

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 OceanGate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



June 22, 2006

W13b

TO: Commissioners and Interested Persons

FROM: Deborah Lee, Senior Deputy Director, South Coast District
Teresa Henry, District Manager, South Coast District
Karl Schwing, Supervisor, Regulation & Planning, Orange County Area
Anne Blemker, Coastal Program Analyst

SUBJECT: City of Newport Beach Land Use Plan Amendment NPB-MAJ-1-06 Part B (CalTrans West)

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

Part B of the Land Use Plan (LUP) amendment consists of a request by the City of Newport Beach to allow a land use redesignation from Medium Density Residential to Open Space at 4850 West Coast Highway, Newport Beach. (Part A of the amendment will be heard separately.) This property is known locally as 'CalTrans West'. This new land use designation would allow the development of an active or passive public park on the existing 14.25-acre lot. The lot is currently vacant and covered with ruderal grasses and a mix of native and non-native shrubs. The site consists of two relatively level plateaus that sit above street level and gradually descend from north to south.

The major issue raised by this amendment request is protection of potential sensitive habitat and minimization of landform alteration when a park proposal is brought forward by the City (or any development proposal by any applicant).

SUMMARY OF STAFF RECOMMENDATION

Commission staff recommends that the Commission **APPROVE** the proposed City of Newport Beach Local Coastal Program Amendment 1-06 Part B as submitted. The motion to accomplish this is found on Page 3.

ANTICIPATED AREAS OF CONTROVERSY

Caltrans, the owner of the subject site, has expressed opposition to the proposed LUP amendment, citing a substantial reduction in property value resulting from the land use change.

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. **Jaime Murillo** is the contact person for the City's Planning Division, and he may be reached by calling **(949) 644-3209**.

EXHIBITS

1. City Council Resolution No. 2006-11
2. City Council Resolution No. 2006-26
3. Sample Letter of Opposition
4. Vicinity Map
5. Land Use Map
6. Caltrans Letter

Resolution

I. COMMISSION RESOLUTION ON CITY OF NEWPORT BEACH LOCAL COASTAL PROGRAM AMENDMENT 1-06 Part B

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 1-06 Part B 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 1-06 Part B 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.

Procedural Process and Background

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(c) states: *“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 Title 14 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 comprehensively updated October 13, 2005.

The subject amendment was initially submitted by the City of Newport Beach on March 6, 2006. On March 15, 2006, Coastal Commission staff notified the City of Newport Beach that the submittal was incomplete and that additional information would be required to complete the submittal. City staff submitted the information on April 14, 2006. On May 18, 2006, Coastal Commission staff notified the City that the amendment request was complete. The Commission approved a request for a one-year (1) time extension of the amendment on June 13, 2006. Part B of the amendment request is now being submitted for Commission action. Part A will be considered at a later time. Part A involves a change in land use designation at 900 Newport Center Drive from Visitor-Serving Commercial to Medium Density Residential.

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 February 14, 2006. City Council Resolution No. 2006-11 approved General Plan Amendment No. 2006-001 and Local Coastal Plan Amendment 2006-001 (Exhibit 1). Prior to either the City Council approving the LUP amendment request or the Planning Commission voting to recommend that the City Council do so, the Planning Commission held a public hearing on February 9, 2006. Notice was provided for both entities' hearings. Notice of the City Council's public hearing was mailed and posted on January 30, 2006 and published in the local newspaper on February 4, 2006. The City Council approved a subsequent resolution (Resolution No. 2006-26) on March 28, 2006 to correct procedural deficiencies in the original resolution related to Coastal Act requirements of the first approval (Exhibit 2).

Twelve form letters were received from community association members residing in the adjacent condominium development (representative sample attached as Exhibit 3). The letters express opposition to the development of a public park at the subject site due to privacy, traffic, noise, and lighting issues. No testimony from the public was given at either the Planning Commission or City Council hearings.

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 1-06 Part B as submitted.

