

CALIFORNIA COASTAL COMMISSION

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**T8b**

July 20, 2006

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 A (Marriott Hotel VSC to MDR/Santa Barbara Condominiums)**

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

The amendment that is the subject of this report was submitted as part of a package with other Land Use Plan (LUP) amendments. This report deals only with "Part A" of the amendment. Part A of the amendment consists of a request by the City of Newport Beach to change the land use designation of a 4.25 acre area (presently occupied by tennis courts) at the Marriott Hotel from Visitor-Serving Commercial to Medium Density Residential, at 900 Newport Center Drive, Newport Beach, Orange County. (Part B of the amendment was acted on separately at the Commission's July 2006 hearing, and Part C was retracted, in part because the City Council had not authorized its original submittal.) The proposed land use change would allow the construction of condominiums (or other medium density residential) on the subject property. A corresponding coastal development permit application (5-06-168, Lennar) has been submitted and will be considered at a subsequent hearing.

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 **DENY** Part A of the proposed amendment because the land use redesignation would result in a loss of one of the few sites designated Visitor-Serving Commercial in the certified LUP. The motion to accomplish this is found on Page 3.

ANTICIPATED AREAS OF CONTROVERSY

The City and the landowner object to the staff recommendation.

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. **Rosalinh Ung** is the contact person for the City's Planning Division, and he may be reached by calling **(949) 644-3208**.

EXHIBITS

1. City Council Resolution No. 2006-02 approved January 10, 2006
2. City Council Resolution No. 2006-26 approved March 28, 2006
3. Vicinity Map
4. Land Use Map

I. COMMISSION RESOLUTION ON CITY OF NEWPORT BEACH LOCAL COASTAL PROGRAM AMENDMENT 1-06 (PART A)

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

Motion for Part A

*"I move that the Commission **CERTIFY** the City of Newport Beach Land Use Plan Amendment NPB MAJ 1-06 Part A as submitted."*

Staff Recommendation

Staff recommends a **NO** vote. Failure of this motion will result in denial 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 **DENIES** the City of Newport Beach Land Use Plan Amendment 1-06 Part A as submitted and adopts the findings stated below on the grounds that the amendment will not meet the requirements of and is not in conformity with the policies of Chapter 3 of the California Coastal Act. Certification of the Land Use Plan amendment would not comply with the California Environmental Quality Act as there are feasible mitigation measures and alternatives that would substantially lessen the significant adverse impacts on the environment that will result from certification of the land use plan amendment as submitted.

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 local government's resolution for submittal of a proposed LUP amendment 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, which involved a change in the land use designation of another parcel from Medium Density Residential to Open Space, was approved by the Commission on July 12, 2006. Part A of the amendment request is now being submitted for Commission action. 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 (Part A) through a City Council public hearing on January 10, 2006. The item was originally scheduled for the Council hearing of November 22, 2005, but the item was continued to the December 13, 2005 hearing and finally approved on January 10, 2006. It was approved through City Council Resolution No. 2006-02, which approved General Plan Amendment No. 2004-005 and Local Coastal Plan Amendment 2005-001 (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 November 3, 2005. Notice was provided for both entities' hearings. Notice of the City Council's public hearing was mailed and posted on November 14, 2005 and published in the local newspaper on November 12, 2005. 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 the Coastal Act requirements (Exhibit 2).

One letter of opposition was received at the local level. The letter expresses concerns about increased density at the subject site. No oral comments were received during the public hearings held at the local level.

V. FINDINGS FOR DENIAL OF PART A OF NPB-MAJ-1-06

The Commission hereby finds and declares as follows:

Site Description and Land Use Designation

The proposed land use redesignation will affect only one site—900 Newport Center Drive in the City of Newport Beach, Orange County. The 4.25-acre site is located in the Newport Center/Fashion Island area of the City, inland of Pacific Coast Highway (Exhibit 3). The site is currently operated as a private tennis club used by members and guests of the Newport Beach Marriott Hotel. There are eight outdoor tennis courts, a clubhouse and ancillary uses on the property. The property owner proposes to subdivide the subject site from the larger hotel parcel and develop a 79-unit condominium project.¹

The site is currently designated Visitor-Serving Commercial (CV-B) in the City's Certified Land Use Plan, as depicted in Exhibit 4. The site is surrounded by a golf course to the west and north, hotel development to the south, and commercial offices to the east.

