest. In addition, there is currently no public access provided through these parcels, so the proposed adjustment will not result in the loss of public access opportunities to or along the coast. The proposed adjustment would not affect the ability of the City of Newport Beach to prepare a LCP in conformance with the goals, objectives and policies of the Coastal Act.

MAP 3E – Upper Back Bay – Mesa Drive

Note- Staff recommends concurrence with the City’s proposed alignment

City of Newport Beach Proposed Alignment (Map 3E)

The City of Newport Beach has proposed a realignment of the Coastal Zone Boundary to avoid bisecting parcels in a manner listed below. With the exception of parcels 439-382-32 and 439-382-03, the parcels subject to the proposed adjustment would no longer be bisected and would be entirely within the Coastal Zone. The request is made in an effort to conform the Coastal Zone Boundary to the alignments of Birch Street, Mesa Drive, and Bay View Avenue.

APN	Mslink	Current Status	Proposal	MBA Recommendation
439-382-32	5270661	Bisected	Exclude Entirely	Exclude / Adjust Seaward
439-382-03	5270663	Bisected	Exclude Entirely	Exclude / Adjust Seaward
439-061-03	9382342	Bisected	Include Entirely	Include / Adjust Landward
439-061-14	5272445	Bisected	Include Entirely	Include / Adjust Landward
439-061-04	5272436	Bisected	Include Entirely	Include / Adjust Landward
439-061-05	5272437	Bisected	Include Entirely	Include / Adjust Landward
439-061-06	5272438	Bisected	Include Entirely	Include / Adjust Landward
439-061-07	5272439	Bisected	Include Entirely	Include / Adjust Landward
439-061-10	5272442	Bisected	Include Entirely	Include / Adjust Landward
439-051-01	5272422	Bisected	Include Entirely	Include / Adjust Landward
439-051-02	5272423	Bisected	Include Entirely	Include / Adjust Landward
439-051-03	5272424	Bisected	Include Entirely	Include / Adjust Landward
439-051-04	5272425	Bisected	Include Entirely	Include / Adjust Landward
439-051-05	5272426	Bisected	Include Entirely	Include / Adjust Landward

Staff Analysis

All parcels listed above are bisected. The proposed adjustment on parcels 439-382-32 and 439-382-03 is seaward, resulting in exclusion from the Coastal Zone. Staff concurs with this proposal. The remaining parcels list above would be entirely within the Coastal Zone per the proposed landward adjustment of the Coastal Zone. Staff concurs with this proposed adjustment. The proposed alignment adjusts the Coastal Zone the minimum distance necessary to avoid bisecting these parcels, yet also achieves the City’s desired result of a more readily identifiable location of the Coastal Zone Boundary for ease in its administration. With two exceptions, the parcels subject to the proposed adjustment would no longer be bisected and would be entirely within the Coastal Zone. As a result, coastal resources on these parcels and adjacent lands would continue to be fully protected by the Chapter 3 policies of the Coastal Act. The exclusion of a portion of the remaining two parcels from the Coastal Zone, 439-382-32 and 439-382-03, would not interfere with the achievement of the policies of Chapter 3. Both are fully developed residential parcels that are located landward of Mesa Drive and Birch Court. APN 439-382-03 is 34,321 square-feet and the minimum distance adjustment would remove approximately 600 square feet (~ 2%) of a fully developed parcel from the coastal zone. APN 439-382-32 is 20,000 square-feet and the minimum distance adjustment would remove approximately 10,000 square-feet (~50%) of a fully developed residential parcel.

MAP 3F – Upper Back Bay – Private Road

Note- Staff recommends concurrence with the City’s proposed alignment.

City of Newport Beach Proposed Alignment (Map 3F)

The City of Newport Beach has proposed a realignment of the Coastal Zone Boundary to avoid bisecting parcels in a manner listed below. The request is made in an effort to conform the Coastal Zone Boundary to Tract No. 2513 and Tract 6689.

APN	Mslink	Current Status	Proposal	MBA Recommendation
426-101-39	5053229	Bisected	Exclude Entirely	Exclude / Adjust Seaward
426-101-38	5053228	Bisected	Exclude Entirely	Exclude / Adjust Seaward
426-101-37	5053227	Bisected	Exclude Entirely	Exclude / Adjust Seaward
426-101-36	5053226	Bisected	Exclude Entirely	Exclude / Adjust Seaward
426-101-22	5053212	Bisected	Exclude Entirely	Exclude / Adjust Seaward
426-101-21	5053211	Bisected	Exclude Entirely	Exclude / Adjust Seaward
426-111-24	5053273	Bisected	Include Entirely	Include / Adjust Landward
426-111-23	5053272	Bisected	Include Entirely	Include / Adjust Landward
426-111-22	5053271	Bisected	Include Entirely	Include / Adjust Landward
426-111-21	5053270	Bisected	Include Entirely	Include / Adjust Landward
426-111-04	5053253	Bisected	Exclude Entirely	Exclude / Adjust Seaward
426-111-03	5053252	Bisected	Exclude Entirely	Exclude / Adjust Seaward
426-111-02	5053251	Bisected	Exclude Entirely	Exclude / Adjust Seaward
426-111-01	5053250	Bisected	Exclude Entirely	Exclude / Adjust Seaward

Staff Analysis

The City’s proposal is to remove all parcels listed above from the Coastal Zone, with the exception of 426-111-21 thru 426-111-24, by adjusting the Coastal Zone Boundary seaward. The proposed adjustment results in the minimum adjustment necessary to avoid bisecting these parcels. All of the parcels in question are fully built out with residential zoning and development. They are not on bluff top lots nor located adjacent to habitat areas. Thus, staff does not anticipate that removing these parcels from the Coastal Zone will result in adverse impacts to coastal resources when they are redeveloped. In addition, there is currently no public access provided through these parcels, so the proposed adjustment will not result in the loss of public access opportunities to or along the coast. Thus, the proposed adjustment will not affect the ability of the City of Newport Beach to prepare a LCP in conformance with the goals, objectives and policies of the Coastal Act.

MAP 4 – Dover Shores

Note- Staff recommends concurrence with the City’s proposed alignment.

City of Newport Beach Proposed Alignment (Map 4)

The City of Newport Beach has proposed a realignment of the Coastal Zone Boundary to avoid bisecting parcels in a manner listed below. The request is made in an effort to align the Coastal Zone Boundary in such a way that all parcels listed below are entirely within the Coastal Zone.

APN	Mslink	Current Status	Proposal	MBA Recommendation
117-652-14	5085742	Bisected	Include Entirely	Include / Adjust Landward

117-652-15	5085743	Bisected	Include Entirely	Include / Adjust Landward
117-652-16	5085744	Bisected	Exclude Entirely	Exclude / Adjust Seaward
117-381-07	5085303	Bisected	Include Entirely	Include / Adjust Landward
117-381-12	5085307	Bisected	Include Entirely	Include / Adjust Landward

Staff Analysis

The request is made in an effort to conform the Coastal Zone Boundary to parcel boundaries and results in all parcels listed above to be entirely within the Coastal Zone. The proposal adjusts the Coastal Zone Boundary the minimum distance necessary to avoid bisecting these parcels.

Impact to Coastal Resources

The nearest coastal resources are located in the Upper Newport Bay Ecological Preserve (UNBER), located to the east of the proposed adjustment. To the East of the properties in question is an approximately 80-foot high coastal bluff that descends downward to the bay, which is part of the Upper Newport Bay Ecological Reserve. The bayward property lines are on the bluff top; the property bayward of that, including the bluff face, is part of the UNBER. The UNBER has been designated a State Ecological Reserve, which is important for both its habitat values as well as scenic and visual resource values. Much of Upper Newport Bay is surrounded by steep coastal bluffs which serve as a scenic backdrop for the bay and contribute to its scenic and visual qualities.

The five parcels listed above subject to the proposed adjustment to the Coastal Zone are located along scenic bluffs fronting Upper Newport Bay. They are also in a location where there is a potential for a discharge of polluted runoff from the properties into coastal waters with the potential for debris, or waste carried into coastal waters that could result in an adverse effect on the marine environment and the adjacent natural area. As proposed, however, the City’s adjustment will keep all of these parcels within the Coastal Zone, thereby ensuring that they continue to be protected by the Chapter 3 policies of the Coastal Act. Staff recommends approval of this adjustment as proposed as it is the minimum distance necessary to avoid bisecting these parcels, it does not interfere with the achievement of the policies of Chapter 3, and it will not prejudice the preparation of the City’s LCP.