Site Description and Land Use Designation

The proposed land use redesignation will affect only one lot—4850 West Coast Highway in the City of Newport Beach, Orange County. The site is located at the northwest corner of the intersection of Superior Avenue and West Coast Highway, on the inland side of the highway (Exhibit 4). The subject lot is 14.25 acres and is currently designated Medium Density Residential (RM-B) in the City's Certified Land Use Plan, as depicted in Exhibit 5. The site is a vacant parcel made up of two plateaus elevated at least 20-40 feet above street level. The lot is covered with ruderal grasses and a mix of native and non-native shrubs. Surrounding development consists of multi-family residential to the north and vacant uncertified land (Banning Ranch) to the west. The site fronts on both Superior Avenue and Coast Highway.

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:

Findings

Section 30210:

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

Section 30213 (in part):

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

Section 30240.

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

Section 30251:

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

Proposed Change in Land Use Designation

The proposed amendment (NPB MAJ 1-06, Part B) involves a request to change the land use designation from Medium Density Residential to Open Space at an individual 14.25-acre lot at 4850 W. Coast Highway. No other properties are subject to the proposed land use change.

The certified Land Use Plan designates the site Medium Density Residential B (RM-B), which “is intended to provide for a range of residential development types, including single-family (attached and detached), two-family, and multi-family residential.” The RM-B designation allows for residential density ranges from 10.1 to 15 units per gross acre. The proposed amendment would change the land use to Open Space (OS), which “is intended to provide areas for a range of public and private uses to meet the recreation needs of the community and to protect, maintain, and enhance the community’s natural resources.”

Findings

The site is located on an inland lot approximately ¼ mile from coastal waters. The property is made up of two elevated plateaus that offer blue water views above the intervening development across Pacific Coast Highway. As such, this is a prime site for increased public recreational and viewing opportunities. It is the City's intent to acquire the property from Caltrans and eventually develop it as an active recreation and view park. Caltrans has submitted a letter objecting to the proposed amendment, based on a concern that the land use redesignation will decrease the property value (Exhibit 6). The property ownership and land value issues have no bearing on the Commission's decision regarding the current amendment proposal. The Commission's consideration of the proposed amendment is based on consistency of the land use designation change with the Coastal Act.

Recreation

The proposed amendment changes the land use designation of the subject site from Medium Density Residential, a low priority use in the Coastal Zone, to Open Space, a higher priority use. The Open Space designation in the certified LUP does not differentiate between active and passive. However, the City has indicated that the site will eventually be developed as an active recreation and view park. Concurrent with the LUP amendment, the City amended the General Plan and the Zoning Code (these changes are not subject to Commission review at this time). The new zoning designation of the site is Open Space-Active (OS-A). The City has stated that the change will expand the City's availability of visitor-serving/public recreational parks and will create additional free recreational opportunities in the Coastal Zone. The City has determined that the surrounding area is significantly deficient in park and recreational facilities, specifically a neighborhood park with sports fields and support facilities. The development of a low-cost, visitor-serving recreational amenity is consistent with Section 30213 of the Coastal Act. However, the siting and design of any new park development, particularly an active park, must take into account on-site natural resources and avoid substantial landform alteration, as discussed below.

Natural Resources/Habitat

The site is currently undeveloped and covered with ruderal grasses and a mix of native and non-native shrubs. No biological survey was conducted during the City's consideration of the land use change, nor was a discussion of potential habitat provided. Section 30240 of the Coastal Act requires environmentally sensitive habitat area (ESHA) to be protected and limits allowable development within or adjacent to ESHA. Although no formal designation has been made regarding the presence of ESHA on the site, the site currently exists as undisturbed open space and may contain potential wildlife habitat. The subject site is located directly adjacent to Banning Ranch, a 505-acre undeveloped area known to support a number of sensitive habitat types, including coastal bluff scrub. There is a potential biological connection between the two sites that will need to be addressed when specific development is contemplated at the Caltrans West property. As such, a more detailed natural resource analysis must be conducted when a specific project is proposed. The certified LUP contains detailed guidance for the preparation of any required biological analyses and the regulation of development that could affect potential habitat areas. Specifically, Section 4.1.1 contains policies to identify and protect ESHA through avoidance and proper siting. The Commission notes that the developable area of the site may be restricted by the existence of habitat and associated setbacks/buffers.