¹ Coastal Development Permit Application 5-06-168 (Lennar), which seeks authorization to develop the condominium project, will be considered by the Commission at a subsequent hearing.

Findings

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 prioritizes visitor-serving commercial development over residential development. The proposed LUP amendment is not in conformity with the public access and recreation policies of the Coastal Act relating to the provision of visitor serving development. Applicable provisions of the Coastal Act include the following:

Section 30213 states, in pertinent part:

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

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.

Land Use Plan Policies

2.3.1-3 *On land designated for visitor-serving and/or recreational uses, give priority to visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation over other commercial uses, except for agriculture and coastal-dependant industry.*

2.3.3-3 *Encourage visitor-serving and recreational developments that provide public recreational opportunities.*

Proposed Change in Land Use Designation

The proposed amendment (NPB MAJ 1-06, Part A) involves a request to change the land use designation of a 4.25-acre area of the Newport Beach Marriott Hotel from Visitor Serving Commercial to Medium Density Residential at 900 Newport Center Drive. No other properties are subject to the proposed land use change.

The proposed change will have an adverse affect on priority visitor-serving opportunities in the area. Residential development is the lowest priority use within the Coastal Zone. The City indicates that the loss of CV-B designated land at this location will not have an adverse affect on visitor-serving commercial or recreational activities. According to the amendment request, “[t]he property is not located in close proximity to coastal resources, coastal recreational use or the water and the change in land use does not impact the adjacent visitor serving uses other than to eliminate the accessory tennis courts, which is not a coastal dependent recreational activity.” Although the tennis courts are not considered a “coastal dependent” activity, tennis is a recreational activity, and the site is part of a larger commercial facility (Marriott Hotel) that serves visitors to

Findings

the coast. Thus, although currently operated as a private tennis club serving only members and guests of the Newport Beach Marriott Hotel, that is nevertheless a visitor-serving recreational offering. In addition, the hotel is located in close proximity to popular visitor destinations, such as the Newport Dunes, Balboa Island and the beach. The site is located in a highly visible, well-traveled location and could potentially support some form of commercial and/or recreational development in the future. If the site were to be redesignated for residential development now, the opportunity for a future visitor-serving use that would be even more generally accessible or lower cost would be lost.

The City states that the loss of this visitor-serving commercial site as a result of the requested amendment would not significantly reduce the amount of visitor-serving land in the City. The City concludes that the project represents a reduction in visitor serving uses of 2% based on a table showing the portion of land currently designated as visitor serving commercial and what will remain after the 4.25-acre site is re-designated. The table is replicated below.

Visitor Serving Commercial Designation	Amount of Land
CV-A (0.5—0.75)	7.65 acres
CV-B (0.5—1.25)	42.90 acres
Newport Coast Planned Community	153.00 acres
CITYWIDE TOTAL:	203.55 acres
Less project	-4.25 acres
REMAINING CITYWIDE TOTAL:	199.30 acres
	(2% loss of CV-B)

The City included the Newport Coast Planned Community in the above-referenced tabulation. However, Newport Coast is covered by a segment of the County of Orange certified LUP and is not within the boundary of the City of Newport Beach certified LUP. As such, the 153.00 acres of visitor serving commercially designated area referred to in the table is not covered by the LUP that is the subject of the current amendment request. In actuality, the 4.25-acre loss represents an 8.4% [4.25/(7.65+42.90)]--not 2%-- reduction in visitor-serving land in the portion of the City covered by this LUP.

In addition, the subject site is one of only five sites designated Visitor-Serving Commercial (CV) in the City's certified LUP. Many land uses that are in fact visitor-serving are located within the General Commercial (CG) or Neighborhood Commercial (CN) designation and could thus cease to provide a visitor-serving function. According to the LUP, *[t]he CV designation is intended to provide for accommodations, goods, and services intended to primarily serve the needs of visitors of Newport Beach.*" Hotels, and their ancillary development, clearly fit this designation and should be protected consistent with Section 30222 of the Coastal Act. The LUP includes policies that encourage visitor-serving and recreational developments that provide public recreational opportunities. Although the tennis courts are part of a private club, they are available for use by hotel guests. Hotel guests are typically members of the public that are visitors to the area.