MAP 5 – Hoag Hospital

Note- Staff recommends concurrence with the City’s proposed alignment.

City of Newport Beach Proposed Alignment ([Map 5](#))

The City of Newport Beach has proposed a realignment of the Coastal Zone Boundary to avoid bisecting parcels in a manner listed below. Proposed alignment can be broken down into two components, A) to conform the Coastal Zone Boundary to a portion of the Versailles on the Bluffs at Newport Planned Community (Tract No. 8336), and B) Hoag Hospital Lower Campus parking lot site to the south east.

APN	Mslink	Current Status	Proposal	MBA Recommendation
423-011-23	5380713	Bisected	Exclude Entirely	Exclude / Adjust Seaward
423-011-08	5380005	Bisected	Include Entirely	Include / Adjust Landward
423-011-17	5380006	Bisected	Exclude Entirely	Exclude / Adjust Seaward

Staff Analysis

The proposed adjustment consists of adjusting the Coastal Zone the minimum distance necessary to avoid bisecting any of these parcels, while still achieving the City's desired result of a more readily identifiable location of the Coastal Zone Boundary for ease in its administration. The parcels in question are fully built out with residential and commercial infrastructure. Sunset Ridge View Park is located between the Versailles Planned Community and the Hoag Hospital Lower Campus and will remain entirely within the Coastal Zone. Coastal resources on the affected parcels and adjacent lands would not be affected. The parcels being excluded from the coastal zone are fully built out with either high density residential structures or a hospital. These sites are zoned for such uses, and potential redevelopment on these parcels are not expected to result in impacts to visual resources or to have any other adverse impacts to coastal resources. Thus, their exclusion from the Coastal Zone does not interfere with achievement of the policies of Chapter 3 nor would approval of the adjustment as proposed affect the ability of the City of Newport Beach to prepare a LCP in conformance with the goals, objectives and policies of the Coastal Act.

F. CONCLUSION

The Minor Boundary Adjustment to the Coastal Zone Boundary process allows the Commission to make minor adjustments that help avoid confusion and clarify the location of the Coastal Zone Boundary.

Section 30103(b) of the Coastal Act provides the Commission with the authority to make minor adjustments to the inland boundary of the coastal zone up to 100 yards landward and up to 200 yards seaward to avoid bisecting any single lot or parcel or to conform to a readily identifiable natural or manmade feature. This section of the Coastal Act is implemented through section 13256.2 of the Commission's regulations which requires the Commission to find that any proposed adjustment is consistent with Section 30103(b) and that the adjustment will not interfere with the achievement of the policies of Chapter 3 of the Coastal Act. Finally, the adjustment must not prejudice the ability of the local government to prepare a local coastal program conforming to Chapter 3.

In sum, eight of the City's proposed minor boundary adjustments meet all of these requirements. They adjust the Coastal Zone Boundary the minimum distance necessary to avoid bisecting any single parcel, and they do not interfere with the achievement of the policies of Chapter 3 nor prejudice the ability of the City to prepare a Local Coastal Program.

Portions of the remaining three proposed adjustments do not meet these criteria. As proposed, they do not adjust the Coastal Zone Boundary the minimum distance necessary to avoid bisecting a parcel nor do they ensure that the removal of certain parcels from the coastal zone would not interfere with achievement of the policies in Chapter 3. Although there are coastal resources in some of the affected parcels, as discussed above, and on neighboring parcels, the adjustments as

modified by staff ensure that the parcels with the more sensitive coastal resources are all fully included in the coastal zone, consistent with Section 12356.1(b)(2 and 3).

Finally, the adjustments as modified by staff will not interfere with the achievement of the Chapter 3 Policies of the Coastal Act or local coastal program preparation for this area. On the contrary, the adjustment will retain areas designated as or adjacent to sensitive habitat in the coastal zone thereby ensuring they remain subject to Coastal Act Policies and reduce the likelihood of adverse impacts to coastal resources as they are developed or redeveloped. With respect to LCP preparation, the City of Newport Beach's Implementation Plan is tentatively scheduled to be heard by the Commission in May, 2016. Upon certification of the City's full LCP, the City will assume permit issuing authority, and the recommended alternative adjustments to the Coastal Zone Boundary as described herein achieve the City's desired result of a more readily identifiable location of the Coastal Zone Boundary for ease in its administration.

MAP EXHIBITS

[Coastal Zone Boundary Adjustment Index Map](#)

[MAP 1](#) – Upper Buck Gully

[MAP 1.1](#) – Upper Buck Gully Recommended Alternative Alignment

[MAP 2](#)- Amigos Way

[MAP 2.1](#)- Amigos Way Recommended Alternative Alignment

[MAP 3A](#) – Upper Back Bay – The Bluffs

[MAP 3B](#) – Upper Back Bay – University Drive

[MAP 3B.1](#) – Upper Back Bay – University Drive Recommended Alternative Alignment

[MAP 3B-1](#) – Upper Back Bay – La Salud

[MAP 3C](#) – Upper Back Bay – Bayview Commercial

[MAP 3D](#) – Upper Back Bay - Bayview Residential

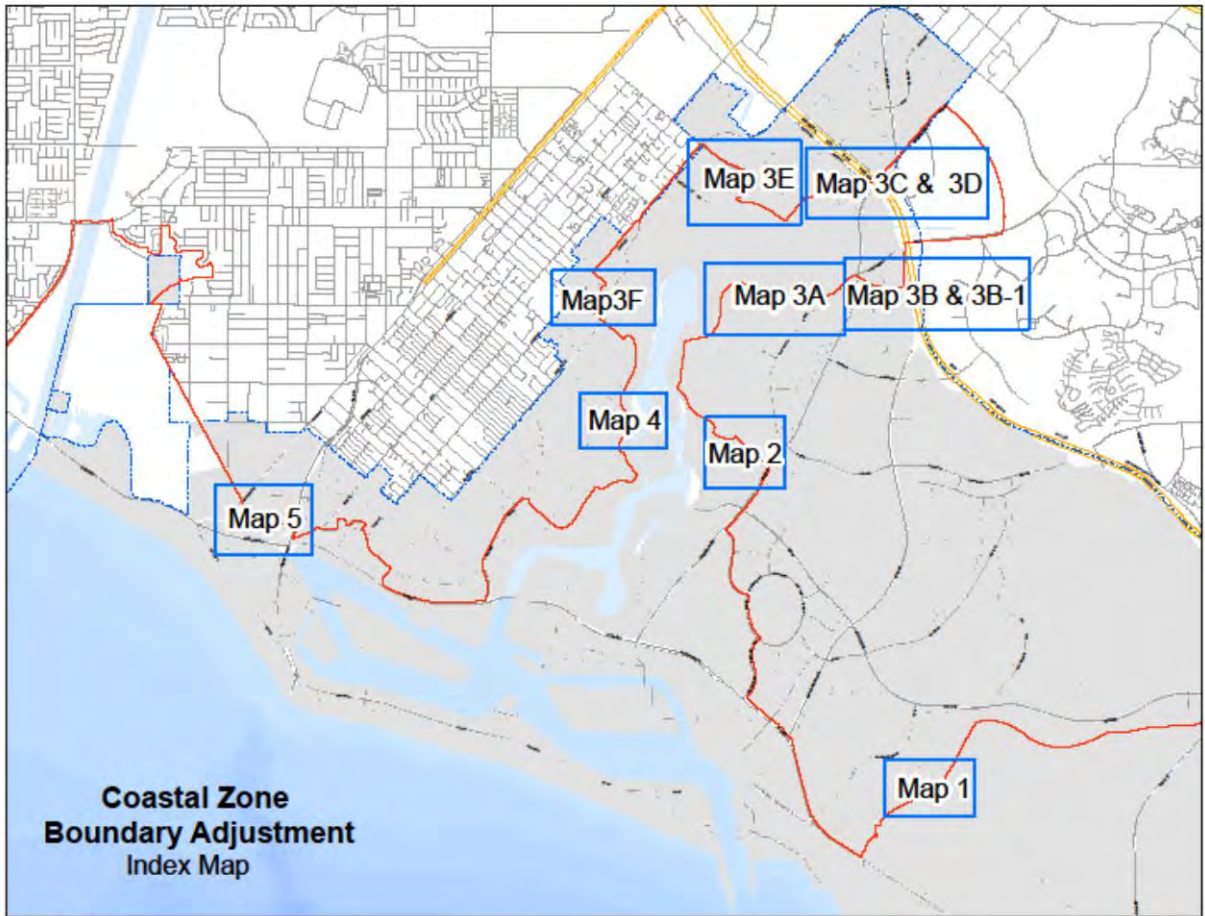
[MAP 3E](#) – Upper Back Bay – Mesa Drive