Public Views/Landform Alteration

The majority of the site sits at a substantially higher elevation than the frontage road to the south (Coast Highway). The site offers sweeping views of the ocean and bay. The site is designated as a "public view point" in the certified LUP. The adjacent roadway to the east (Superior Avenue) is designated as a "coastal view road." Section 30251 of the Coastal Act

Findings

requires the protection of views to and along the coast and requires the minimization of natural landform alteration. The proposed land use change will ensure the preservation of the site for an open space use that will allow for some form of public viewing toward the coast. In that respect, the proposed amendment is consistent with Section 30251 of the Coastal Act. However, the City's intent to develop the site as an active park may necessitate a substantial amount of grading to create large level areas for playing fields. The Commission notes that the extent of grading may need to be limited to avoid substantial landform alteration.

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 Medium Density Residential to Open Space. As proposed, the change in land use will allow for additional public recreational and viewing opportunities.

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.

RESOLUTION NO. 2006- 11

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH ADOPTING GENERAL PLAN AMENDMENT NO. 2006-001 AND LOCAL COASTAL PROGRAM AMENDMENT NO. 2006-001 RELATED TO THE CALTRANS WEST AND CALTRANS RESIDUAL SITES.

WHEREAS, the City Council initiated an amendment to the General Plan (GPI 2006-001) on January 24, 2006, to change the land use designation of the CalTrans West site, located at the northwest corner of the intersection of West Coast Highway and Superior Avenue, from Single Family Attached to Recreational & Environmental Open Space, and a Code Amendment repealing the existing Planned Community text and to change the zoning designation to Open Space-Active; and

WHEREAS, the Planning Commission on February 9, 2006, held noticed public meeting regarding the proposed General Plan Amendment, and related Local Coastal Program Amendment and Code Amendment. At the conclusion of the meeting, the Planning Commission voted 6-0 to recommend approval of the amendments to the City Council; and

WHEREAS, the City Council on February 9, 2006, held noticed public meeting regarding this General Plan Amendment and Local Coastal Program Amendment; and

WHEREAS, the Caltrans West property is located within Sub Area 2 of Statistical Area A2 (Northwest Newport) of the Land Use Element of the General Plan and is currently designated for Single Family Attached residential use and allocated a total of 160 dwelling units; and

WHEREAS, the Caltrans Residual property is located within Sub Area 3 of Statistical Area A3 (Hoag Hospital Area) of the Land Use Element of the General Plan and is currently designated for Recreational and Environmental Open Space, however contains language providing for the allocation of 8 dwelling units to the Caltrans West site; and

WHEREAS, the City's preferred land use for the Caltrans West site is park/open space active recreational use, as identified by the Land Use Element and the Recreation & Open Space Element; and

WHEREAS, this site is located within the West Newport area, which is identified in the Recreation and Open Space Element of the General Plan as Service Area 1, which is currently deficient by 21.6 park acres and projected to be deficient by 27.8 park acres by the year 2010. The proposed amendment will ensure 14.25 acres to be developed for park and open space purposes, which assists the City in providing additional acreage for park purposes ; and

COASTAL COMMISSION
NPB-MAJ-1-06 (B)
EXHIBIT # 1
PAGE 1 OF 3

WHEREAS, Senate Bill 124, Chapter 761 of the Statutes of 2001, directed the State Department of Transportation to transfer 15.05 acres of land to the Department of Parks and Recreation to be transferred to the City for the development of the Sunset Ridge Park on the Caltrans West property. This General Plan Amendment, Code Amendment and rescission of the Caltrans West Planned Community Developments Regulations implements the planned use of the site as a public park; and