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The agent for the corresponding CDP application states that the tennis courts are underutilized and replacing the courts “*does not remove a publicly accessible, widely-used recreation facility from the coastal zone.*” The Commission acknowledges that the property owner is in no way obligated to retain the tennis court use of the site. However, under the current land use designation, the site can only be developed with uses allowed under the CV designation. Commercial development of the site could serve potential visitors to the coast. The location is conducive to commercial recreational development and consistent with the adjacent hotel use and the nearby commercial development. Residential development at the subject site would serve no purpose to members of the visiting public and would potentially establish a precedent for residential conversions in the subject area.

Concerns have also been raised that the proposed residential land use is inconsistent with the neighboring Newport Beach Country Club golf course because of potential safety issues. Due to the configuration of the golf course holes adjacent to the subject site, golf balls are periodically hit into the tennis court area. A substantial fence has been erected to prevent injuries. This, in conjunction with the limited use of the tennis courts, has minimized potential hazard. However, with a proposed residential development, such as the one proposed through CDP application 5-06-168, there would be a greater probability that an errant ball could result in injury. As such, the proposed amendment may create a serious land use conflict between an existing recreational facility and residential development.

The proposed land use conversion proposed as Part A of the City's amendment request is inconsistent with Section 30213 of the Coastal Act, which requires lower cost visitor and recreational facilities be “*protected, encouraged, and, where feasible, provided.*” The proposed amendment will also have an adverse effect on the priority “*visitor-serving commercial recreational facilities*” to be provided under Section 30222 of the Coastal Act. Therefore, Part A of the amendment must be denied.

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 and to base the certification on a specific factual finding supporting the conclusion that the proposal “*meets the requirements of [CEQA] Section*

CEQA Consistency

21080.5(d)(2)(i) . . .,” which requires that an activity will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. §§ 13555(b) and 13540(f).

The amendment involves a request to change the land use designation of a 4.25 acre area (presently occupied by tennis courts) at the Marriott Hotel from Visitor-Serving Commercial to Medium Density Residential. As proposed, the change in land use proposed in Part A is inconsistent with the public access and recreation policies of the Coastal Act and must be denied.

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

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RESOLUTION NO. 2006- 2

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH ADOPTING MITIGATED NEGATIVE DECLARATION (SCH NO. 2005-071067) AND APPROVING GENERAL PLAN AMENDMENT NO. 2004-005, LOCAL COASTAL PROGRAM LAND USE PLAN AMENDMENT NO. 2005-001, TENTATIVE PARCEL MAP NO. 2005-014, TENTATIVE TRACT MAP NO. 2004-004 (16774), TRAFFIC STUDY NO. 2005-002 AND COASTAL RESIDENTIAL DEVELOPMENT PERMIT NO. 2005-004 FOR PROPERTY LOCATED AT 900 NEWPORT CENTER DRIVE (PA 2004-169)

WHEREAS, an application was filed by Lennar Homes with respect to property located at 900 Newport Center Drive, and legally described as Parcel 1, as per map filed in Book 75 pages 33 and 34 of parcel maps, in the office of the County Recorder to construct 79 residential condominiums on a 4.25-acre site presently developed with tennis courts operated by the adjacent Newport Beach Marriott Hotel. The applicant requests approval of: a General Plan Amendment and an Amendment of the 1990 Local Coastal Plan Land Use Plan (LCPLUP) to change the land use designations of the 4.25-acre site from Administrative, Professional & Financial Commercial to Multiple-Family Residential; an Amendment of the 2004 LCPLUP to change the land use designation from Visitor-Serving Commercial (CV-B) to Medium Density Residential C (RM-C); a Zone Change to rezone the subject property from APF to the PC District; adopt a Planned Community Development Plan to establish permitted use and development regulations; consider a waiver of the 10-acre minimum land area requirement for Planned Community District adoption; a Parcel Map to subdivide the subject property from the hotel development for financing and development purposes; a Tract Map for the condominium ownership (79 residential units); a Traffic Study pursuant to the Traffic Phasing Ordinance (TPO) and a Coastal Residential Development Permit regarding the provision of affordable housing in accordance with the Municipal Code and the General Plan Housing Element.

WHEREAS, on November 3, 2005, the Planning Commission held a noticed public hearing in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California at which time the project applications, the Mitigated Negative Declaration and comments received thereon were considered. Notice of time, place and purpose of the public hearing was given in accordance with law and testimony was presented to, and considered by, the Planning Commission at the hearing. With a vote of 6 ayes (one recused), the Planning Commission recommended approval of the above-mentioned applications to the City Council.