[MAP 3F](#) – Upper Back Bay – Private Road

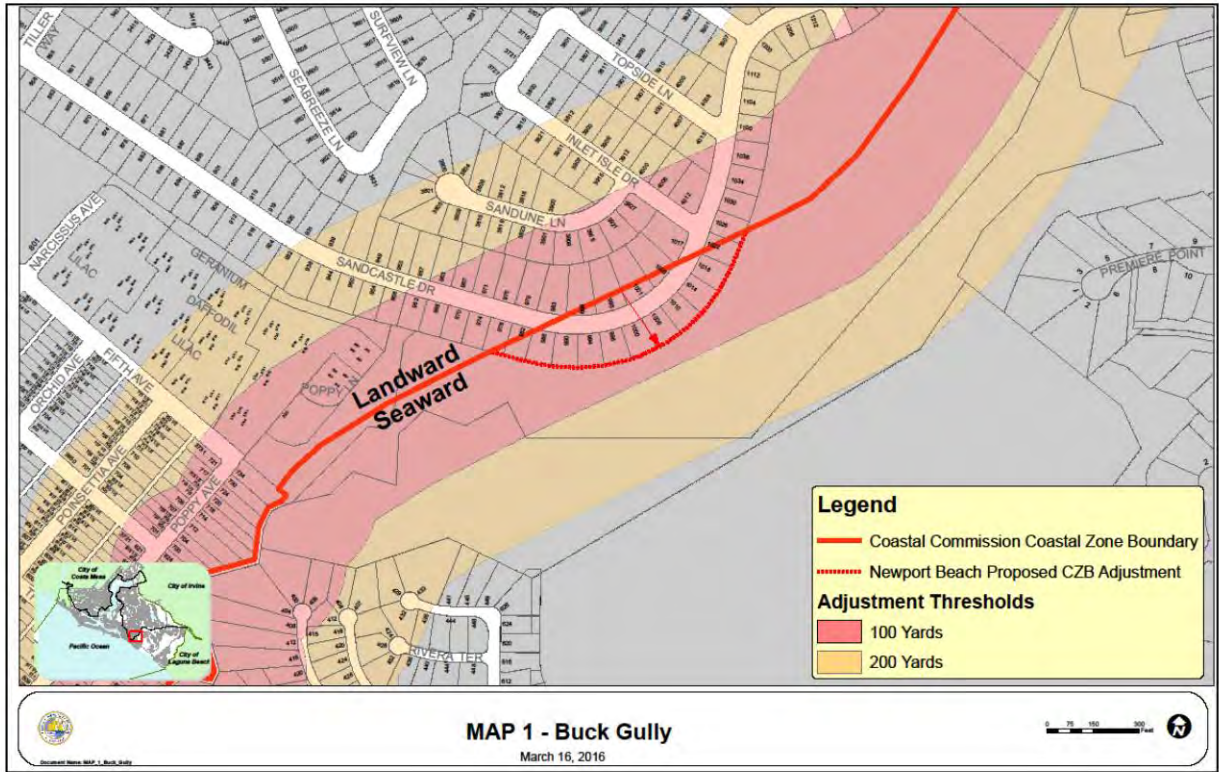
[MAP 4](#) – Dover Shores

[MAP 5](#) – Hoag Hospital

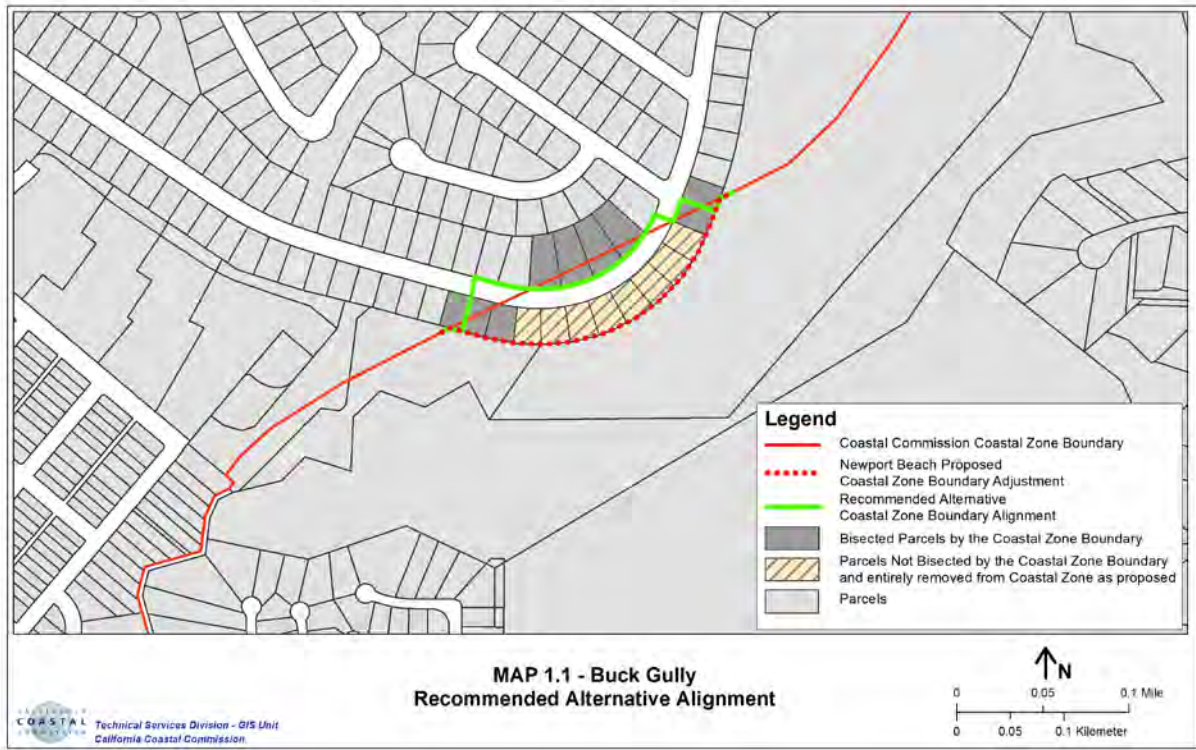
Coastal Zone Boundary Adjustment Index Map