WHEREAS, the Local Coastal Program sets forth goals, objectives, and policies that govern the use of land and water in the coastal zone and addresses land use and development, public access and recreation, and coastal resources protection. Policies within the Local Coastal program encourage the City to designate lands to provide recreational facilities and view parks within the coastal zone, to provide park and recreational facilities to accommodate the needs of new residents, to expand the use of bikeways and trails systems, and to provide public trails, recreational areas and viewing areas adjacent to public coastal view corridors; and

WHEREAS, the General Plan Amendment to change the land use designation from Single Family Attached to Recreational & Environmental Open Space will clearly set forth the City's goal for the site to be used for public recreational uses; and

WHEREAS, for consistency with the proposed General Plan Amendment, a Local Coastal Plan Amendment is required to change the land use designation from Medium Density Residential (RM-B) to Open Space (OS) ; and

WHEREAS, this project has been reviewed, and it has been determined that the proposed action qualifies for an exemption under the general rule contained in Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines. The general rule applies where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment and no development is authorized by this action; and

NOW, THEREFORE, BE IT RESOLVED

Section 1. The City Council hereby approves the adoption of General Plan Amendment No. 2006-001 to change the land use designation of the CalTrans West site as depicted on the land use map from Single Family Attached to Recreational & Environmental Open Space and revise language contained within the Land Use Element pertaining to the change in designation, as shown in Exhibit A.

EX. 1
2/3

Section 2. The City Council hereby further approves the adoption of Local Coastal Program Amendment No. 2006-001 to change the land use designation of the CalTrans West site as depicted on the land use map from Medium Density Residential (RM-B) to Open Space (OS).

PASSED, APPROVED AND ADOPTED THIS 14TH DAY OF FEBRUARY 2006.

AYES: Curry, Selich, Rosansky, Ridgeway, Daigle,
Nichols, Mayor Webb

NOES: None

ABSENT: None



MAYOR

ATTEST:



CITY CLERK



EX. 1
3/3

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH DECLARING THAT LOCAL COAST PROGRAM LAND USE PLAN AMENDMENT NOS. 2005-001 AND 2006-001 ARE INTENDED TO BE CARRIED OUT IN FULL CONFORMANCE WITH THE CALIFORNIA COASTAL ACT

WHEREAS, on January 10, 2006, the City Council approved Coastal Land Use Plan Amendment No. 2005-001 changing the coastal land use designation of a 4.25-acre site located at 900 Newport Center Drive from CV-B (Visitor-Serving Commercial) to RM-C (Medium Density Residential) allowing the development of 79 residential condominiums.

WHEREAS, on February 14, 2006, the Council approved Coastal Land Use Amendment No. 2006-001 changing the coastal land use designation of a 14.25 acre site located at 4850 West Coast Highway from RM-B (Medium Density Residential) to OS (Open Space) to facilitate the development of a public park.

WHEREAS, the approval of these two amendments should have included a finding that the amendments are intended to be carried out in full conformance with the California Coastal Act and they should have specified when the amendments become effective.

NOW, THEREFORE, BE IT RESOLVED

Section 1. Coastal Land Use Plan Amendment Nos. 2005-001 and 2006-001 are intended to be carried out in full conformance with the California Coastal Act.

Section 2. Coastal Land Use Plan Amendment Nos. 2005-001 and 2006-001 shall take effect automatically upon Coastal Commission action unless the Coastal Commission proposes suggested modifications. In the event that the Coastal Commission proposes revisions, the LCP Land Use Plan Amendments shall not take effect until the City Council adopts the Commission suggested modifications.

Section 3. This resolution shall take effect immediately upon adoption.