WHEREAS, the property is located in the Block 900 – Hotel Plaza of the Newport Center (Statistical Area L1) of the Land Use Element and has a land use designation of Administrative, Professional & Financial Commercial (APF) and zoned APF (Administrative, Professional, Financial).

WHEREAS, pursuant to Section 20.94 of the Newport Beach Municipal Code, the City Council held a noticed public hearing on November 22, 2005, which was continued to December 13, 2005 without testimony, to consider the proposed applications and the recommendations of the Planning Commission.

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NPB 1-06 Part A
EXHIBIT # 1
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WHEREAS, a General Plan Amendment and an Amendment of the 1990 Local Coastal Plan Land Use Plan (LCPLUP) to change the land use designations of the site from Administrative, Professional & Financial Commercial to Multiple-Family Residential is necessary as the proposed residential use is not permitted in the APF designation. A change in land use would result in a 4.25-acre reduction in land available to be potentially used for office uses consistent with the APF designation. However, within the Newport Center, there is approximately 200 acres designated APF and the two percent (2%) reduction proposed by the project is not a significant reduction.

WHEREAS, the residential condominium project is consistent with the proposed Multi-Family Residential land use designation. The proposed residential condominium project would be compatible with the residential developments to the south and northeast of the site. The proposed project is viewed as incompatible with the office uses across Santa Barbara Street and is also compatible with the adjacent hotel and golf course

WHEREAS, the 2004 LCP Land Use Plan designates the site for Visitor Serving Commercial uses. This designation was applied due to the existing use of the Marriott Hotel complex. A change in land use designation from CV-B (Visitor-Serving Commercial) to RM-C (Medium Density Residential C) is necessary for the proposed residential development. The change in land use designation will reduce the land available for visitor-serving commercial uses by 4.25 acres. Although this reduction in area would occur, the opportunity to construct the remaining hotel room entitlement of 79 rooms would not be lost and they could be constructed nearby within a portion of Newport Center within the Coastal Zone.

WHEREAS, Section 30250(a) of the California Coastal Act (CCA) provides criteria for the location of new development. The Coastal Act provides for the protection of coastal resources by requiring that new development be located in close proximity to existing development with available public services to minimize the impacts associated with the extension of infrastructure and services. The project is located within Newport Center, which is a development area with all public services (utilities, roads, police, fire etc.) presently provided.

WHEREAS, Section 30252(4) requires new development within the Coastal Zone to provide adequate parking facilities or provide substitute means of serving the development with public transportation. The proposed development provides an adequate number of on-site parking spaces. The project also will be conditioned so that the parking structures will have adequate dimensions, clearances, and access to insure their proper use.

WHEREAS, Section 30212, requires public access must be provided from the nearest public roadway to the shoreline and along the coast in new development. The subject property is not adjacent to the ocean or bay; therefore, coastal access easements are not required.

WHEREAS, Section 30222 requires the use of private land suitable for visitor-serving commercial recreational facilities for coastal recreation must have priority over private residential, general industry, or general commercial development. Although, the change in land use designation will reduce the land available for visitor serving commercial uses by 4.25 acres; the opportunity to construct the remaining hotel room entitlement of 79 rooms would not

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be lost and they could be constructed nearby within the portion of Newport Center that is located within the Coastal Zone.

WHEREAS, the City's General Plan indicates that the City shall maintain suitable and adequate standards for landscaping, sign control, site and building design, parking and undergrounding of utilities and other development standards to ensure that the beauty and charm of existing residential neighborhoods are maintained, that commercial and office projects are aesthetically pleasing and compatible with surrounding land uses. The proposed PC Text contains one classification of land use and provides the development standards for the entire subject property. The draft PC Text contains development regulations for the subject site which includes definitions and information concerning requirements for development site coverage, building height, setbacks, off-street parking, vehicular access, signing, lighting, storage, and screening and landscaping to ensure that the project would be compatible with the surrounding land uses consistent with the objectives of the Land Use Element.

WHEREAS, to be consistent with the Housing Programs 2.2.1 and 2.2.3 of the City's Housing Element, the project is required to provide a minimum of 20% of the total units (16 units) for affordable income households for a minimum of 30 years. The applicant is requesting that the affordable housing provision be off-site, at an approved location within the City, as affordable housing is not feasible at the subject site. According to the applicant, the project's Home Owner's Association fees are expected to be a minimum of \$1,500 per month, which is a substantial multiple of the statutory mortgage payment limits for affordable housing when combined with acquisition costs and taxes. With this provision, the applicant will be required to enter into an agreement with the City to provide said units off-site within the City's limits. The agreement will be reviewed and approved by the City Attorney and will be executed prior to the recordation of tract map or the issuance of a building or grading permit for the proposed project.