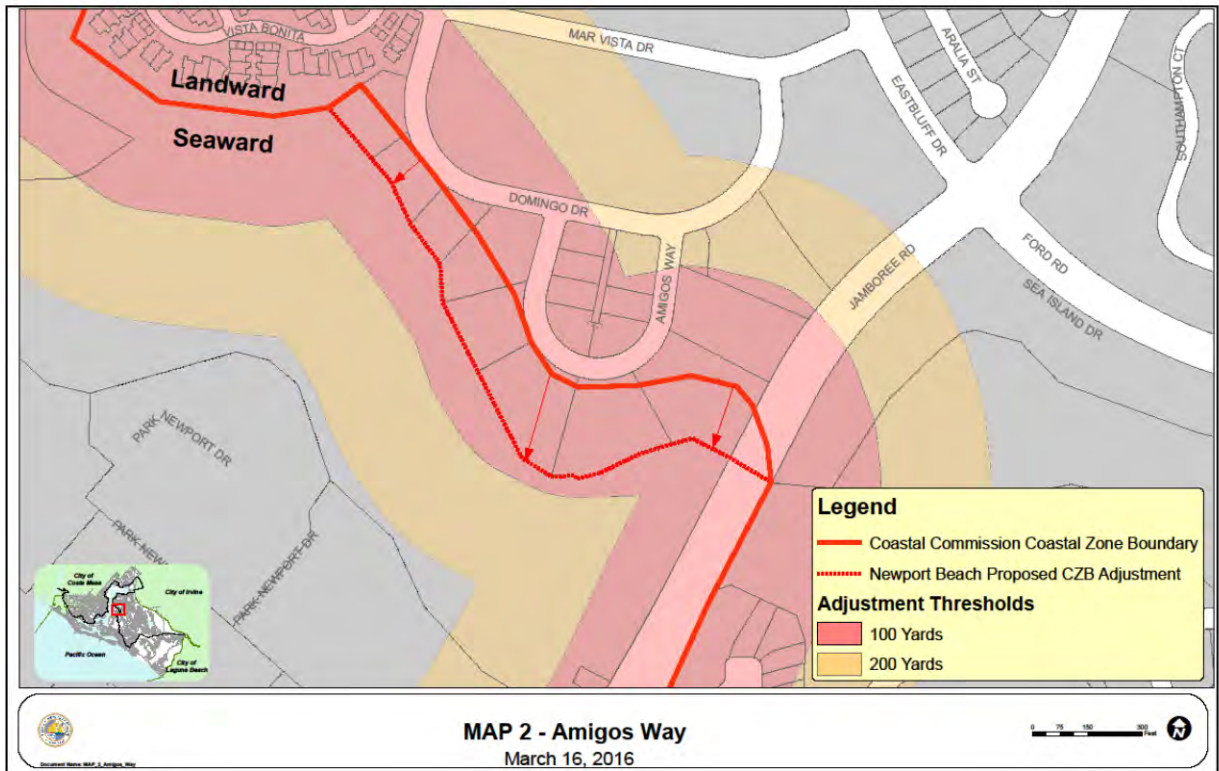
MAP 1 – Upper Buck Gully



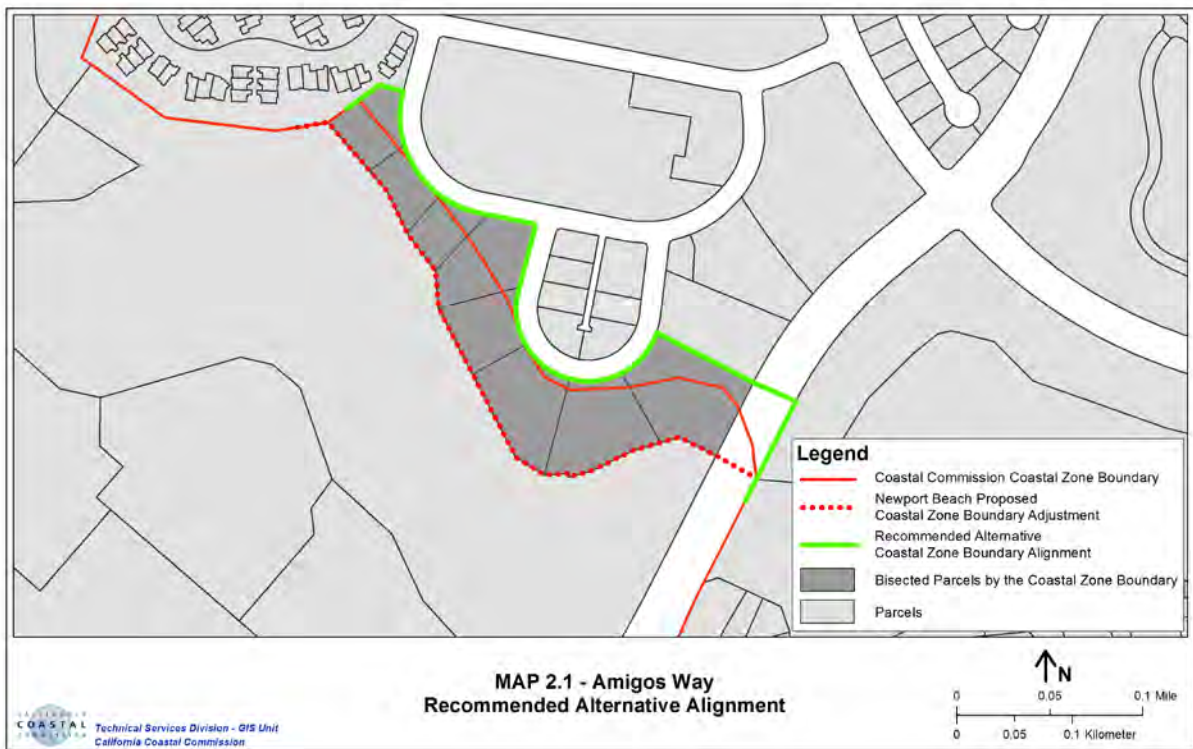
MAP 1.1 – Upper Buck Gully Recommended Alternative Alignment