Passed and adopted by the City Council of Newport Beach at a regular meeting held on the 28th day of March 2006 by the following vote to wit:

AYES, COUNCIL MEMBERS Curry, Selich, Rosansky, Ridgeway,
Daigle, Nichols, Mayor Webb

NOES, COUNCIL MEMBERS ---

ABSENT, COUNCIL MEMBERS --  _____

MAYOR

ATTEST:
Lavonne M. Harkless
CITY CLERK



COASTAL COMMISSION
NPB-MAJ-1-06(13)
EXHIBIT # 2
PAGE 1 OF 1

NEWPORT BEACH TOWN HOMES ASSOC.

**4403 West Coast Highway
Newport Beach, CA 92663
949-675-8580**

February 4, 2006

Mayor Don Webb and Members of the City Council
City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92663

Re: CalTrans West PA2006-16 General Plan Ammendment/4850 West Coast Hwy


Dear Mayor and Members of the City Council,

I recently received a notice of a public hearing pertaining to the development of the northwest corner of West Coast Highway and Superior Avenue to a recreational use. It is my understanding that a park is planned to be constructed. In the absence of construction of a wall along the Newport Townhomes Development (4401-4465 West Coast Hwy) at the cost of whoever is developing the park, I object to the approval of the general plan amendment and zone change.

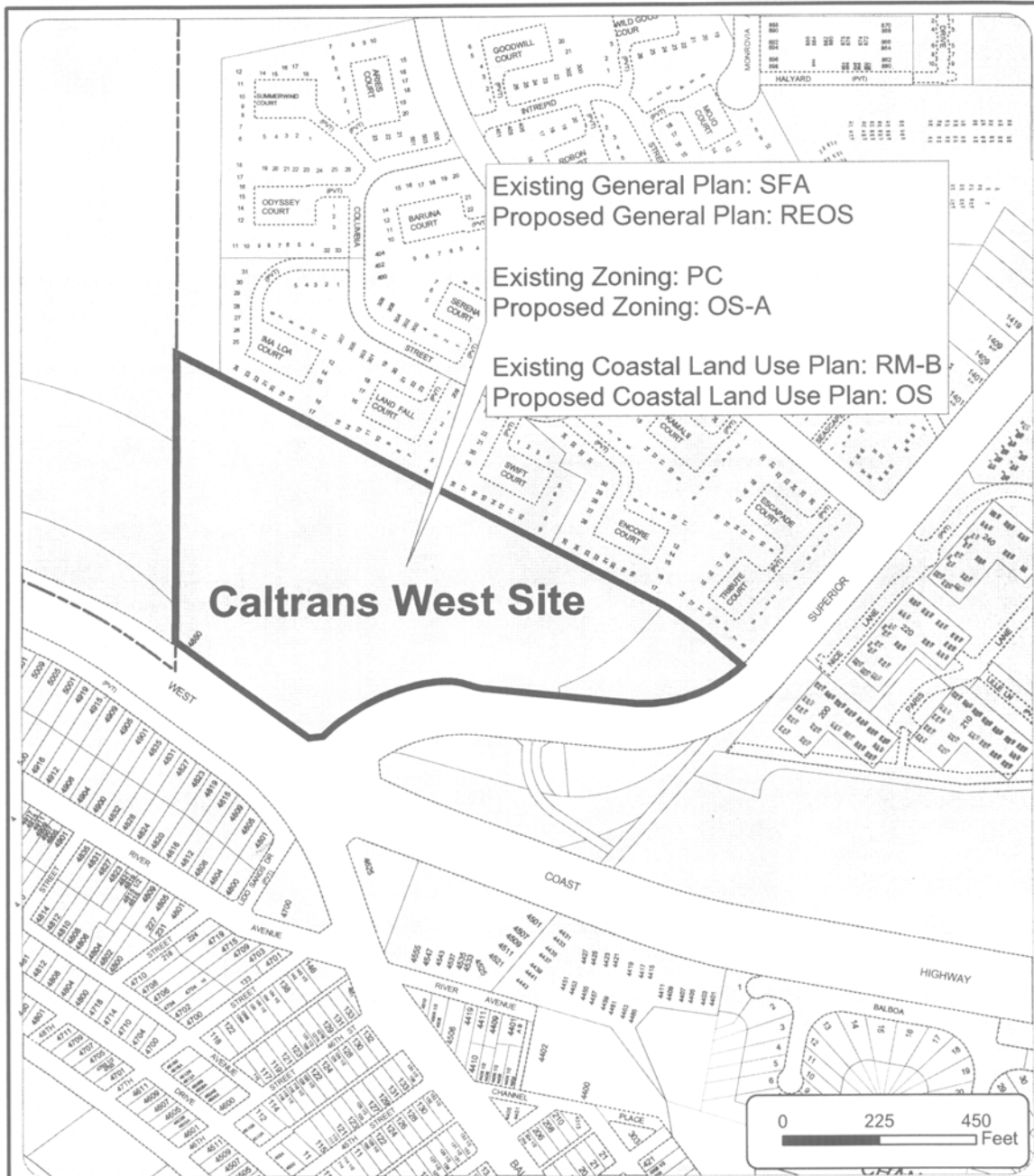
I understand that the results of developing the property recreationally will be significant traffic, noise, bright light from automobile headlights and light stanchions and increased recreational pedestrian traffic, resulting in an increase of people jumping our walls.