WHEREAS, an approval of the project is implementing Housing Program 3.2.4 that allows the City to consider and approve rezoning of property from non-residential to residential uses when appropriate to extend housing opportunities to as many renter and owner occupied households as possible in response to the demand for housing in the City.

WHEREAS, Charter Section 423 requires all proposed General Plan Amendments to be reviewed to determine if the square footage, peak hour vehicle trip or dwelling units thresholds have been exceeded and a vote by the public is required. This project has been reviewed in accordance with Council Policy A-18 and a voter approval is not required as the project represents an increase of 39 – A.M. and 35 – P.M. peak hour trips for a new 79 dwelling unit development. These increases, when added with 80% of the increases attributable to two previously approved amendments, result in a total of 47 – A.M. peak hour trips and 43.8 – P.M. peak hour trips; 3,640 square feet of non-residential floor area and 79 dwelling units do not cumulatively exceed Charter Section 423 thresholds for a vote.

WHEREAS, the project is located within Newport Center where public services and infrastructure are available to serve the proposed development. Additionally, all applicable improvements required by Section 19.28 (Subdivision Improvements) of the Subdivision Code are to be satisfied by the applicant.

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WHEREAS, the parking requirement for a multiple-family residential zoned project is two spaces per unit, including one covered, plus 0.5 spaces for guest parking for developments of four or more units. A total of 158 spaces are required for the residences and a minimum of 40 spaces are required for guest parking. A total of 201 spaces are proposed to serve the project, and therefore, the project meets the parking requirements of the Municipal Code. In addition to the provision of adequate on-site parking, the project is conditioned that the parking designs meet all City requirements regarding parking stall width, depth, grade, and aisle-turning radii.

WHEREAS, pursuant to Section 19.12.070 of the City Subdivision Code, the following standard findings must be made to approve the Tentative Parcel Map and Tract Map.

1. The proposed Tentative Maps are consistent with the Newport Beach Subdivision Code (Title 19) and applicable requirements of the Subdivision Map Act. Conditions of approval have been included to ensure compliance with Title 19 and the Subdivision Map Act.
2. Lot 1 of the Parcel Map is being proposed for the residential development and is of sufficient size for the intensity of development and the site is physically suitable for the project. The project provides an adequate number of parking spaces as required by the Zoning Code. Access to the site can be provided through the proposed driveways along Santa Barbara Drive. Additionally, no earthquake faults were found on-site. There is no known incidence of landslide, lateral spreading, subsidence, liquefaction, or collapse on-site or near the site; however, existing soils will be required to be excavated and re-compacted to create stable soil conditions to support the proposed development. The implementation of mitigation measures identified in the draft Mitigated Negative Declaration would reduce any potential impacts. The site is, therefore, physically suitable for development.
3. Lot 2 of Parcel Map is proposed to retain a General Plan land use designation of Administrative, Professional & Financial Commercial. Lot 2 is not proposed for new development and this parcel will continue to be used as a hotel and it is of sufficient size to support its existing use.
4. Under the proposed Parcel Map, Lot 2 does not include any improvements and the development of Lot 1 as a residential use is not expected to cause serious public health problems given the use of typical construction materials and practices. No evidence is known to exist that would indicate that the proposed subdivisions will generate any serious public health problems. All mitigation measures will be implemented as outlined in the Mitigated Negative Declaration to ensure the protection of the public health.
5. No public easements for access through, or use of, the property have been retained for the use by the public at large. Public utility easements for utility connections that serve the project site are present and will be modified, if necessary, to serve the proposed project.