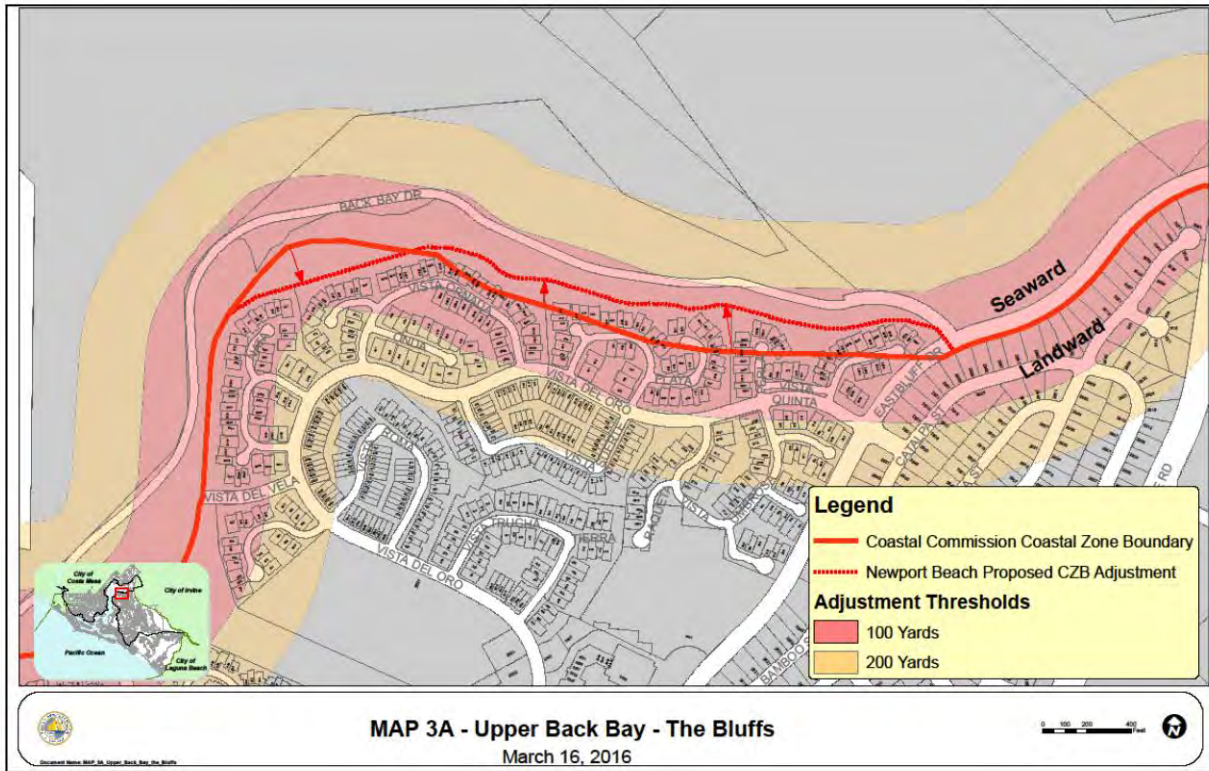
MAP 2- Amigos Way



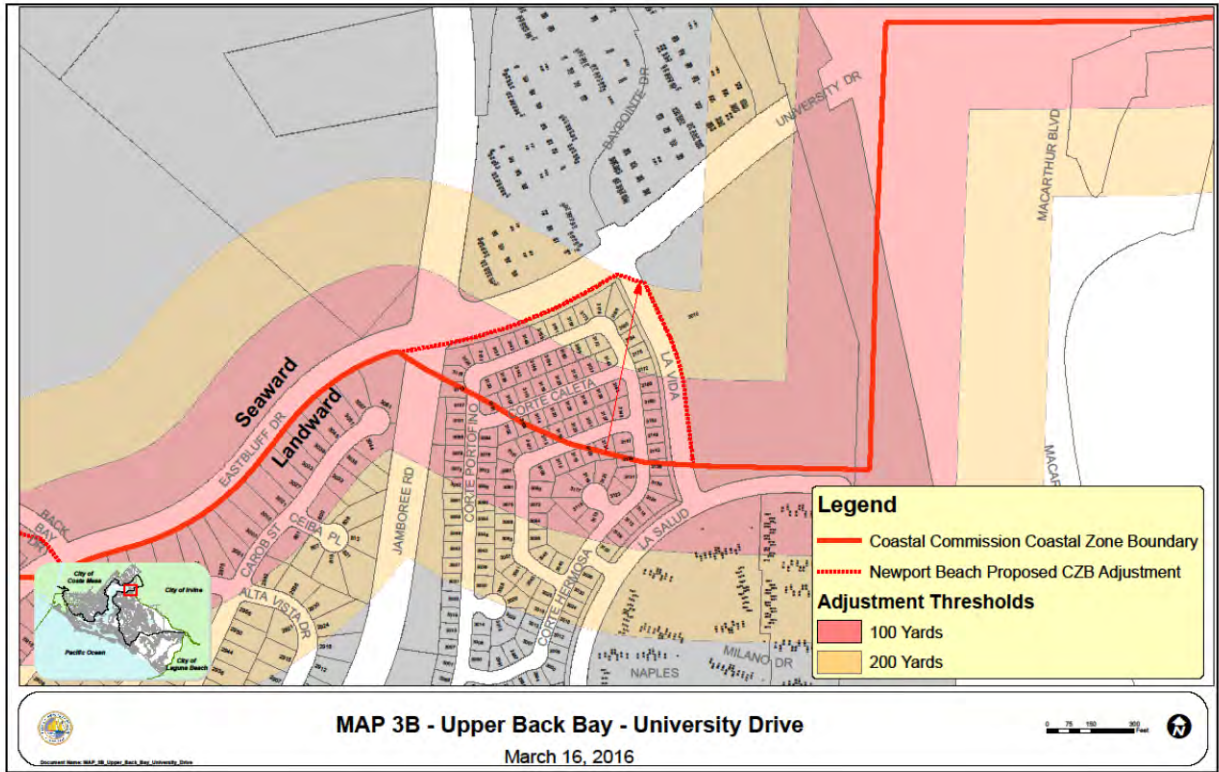
MAP 2.1- Amigos Way Recommended Alternative Alignment



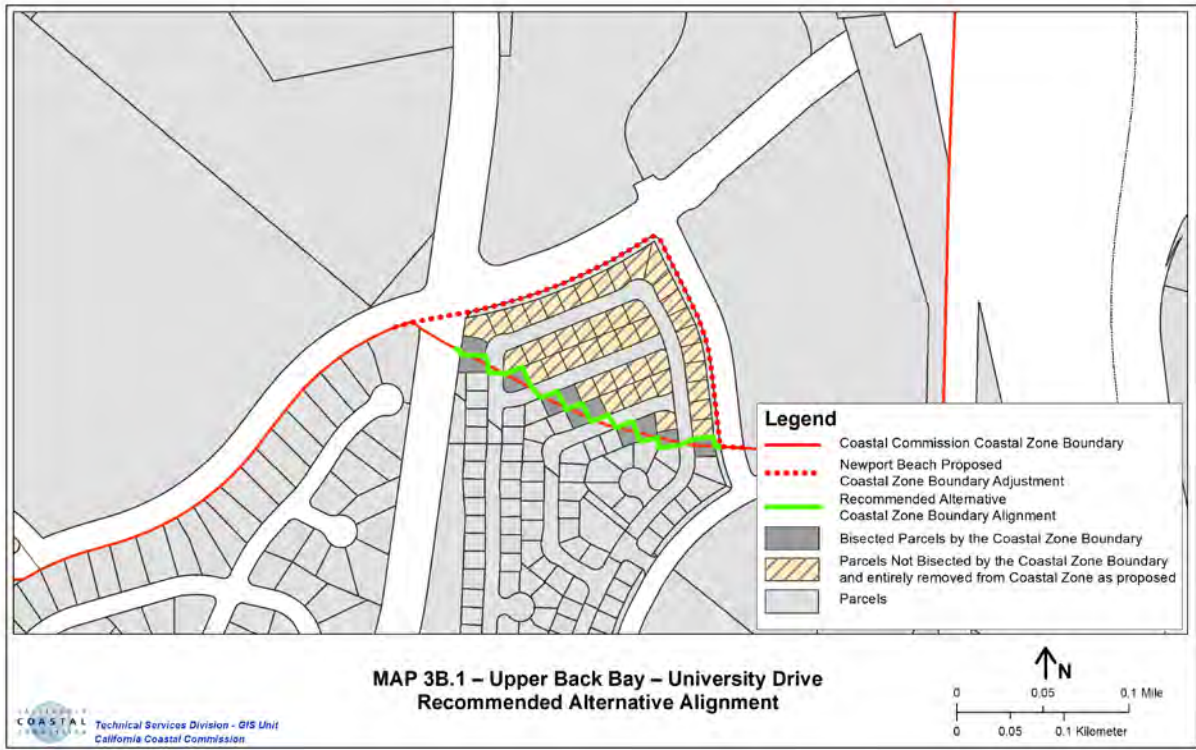
MAP 3A – Upper Back Bay – The Bluffs



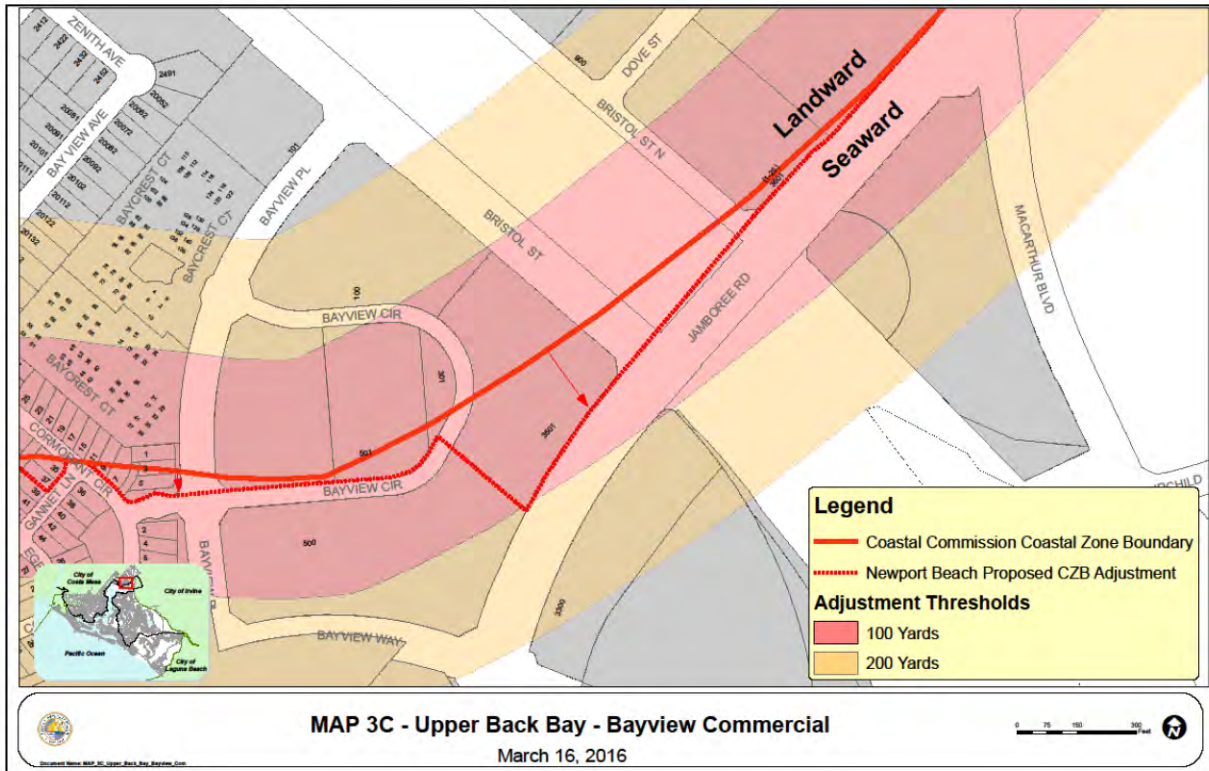
MAP 3B – Upper Back Bay – University Drive