As a condition of approval of the action referenced in the notice, we request that the City require as a condition of approval that the applicant replace the current 5 foot 9 inch block wall along the entire frontage with a 10 foot block wall.

We have serious reservations whether no environmental analysis needs to be done, as the above concerns will be increased as this property is developed recreationally.

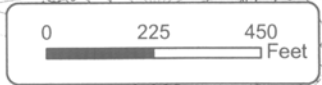
Respectfully

4403 W. P.C.H.

COASTAL COMMISSION
NPB-MAT-1-06 (B)
EXHIBIT # 3
PAGE 1 OF 1



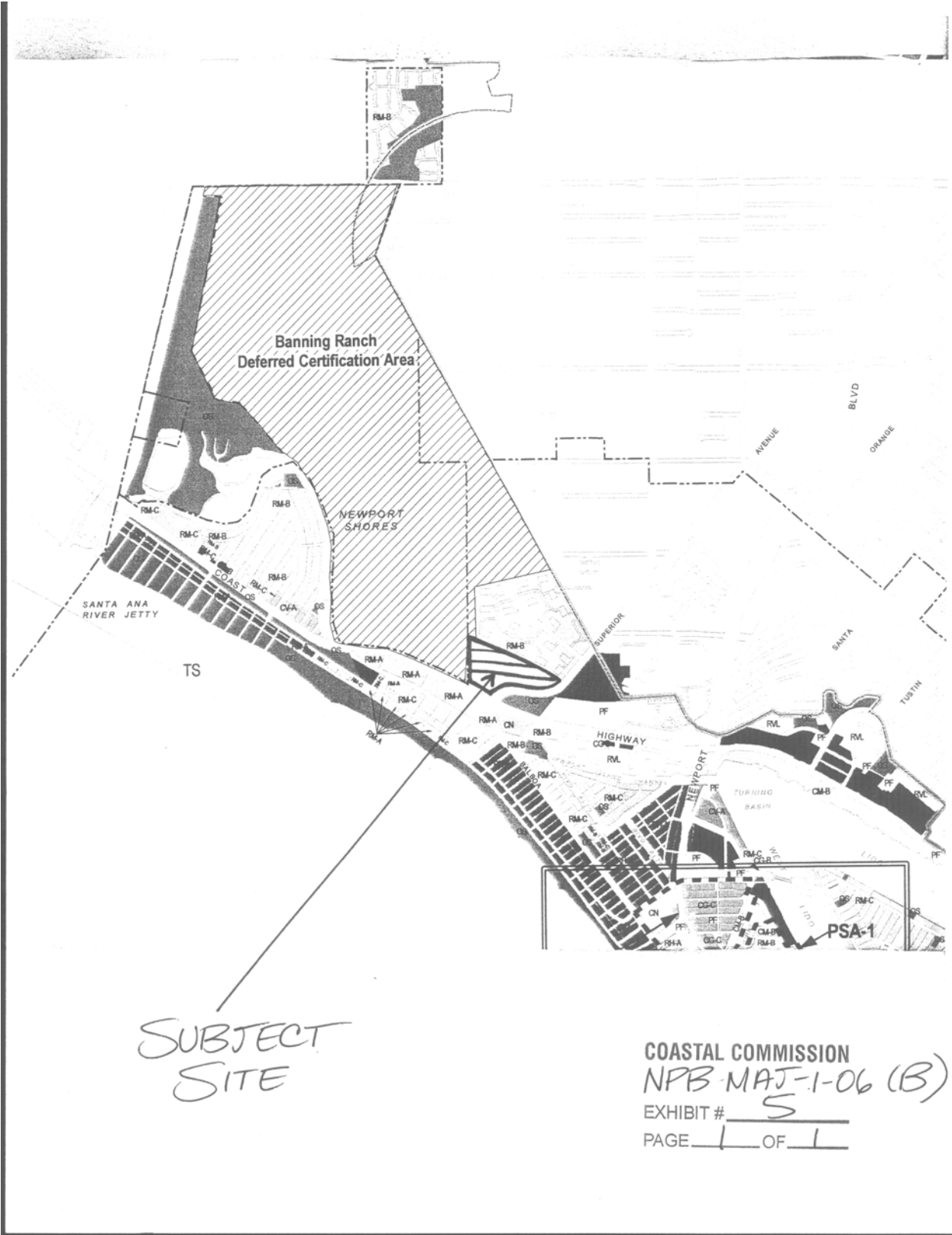
Caltrans West Site

Existing General Plan: SFA
 Proposed General Plan: REOS
 Existing Zoning: PC
 Proposed Zoning: OS-A
 Existing Coastal Land Use Plan: RM-B
 Proposed Coastal Land Use Plan: OS



