

**CALIFORNIA COASTAL COMMISSION**

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RECORDING COPY

October 16, 2003

**TO:** Commissioners and Interested Persons

**FROM:** Deborah Lee, South Coast District Director  
Teresa Henry, South Coast District Manager  
Anne Blemker, Coastal Program Analyst

**SUBJECT:** City of Newport Beach Local Coastal Program Amendment 1-03  
(Part A—205 Orange Street)

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**SUMMARY OF STAFF REPORT****DESCRIPTION OF THE SUBMITTAL**

Part A of the Land Use Plan (LUP) amendment consists of a request by the City of Newport Beach to allow a land use redesignation from Retail Service Commercial to Two Family Residential at 205 Orange Street, Newport Beach. (Parts B and C of the amendment will be heard separately.) This new land use designation would allow the construction of a duplex on the existing commercially designated lot. The lot is currently developed with a non-conforming single-family residence.

The major issues raised by this amendment request are adequate provision of visitor-serving commercial development and public access.

**SUMMARY OF STAFF RECOMMENDATION**

Commission staff recommends that the Commission **APPROVE** the proposed City of Newport Beach Local Coastal Program Amendment 1-03 Part A as submitted. The motion to accomplish this is found on Page 3.

**ANTICIPATED AREAS OF CONTROVERSY**

There are no outstanding issues or areas of controversy associated with this portion of the proposed LUP amendment.

**ADDITIONAL INFORMATION**

For further information, please contact **Anne Blemker** at the South Coast District Office of the Coastal Commission at (562) 590-5071. The proposed amendment to the Land Use Plan (LUP) of the City of Newport Beach Local Coastal Program (LCP) is available for review at the Long Beach Office of the Coastal Commission or at the City of

Newport Beach Planning Department. The City of Newport Beach Planning Department is located at 3300 Newport Boulevard in Newport Beach. **James Campbell** is the contact person for the City's Planning Division, and he may be reached by calling **(949) 644-3210**.

**EXHIBITS**

1. City Council Resolution No. 2002-57
2. Vicinity Map
3. Land Use Map

**I. COMMISSION RESOLUTION ON CITY OF NEWPORT BEACH  
LOCAL COASTAL PROGRAM AMENDMENT 1-03**

Following a public hearing, staff recommends the Commission adopt the following resolution and findings.

**Motion**

*"I move that the Commission **CERTIFY** the City of Newport Beach Land Use Plan Amendment NPB MAJ 1-03 Part A as submitted."*

**Staff Recommendation**

Staff recommends a **YES** vote. Passage of this motion will result in certification of the land use plan amendment as submitted and adoption of the following resolutions and findings. The motion to certify as submitted passes only upon affirmative vote of a majority of the appointed Commissioners.

**Resolution**

The Commission hereby **CERTIFIES** the City of Newport Beach Land Use Plan Amendment 1-03 Part A as submitted and adopts the findings stated below on the grounds that the amendment will meet the requirements of and be in conformity with the policies of Chapter 3 of the California Coastal Act. Certification of the Land Use Plan amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that could substantially lessen any significant adverse impacts on the environment that may result from certification of the land use plan.

## **II. PROCEDURAL PROCESS (LEGAL STANDARD FOR REVIEW)**

### **A. Standard of Review**

The standard of review for land use plan amendments is found in Section 30512 of the Coastal Act. This section requires the Commission to certify an LUP amendment if it finds that it meets the requirements of, and is in conformity with, the policies of Chapter 3 of the Coastal Act. Specifically, Section 30512 states: "*(c) The Commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200). Except as provided in paragraph (1) of subdivision (a), a decision to certify shall require a majority vote of the appointed membership of the Commission.*"

### **B. Procedural Requirements**

Pursuant to Section 13551(b) of the California Code of Regulations, a resolution for submittal must indicate whether the local coastal program amendment will require formal local government adoption after Commission approval, or is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513 and 30519. The City of Newport Beach's submittal indicates that this LCP amendment will take effect upon Commission certification.

## **III. BACKGROUND**

The Land Use Plan (LUP) for the City of Newport Beach was effectively certified on May 19, 1982, and subsequently amended multiple times.

The current LUP amendment request was submitted by the City of Newport Beach on June 13, 2003 to the South Coast District. Additional information was requested by Coastal Commission staff on June 27, 2003. City staff submitted the information on September 8, 2003. On October 2, 2003, Coastal Commission staff notified the City that the amendment request was complete. Part A of the amendment request is now being submitted for Commission action. Parts B and C will be considered at a later time. The Commission at the same hearing is considering a request for a one-year (1) time extension on Parts B and C of this amendment.