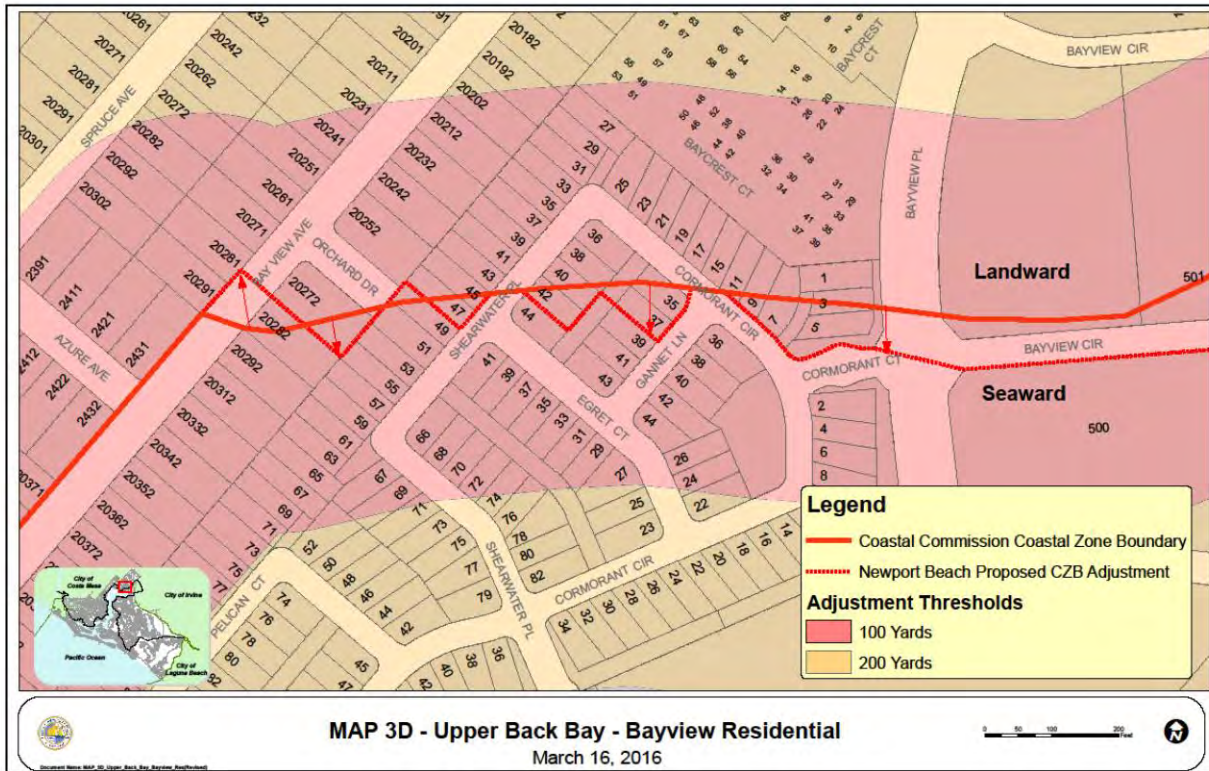
MAP 3B.1 – Upper Back Bay – University Drive Recommended Alternative Alignment



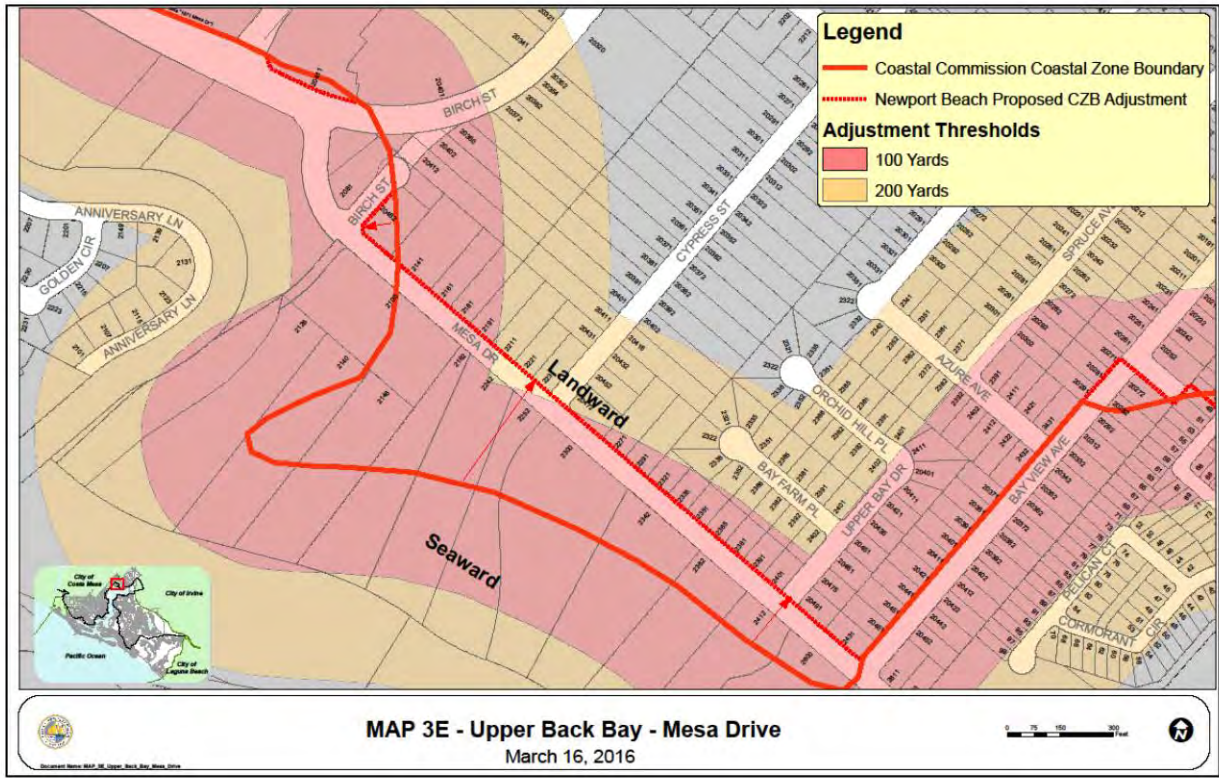
MAP 3C – Upper Back Bay – Bayview Commercial



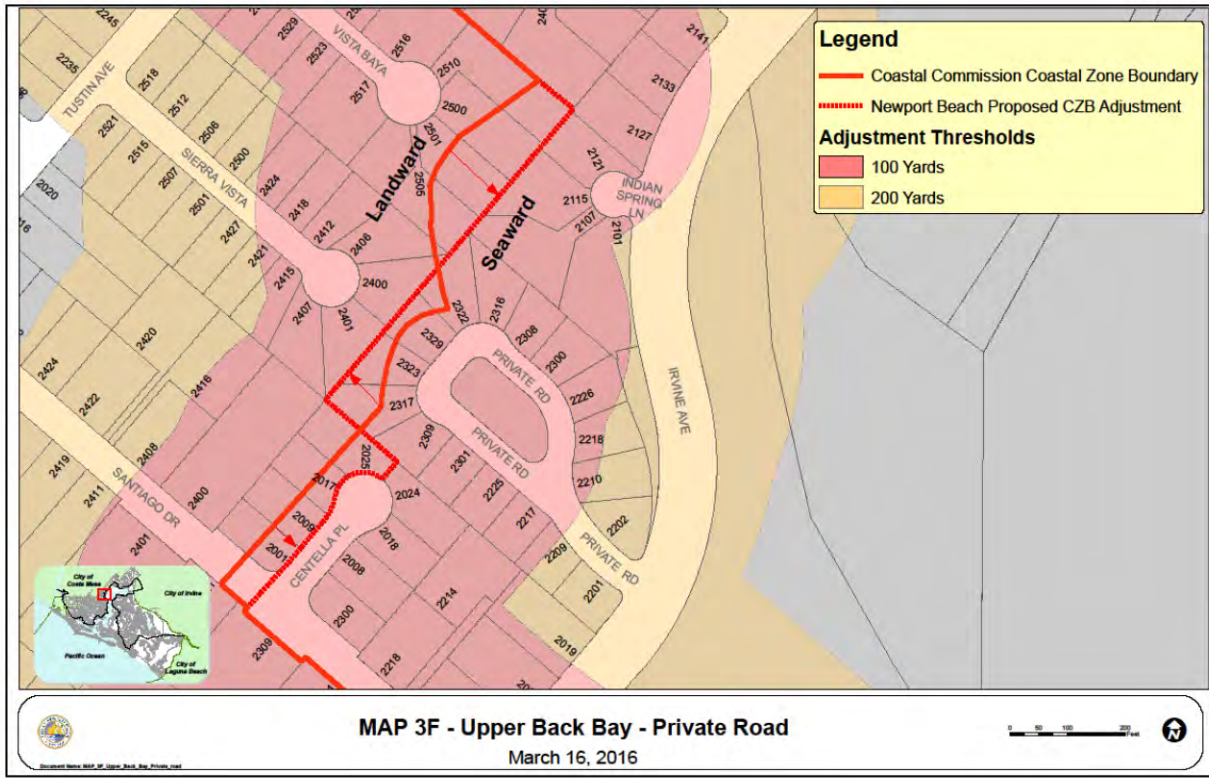
MAP 3D – Upper Back Bay - Bayview Residential