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6. Title 24 of the Uniform Building Code requires new construction to meet minimum heating and cooling efficiency standards depending on location and climate. The Newport Beach Building Department enforces Title 24 compliance through the plan check and field inspection processes.
7. The proposed subdivision facilitates the creation of 79 new residential units. The provision of 16 affordable units will assist the City in meeting its housing needs as identified in the Regional Housing Needs Assessment. Public services are available to serve the proposed development of the site and the Mitigated Negative Declaration prepared for the project indicates that the project's potential environmental impacts are expected to be less than significant.
8. Waste discharge into the existing sewer system will be consistent with residential use of the property which does not violate Regional Water Quality Control Board (RWQCB) requirements.
9. The proposed subdivision is entirely within the coastal zone and the site subject to the tentative maps is not presently developed with coastal-related uses, coastal-dependent uses or water-oriented recreational uses. The project is consistent with the City's 1990 Local Coastal Program Land Use Plan and the recently modified and approved LCPLUP that will replace the 1990 certified LUP. The subject site to be subdivided does not abut the ocean or bay, and does not provide public access to coastal resources; therefore, no impacts to coastal access are anticipated. Recreation policies of the Coastal Act require that site resources for water-oriented recreational activities that cannot be supplied inland must be protected. These policies prioritize water-oriented recreational activities over other land uses and encourage aquaculture and water-oriented recreational support facilities. The project site proposed to be subdivided is not suitable for water-oriented recreational activities due to its size and location, approximately 1.5 miles from the shoreline.

WHEREAS, the entire project is located within the Coastal Zone and requests the construction of 79 units. Pursuant to Chapter 20.86 of the Zoning Code, when a project proposes to create 10 or more units within the coastal zone, affordable housing must be included within the project unless it can be determined infeasible. The Housing Element of the General Plan determines the number and type of affordable housing that is required. In accordance with the Housing Element, 16 affordable housing units would be required to be provided.

WHEREAS, a Traffic Study has been prepared by Kunzman Associates under the supervision of the City Traffic Engineer pursuant to the TPO and its implementing guidelines (Appendix D of the Mitigated Negative Declaration), CEQA analysis for cumulative projects and intersection capacity utilization (ICU), and General Plan analysis. The project will result in a net increase of 330 new average daily trips, 42 vehicle trips during morning (AM) peak hour and 39 vehicle trips during the afternoon (PM) peak hour. The study concluded that the proposed project will not cause a significant impact at the study area intersections; therefore, no improvements are required at these intersections.

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WHEREAS, an Initial Study and Mitigated Negative Declaration (MND) have been prepared in compliance with the Environmental Quality Act (CEQA), the State CEQA Guidelines, and City Council Policy K-3. The Draft MND was circulated for public comment between July 15 and August 15, 2005. Comments were received from the California Coastal Commission, Airport Land Use Commission and Mr. Terek Saleh of Costa Mesa. The contents of the environmental document, including comments on the document, have been considered in the various decisions on this project. Since then, it was determined that the most appropriate zoning designation for the property would be PC (Planned Community). This new zoning designation does not affect the size, scope or design of the project that would potentially create additional physical environmental impacts. As result, it has been determined that the MND adequately describes the potential impacts of the project and does not require additional recirculation and review of the MND. An addendum has been prepared to address the change in the zoning designation and made it a part of the MND.

WHEREAS, on the basis of the entire environmental review record, the proposed project will have a less than significant impact upon the environment and there are no known substantial adverse effects on human beings that would be caused. Additionally, there are no long-term environmental goals that would be compromised by the project, nor cumulative impacts anticipated in connection with the project. The mitigation measures identified are feasible and reduce potential environmental impacts to a less than significant level. The mitigation measures are applied to the project and are incorporated as conditions of approval.

WHEREAS, General Plan Amendment No. 2004-005, Planned Community Development Plan No. 2005-003, Tentative Parcel Map No. 2005-014, Tentative Tract Map No. 2004-004 (16774), Traffic Study No. 2005-002 and Coastal Residential Development Permit No. 2005-004 shall only become effective upon the approval of LCP Land Use Plan Amendment No. 2005-001 by the California Coastal Commission.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Newport Beach does hereby adopt Mitigated Negative Declaration (SCH No. 2005-071067); approve General Plan Amendment No. 2004-005 by amending the Land Use Element, Statistical Area L1, Block 900-Hotel Plaza and the Estimated Growth for Statistical Area L1 Table of the General Plan as depicted in Exhibit "A" and Land Use map in Exhibit "B", LCP Land Use Plan Amendment No. 2005-001 by revising Land Use map as depicted in Exhibit "C", Tentative Parcel Map No. 2005-014, Tentative Tract Map No. 2004-004 (16774), Traffic Study No. 2005-002 and Coastal Residential Development Permit No. 2005-004, subject to the conditions of approval listed in Exhibit "D"