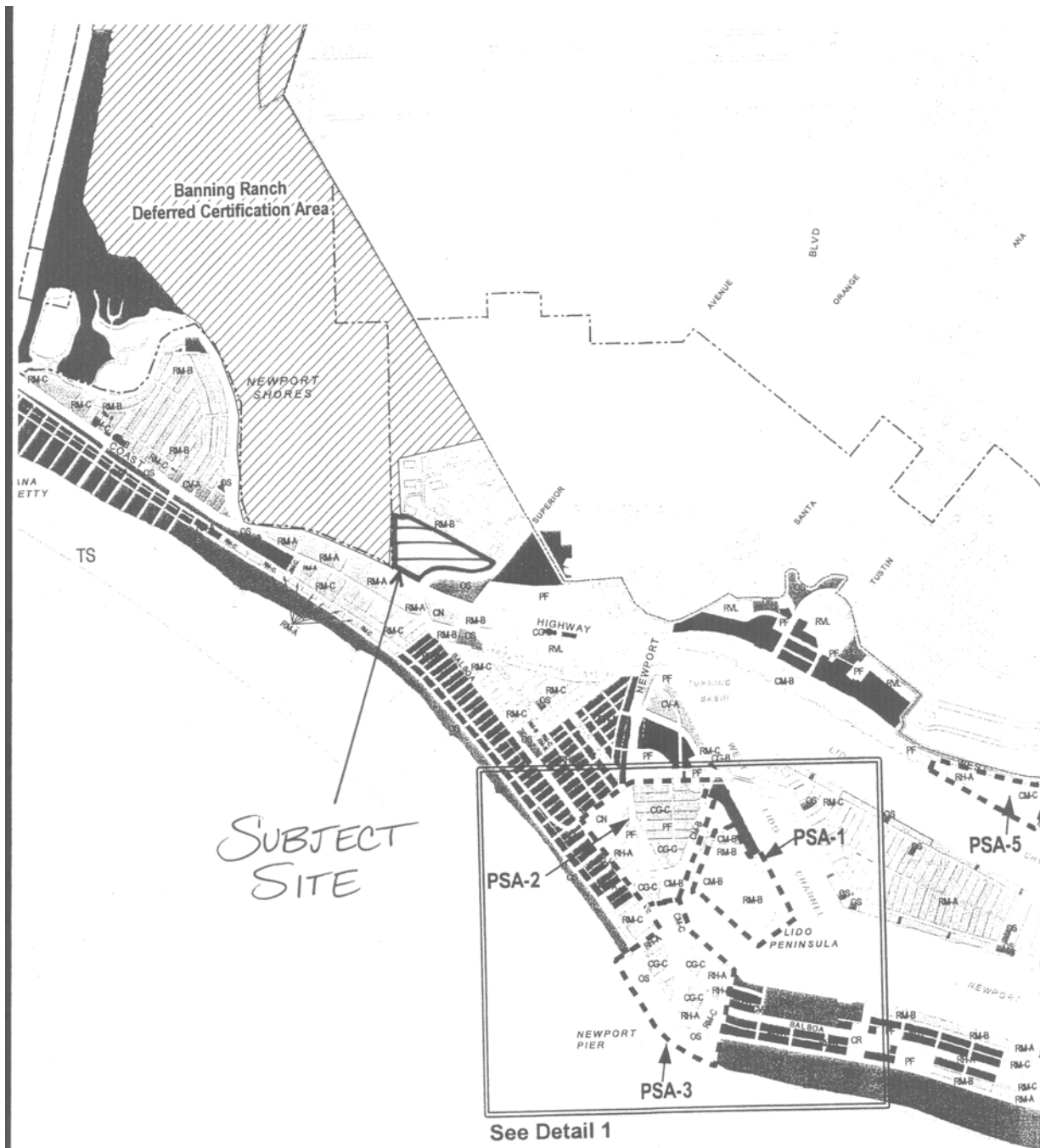
Vicinity Map
 Boundary of Proposed
 Land Use Change
 (Caltrans West)

COASTAL COMMISSION
 NPB-MAJ-1706(B)
 EXHIBIT # 4
 PAGE 1 OF 1



SUBJECT
SITE

COASTAL COMMISSION
 NPB-MAJ-1-06 (B)
 EXHIBIT # 5
 PAGE 1 OF 1



SUBJECT SITE

See Detail 1

TS
 COASTAL COMMISSION
 NPB-MAJ-1-06(B)
 EXHIBIT # 5
 PAGE 1 OF 1

DEPARTMENT OF TRANSPORTATION
DIVISION OF RIGHT OF WAY
1120 N STREET
SACRAMENTO, CA 95814
PHONE (916) 654-5075
FAX (916) 653-8762
TTY (916) 653-4086



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MAY 10 2006

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

May 5, 2006

The Honorable Don Webb
Mayor of Newport Beach
3300 Newport Avenue
Newport Beach, CA 92663

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South Coast Region

MAY 17 2006

CALIFORNIA
COASTAL COMMISSION

Dear Mayor Don Webb:

The California Department of Transportation (Department) advises you that it opposes the proposed Local Coastal Plan Amendment 2006-001. It is our opinion that such action substantially reduces the value of property owned by the Department near the intersection of Pacific Coast Highway and Superior Avenue in Newport Beach. We are currently considering any and all remedies available to us.

Sincerely,

BIMLA G. RHINEHART
Chief
Division of Right of Way and Land Surveys

c: Peter M. Douglas, Executive Director, California Coastal Commission

COASTAL COMMISSION
NPB-MAJ-1-06(B)
EXHIBIT #
PAGE 1 OF 1