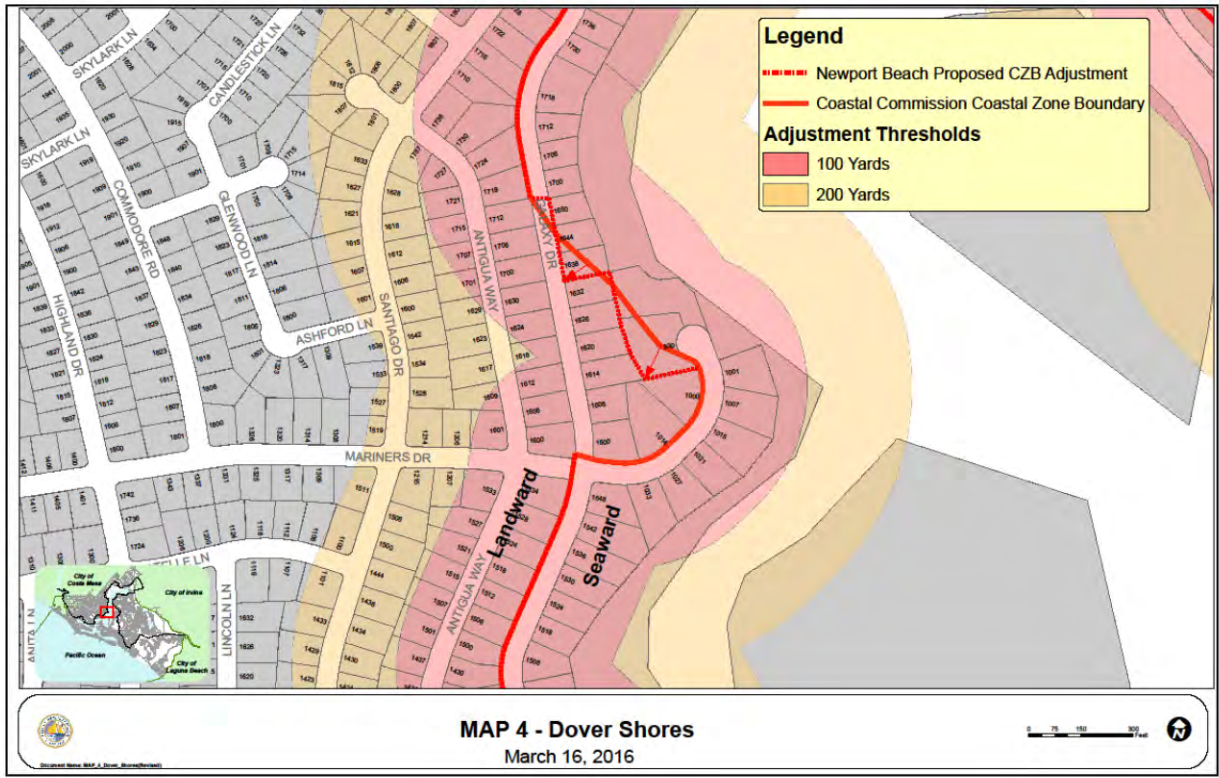
MAP 3E – Upper Back Bay – Mesa Drive



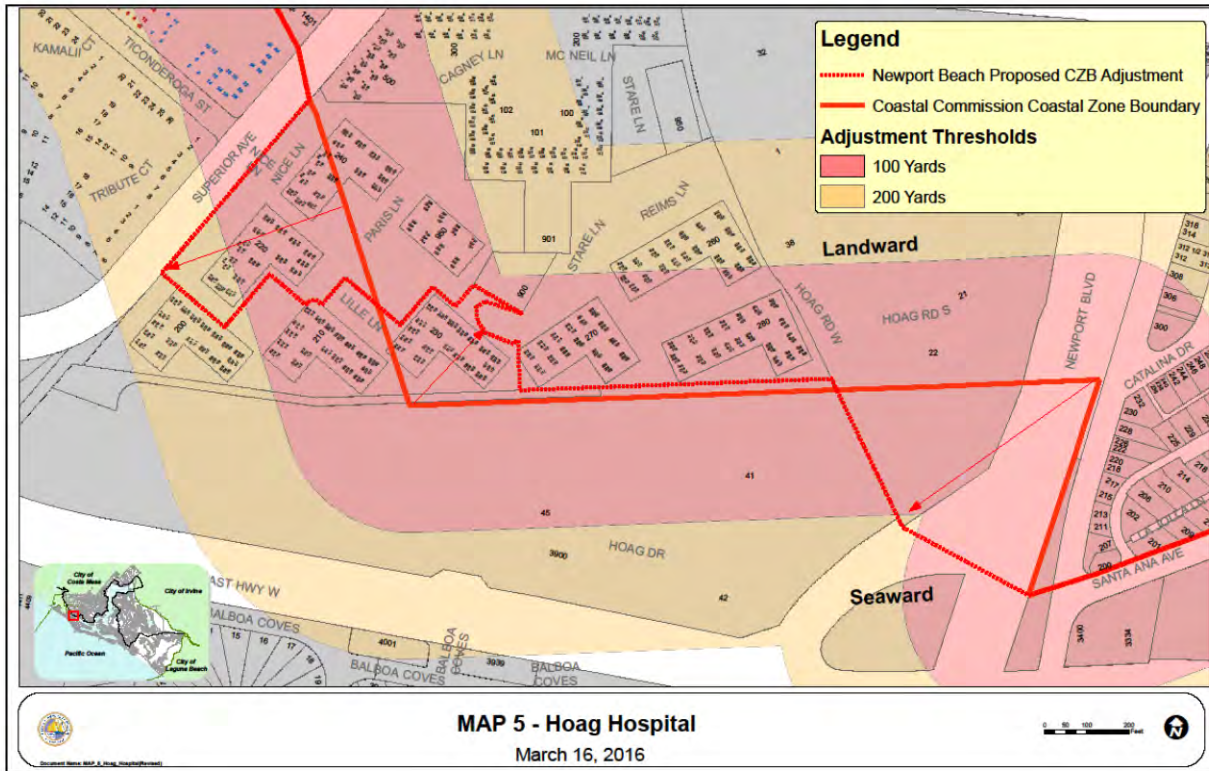
MAP 3F – Upper Back Bay – Private Road



MAP 4 – Dover Shores



MAP 5 – Hoag Hospital



Appendix A – List of Substantive File Documents

- 1:62,500 Coastal Zone Boundary Maps adopted by the California Legislature in 1976
- 1:24,000 Coastal Zone Boundary Maps adopted by the Coastal Commission 1977
- 1977 Coastal Commission Motion regarding map interpretation conventions
- Cadastral-Detail Digital Coastal Zone Boundary (2016)
- 1:24,000 Mello Bill 1979 Legislative Coastal Zone Boundary Revision
- Grant Deed 87-355427

Appendix B – Relevant California Public Resources Code Sections

Section 30103 Coastal zone; map; purpose

(a) "Coastal zone" means that land and water area of the State of California from the Oregon border to the border of the Republic of Mexico, specified on the maps identified and set forth in Section 17 of that chapter of the Statutes of the 1975-76 Regular Session enacting this division, extending seaward to the state's outer limit of jurisdiction, including all offshore islands, and extending inland generally 1,000 yards from the mean high tide line of the sea. In significant coastal estuarine, habitat, and recreational areas it extends inland to the first major ridgeline paralleling the sea or five miles from the mean high tide line of the sea, whichever is less, and in developed urban areas the zone generally extends inland less than 1,000 yards. The coastal zone does not include the area of jurisdiction of the San Francisco Bay Conservation and Development Commission, established pursuant to Title 7.2 (commencing with Section 66600) of the Government Code, nor any area contiguous thereto, including any river, stream, tributary, creek, or flood control or drainage channel flowing into such area.