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CEQA Consistency

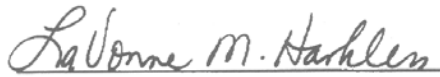
Page 7 of 21

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 10th day of January 2006 by the following vote to wit:

AYES, COUNCIL MEMBERS Heffernan, Selich, Rosansky, Ridgeway, Daigle,
Nichols, Mayor Webb None
NOES, COUNCIL MEMBERS _____
ABSENT, COUNCIL MEMBERS _____ None


MAYOR

ATTEST:


CITY CLERK



EX. 1
7/7

CEQA Consistency

RESOLUTION NO. 2006- 26

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 CARIED 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 locates 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:

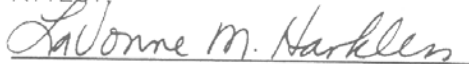
AYES, COUNCIL MEMBERS Curry, Selich, Rosansky, Ridgeway,
Daigle, Nichols, Mayor Webb

NOES, COUNCIL MEMBERS ---

ABSENT, COUNCIL MEMBERS --


MAYOR

ATTEST:



CITY CLERK



COASTAL COMMISSION
NPB 1-06 Part A
EXHIBIT # 2
PAGE 1 OF 2

CEQA Consistency

STATE OF CALIFORNIA }
COUNTY OF ORANGE }
CITY OF NEWPORT BEACH } ss.

I, LaVonne M. Harkless, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing resolution, being Resolution No. 2006-26 was duly and regularly introduced before and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 28th day of March 2006, and that the same was so passed and adopted by the following vote, to wit:

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

Noes: None

Absent: None

Abstain: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 29th day of March 2006.


City Clerk
Newport Beach, California

(Seal)