#### **IV. SUMMARY OF PUBLIC PARTICIPATION**

The City of Newport Beach approved this segment of the Land Use Plan amendment request through a City Council public hearing on September 10, 2002. City Council Resolution No. 2002-57 approved General Plan Amendment No. 2002-002 and Local Coastal Plan Amendment 2002-001 (Exhibit 1). Prior to approving the LUP amendment request, the Planning Commission held a public hearing on August 8, 2002.

Only the applicant made comments at the public hearing. No other oral comments were made. No written correspondence was received.

#### **V. FINDINGS FOR APPROVAL OF THE CITY OF NEWPORT BEACH'S LAND USE PLAN AMENDMENT AS SUBMITTED**

The Commission hereby finds and declares as follows. The following pages contain the specific findings for approval of the City of Newport Beach Land Use Plan Amendment NPB MAJ 1-03 Part A as submitted.

##### Site Description and Zone Designation

The proposed land use redesignation will affect only one lot—205 Orange Street in the City of Newport Beach, Orange County. The site is located in the northwesternmost portion of the City, immediately inland of Pacific Coast Highway (Exhibit 2). The subject lot is 2,550 square feet, which is considered legally non-conforming since it was subdivided prior to August 2, 1943. The site is currently designated Retail and Service Commercial in the City's Certified Land Use Plan, as depicted in Exhibit 3. The site is developed with a non-conforming single-family residence constructed in 1953. Surrounding development consists of multi-family residential to the north and west and commercial to the east and south. The site fronts on Orange Street, a predominantly residential street.

##### Coastal Act Policies

As stated previously, the Coastal Act is the standard of review in the current analysis. The Coastal Act encourages the provision of lower cost visitor and recreational facilities and provides that development should maintain and enhance public access to the coast. As explained below, the proposed LUP amendment is in conformity with all applicable sections of the Coastal Act, including the following:

Section 30222 states:

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

## Findings

Section 30252 states, in pertinent part:

*The location and amount of new development should maintain and enhance public access to the coast by... (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads...(4) providing adequate parking facilities or providing substitute means of serving the development with public transportation...*

### Proposed Change in Land Use Designation

The proposed amendment (NPB MAJ 1-03, Part A) involves a request to change the land use designation from Retail Service Commercial to Two-Family Residential at an individual lot at 205 Orange Street. No other properties are subject to the proposed land use change.

The site is currently developed with a single-family residence and is surrounded on two sides by residential development. The subject site, which fronts on Orange Street, is comparably sized to other residentially designated lots. The pattern of development along Orange Street is predominately residential, while the pattern of development along Pacific Coast Highway is predominantly commercial. As such, the redesignation of this site as two-family residential is consistent with the pattern of development in the surrounding area.

The proposed change will not affect priority visitor-serving development. The Retail Service Commercial designation does not restrict commercial uses to those that are solely tourist/visitor-serving in nature. As such, the site may be developed with any type of commercial use, including those that are neighborhood serving and/or community serving. The City has chosen to focus visitor-serving development in other areas of the City. The surrounding neighborhood is a mix of residential and small-scale commercial development that does not attract a substantial amount of visitors. There is no demonstrated demand for additional commercial space in this area of the City. Therefore, the proposed amendment, as submitted, will not have an adverse effect on the priority "visitor serving commercial recreational facilities" to be provided under Section 30222 of the Coastal Act

In addition, the City has found the small size of the subject site to preclude commercial development, as parking could not be accommodated on site. However, the site will be able to accommodate a duplex with adequate parking to serve the proposed development. In addition, residents of the new duplex will be able to patronize the nearby commercial developments on foot, thereby minimizing the use of coastal access roads. As such, the proposed amendment, as submitted, will be in conformance with and adequate to carry out Section 30252 of the Coastal Act.

## **VI. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Section 21080.9 of the California Environmental Quality Act (CEQA) exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with a local coastal program (LCP). Instead, the CEQA responsibilities are assigned to the Coastal Commission. Additionally, the Commission's Local Coastal Program review and approval procedures have been found by the Resources Agency to be functionally equivalent to the environmental review process. Thus, under Section 21080.5 of CEQA, the Commission is relieved of the responsibility to prepare an environmental impact report for each local coastal program submitted for Commission review and approval. Nevertheless, the Commission is required when approving a local coastal program to find that the local coastal program does conform to the provisions of CEQA.

The amendment involves a request to change the land use designation of a single site from Retail Service Commercial to Two-Family Residential. As proposed, the change in land use will be consistent with existing development and the character of the surrounding neighborhood.

The Commission finds that approval of the Land Use Plan amendment will not result in significant adverse environmental impacts under the meaning of the California Environmental Quality Act. In addition, the Commission finds that there are no feasible alternatives under the meaning of CEQA which would reduce the potential for significant adverse environmental impacts which have not been explored.