(b) The commission shall, within 60 days after its first meeting, prepare and adopt a detailed map, on a scale of one inch equals 24,000 inches for the coastal zone and shall file a copy of such map with the county clerk of each coastal county. The purpose of this provision is to provide greater detail than is provided by the maps identified in Section 17 of that chapter of the Statutes of the 1975-76 Regular Session enacting this division. The commission may adjust the inland boundary of the coastal zone the minimum landward distance necessary up to a maximum of 100 yards except as otherwise provided in this subdivision, or the minimum distance seaward necessary up to a maximum of 200 yards, to avoid bisecting any single lot or parcel or to conform it to readily identifiable natural or manmade features. Where a landward adjustment is requested by the local government and agreed to by the property owner, the maximum distance shall be 200 yards.

(Amended by: Ch. 213, Stats. 1978; Ch. 670, Stats. 1991.)

Section 30341 Additional plans and maps; studies

The commission may prepare and adopt any additional plans and maps and undertake any studies it determines to be necessary and appropriate to better accomplish the purposes, goals, and policies of this division; provided, however, that the plans and maps shall only be adopted after public hearing.

(Amended by Ch. 285, Stats. 1991.)

Appendix C – Relevant California Code of Regulations Sections

Title 14. Natural Resources Division 5.5 California Coastal Commission Chapter 6 Exclusions from Permit Requirements Subchapter 8. Minor Adjustments to the Coastal Zone Boundary

Article 1. Boundary Adjustment and Boundary Determination Requests

§ 13255.0. Scope.

This subchapter shall govern (a) the request for a determination of the precise location of a particular parcel or area of land in relation to the boundary of the coastal zone, and (b) the request, review and implementation of proposed minor adjustments to the inland boundary of the coastal zone pursuant to Public Resources Code Section 30103(b). Boundary adjustments made pursuant to this subchapter shall be determinative for all purposes with respect to the California Coastal Act of 1976.

§ 13255.1. Request for Boundary Determination.

Any request for a written determination by the Commission of the precise location of a particular parcel or area of land in relation to the boundary of the coastal zone shall be accompanied by payment of the fee set forth in Section 13055(b)(6).

§ 13255.2. Request for Boundary Adjustment.

(a) The owner of the affected lot or parcel, the local government of jurisdiction, or the executive director of the commission may propose that the inland boundary of the coastal zone be adjusted to avoid bisecting any lot or parcel, or to conform the boundary to readily identifiable natural or manmade features. The request to adjust the boundary shall be made in writing to the commission.

(b) The request for a boundary adjustment shall be accompanied by sufficient information to enable the commission to determine whether the proposed adjustment is consistent with Public Resources Code Section 30103(b). This information shall include:

- (1) Name and address of the owner of the affected lot or parcel.
- (2) Names and addresses of all occupants of the affected lot or parcel.
- (3) A description and documentation of the applicant's legal interest in the affected lot or parcel.
- (4) Names and addresses of all owners and occupants of all lots or parcels wholly or partially within 100 feet of the affected lot or parcel and the addresses of all such lots or parcels;
- (5) A map of suitable scale to show the present and proposed location of the coastal zone boundary, all lots or parcels within 100 feet of the affected lot or parcel, and the existence and location of all readily identifiable natural and manmade features;
- (6) A description of the existing use of the affected lot or parcel and the nearby lands.
- (7) A discussion of the reasons is for the request that the coastal zone boundary be adjusted.

(c) The person requesting the adjustment shall post a conspicuous notice of the proposed adjustment at the time the request is submitted to the commission. The form and location of the posted notice shall be similar to that required by Section 13054(b) for permit matters.

(d) The request for a boundary adjustment shall be accompanied by a filing and processing fee as set forth in Section 13055(b)(7).

The executive director of the commission may waive the filing and processing fee in full or in part where the request concerns the same lot or parcel considered for a previous boundary

adjustment or permit application where no substantial staff work is required or where the request is made by the local government of jurisdiction.

§ 13255.3. Notification Requirements.

The person requesting the adjustment shall provide notice to affected parties, property owners and occupants of any parcel within 100 feet of any boundary of the affected parcel and to any other persons known to be interested in the proposed boundary adjustments. This notice shall comply with the requirements prescribed in Section 13054 for permit matters.

Article 2. Commission Action on Boundary Adjustment Request

§ 13256.1. Staff Review.

(a) Within five (5) days of receipt of a request for a boundary adjustment, the executive director of the commission shall make a preliminary review of the request. If the request does not conform to the provisions of Section 13255.1 or if the proposed adjustment patently fails to conform to the requirements of Public Resources Code Section 30103(b), the executive director of the commission shall reject the request and shall notify the person requesting the adjustment of his or her determination.

(b) Following the preliminary review the executive director of the commission shall further review the requested boundary adjustment and shall investigate:

- (1) whether there are alternative adjustments to the boundary either seaward or landward which would be consistent with the provisions of Public Resources Code Section 30103(b) and which would result in a more readily identifiable location for the coastal zone boundary;
- (2) whether there are coastal resources on the affected lot or parcel which would be affected by a change in the boundary;
- (3) whether an adjustment to the boundary would affect coastal resources on other lands;
- (4) whether an adjustment to the boundary would affect opportunities for public access to or along the coast;
- (5) whether an adjustment to the boundary would affect the ability of local government to prepare a local coastal program in conformance with the goals, objectives and policies of the Coastal Act of 1976.

In conducting the investigation of the proposed boundary adjustment the executive director of the commission shall consult with the affected local governments.

(c) The executive director of the commission shall prepare and distribute a written staff recommendation regarding the requested boundary adjustment in a manner similar to the manner for preparation and distribution of staff recommendations on permit matters.

§ 13256.2. Commission Action on Boundary Adjustment.

Within 49 days of the filing of a request for a boundary adjustment the Commission shall conduct the public hearing and take action in substantially the same manner as provided in Sections 13057-13096. The Commission shall adopt a resolution regarding the request for an adjustment to the coastal zone boundary. The resolution shall be accompanied by specific factual findings to support the following legal conclusions:

- (a) The adjustment conforms to the requirements of Section 30103(b) of the Coastal Act; and

(b) The adjustment will not interfere with the achievement of the policies of Chapter 3 of the Coastal Act; and will not prejudice the preparation of a local coastal program conforming to Chapter 3 of the Coastal Act.

Article 3. Commission Hearing and Voting Procedure

§ 13257.5. Adoption by State Commission.

Upon commission approval of adjustment to the coastal zone boundary, the executive director of the commission shall record the adjustment on the official jurisdiction maps and file them with the appropriate county clerk within thirty (30) days of the commission action.

Article 4. Withdrawal and Reapplication

§ 13258. Withdrawal of Boundary Adjustment Request.

At any time before the commission commences the roll call for a final vote on the boundary adjustment request, the person requesting the boundary adjustment may withdraw the request. The withdrawal must be in writing or stated on the record and does not require commission concurrence.

§ 13259. Reapplication.

Following a final decision upon a request for a coastal zone boundary determination, no person previously requesting a boundary adjustment may resubmit to the commission a request for a boundary adjustment for the same parcel for a period of six months from the date of the previous final decision. The six-month waiting period provided in this section may be waived by the commission for good cause.