EX. 2
2/2

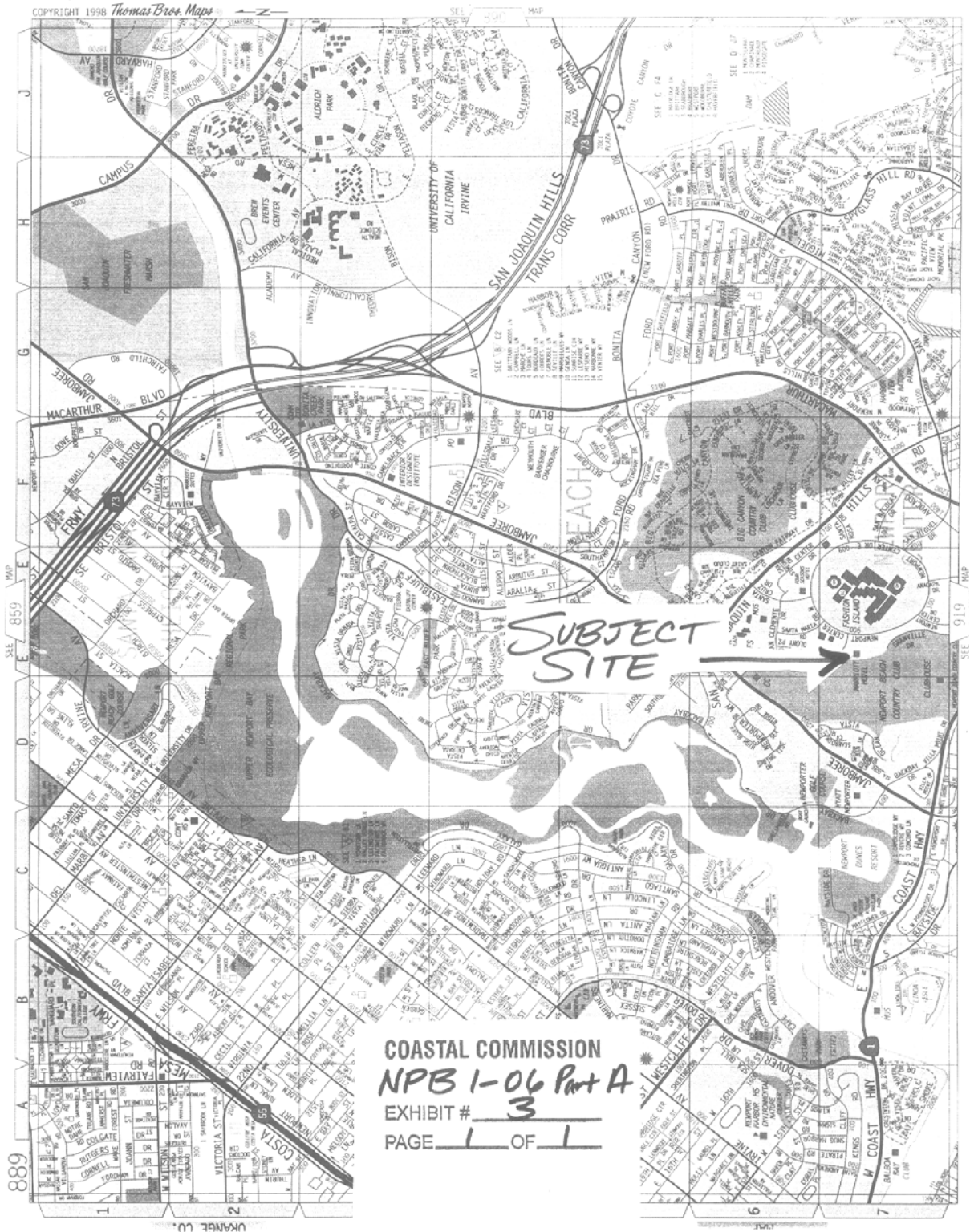
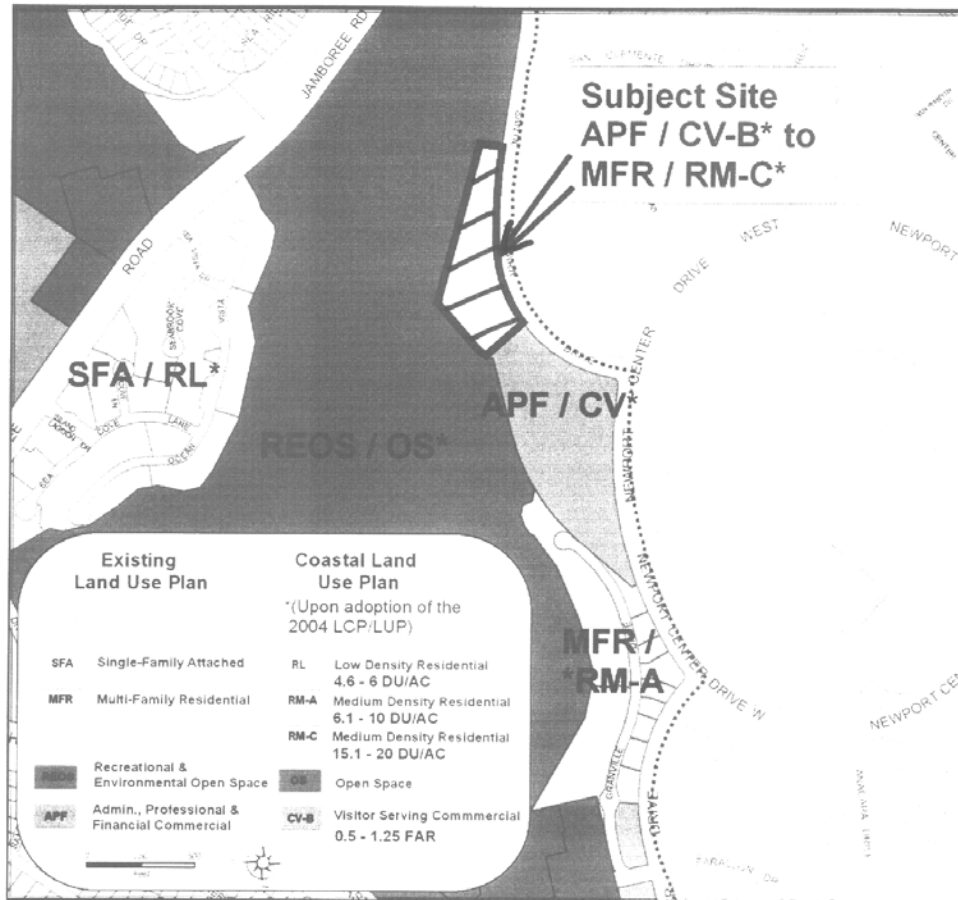


Exhibit "C"

PROPOSED CHANGE TO THE 1990/2004 LOCAL COASTAL LAND USE MAP FROM
APF/CV-B TO MFR/RM-C



COASTAL COMMISSION
NPB 1-06 Part A
EXHIBIT # 4
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