

CALIFORNIA COASTAL COMMISSION

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



August 16, 2007

W12a

TO: Coastal Commissioners and Interested Persons

FROM: Sherilyn Sarb, Deputy Director, South Coast District
Teresa Henry, Manager, South Coast District
Karl Schwing, Supervisor, Regulation & Planning, Orange County Area
Ryan Todaro, Coastal Program Analyst

SUBJECT: Concurrence with the Executive Director's determination that the action of the City of Newport Beach accepting certification with suggested modifications of the City's LUP Amendment NPB MAJ 1-06 Part A is legally adequate.

STAFF RECOMMENDATION

Staff recommends that the Commission concur with the Executive Director's determination that the City's action is legally adequate. Such concurrence is implied unless there is an objection by a majority of the Commissioners present.

BACKGROUND

The Commission approved the City of Newport Beach's Land Use Plan Amendment NPB MAJ 1-06 Part A with suggested modifications at the public hearing held in San Luis Obispo on July 10, 2007. The amendment consists of a change in 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. The proposed land use change would allow for the construction of condominiums (or other medium density residential) on the subject property.

The City of Newport Beach accepted, and agreed to the Commission's suggested modifications by passing resolution 2007-56 on July 24, 2007, incorporating the Commission's suggested modifications into the City's certified Land Use Plan (attached).

As provided for in Section 13544 of the California Code of Regulations, the Executive Director must determine whether the City's action is legally adequate and report that determination to the Commission. In this case, the Executive Director has determined that the City's action is legally adequate. Unless the Commission objects to the Executive Director's determination, the certification of the City of Newport Beach LUP Amendment NPB MAJ 1-06 Part A shall become effective.

RECEIVED

Coast Region

AUG 1 2007

RESOLUTION NO. 2007- 56

CALIFORNIA
COASTAL COMMISSION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH APPROVING LCP AMENDMENT NO. 2005-001 WITH MODIFICATIONS APPROVED BY THE CALIFORNIA COASTAL COMMISSION INCLUDING THE ADDITION OF A NEW POLICY TO CHAPTER 2, SECTION 2.3 (VISITOR-SERVING AND RECREATION DEVELOPMENT) OF THE COASTAL LAND USE PLAN FOR PROPERTY LOCATED AT 900 NEWPORT CENTER DRIVE

WHEREAS, on January 10, 2006, the City Council approved Local Coastal Plan Amendment No. 2005-001 changing the Coastal Land Use Plan 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; and

WHEREAS, the City Council resolved that LCP Amendment No. 2005-001 shall not take effect until the City Council adopts any modifications proposed by the California Coastal Commission; and

WHEREAS, on July 10, 2007, the Coastal Commission approved the proposed Local Coastal Plan Amendment with the modifications contained in Exhibit 1 on grounds that the proposed amendment with suggested modifications will meet the requirements of, and be in conformity with, the policies of Chapter 3 of the California Coastal Act; and

WHEREAS, the City Council finds that the proposed amendment with the modifications is consistent with Section 30213 of the Coastal Act, which requires lower cost visitor and recreational facilities be "protected, encouraged, and where feasible, provided." In addition, the proposed amendment would not have an adverse effect on the priority "visitor-serving commercial recreational facilities" to be provided under Section 30222 of the Coastal Act for the following reasons:

1. The adoption of a new Coastal Land Use Plan policy requires a payment of a fee by Lennar Homes to mitigate for the loss of visitor-serving land in the Newport Center by providing funding in the amount of five million (5,000,000.00) dollars for the protection, enhancement and provision of lower-cost visitor-serving uses at Crystal Cove State Park.
2. The policy includes provisions to adjust the mitigation fee to account for inflation.
3. The implementation of the mitigation requirement would be carried out through the coastal development permit process with the California Coastal Commission.

COASTAL COMMISSION

CERTIFIED AS A TRUE AND CORRECT COPY

Salvatore M. Markles
CITY CLERK OF THE CITY OF NEWPORT BEACH

EXHIBIT # 1
PAGE 1 OF 4

DATE: 7/25/07

WHEREAS, a Mitigated Negative Declaration (MND) has been prepared for the proposed project in accordance with the implementing guidelines of the California Environmental Quality Act (CEQA). The document was made available for public review and comment during a 30-day review period from July 15 to August 15, 2005 and subsequently approved by the City Council on January 10, 2006.

NOW, THEREFORE, BE IT RESOLVED, based on the aforementioned findings, the City Council hereby approves LCP Amendment No. 2005-001 with the modifications approved by the California Coastal Commission as contained in attached Exhibit 1.

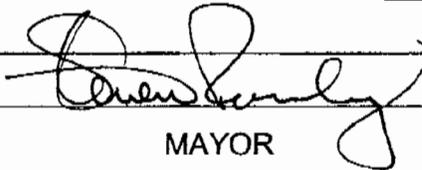
This resolution shall take effect immediately upon adoption. Passed and adopted at a regular meeting of the City Council of the City of Newport Beach held on July 24, 2007, by the following vote, to wit:

AYES, COUNCIL MEMBERS Henn, Curry, Selich, Webb,

Daigle, Gardner, Mayor Rosansky

NOES, COUNCIL MEMBERS None

ABSENT COUNCIL MEMBERS None


MAYOR

ATTEST:

CITY CLERK



COASTAL COMMISSION

EXHIBIT # 1
PAGE 2 OF 4

EXHIBIT 1

THE FOLLOWING ADDITION TO CHAPTER 2, SECTION 2.3 (VISITOR-SERVING AND RECREATIONAL DEVELOPMENT) OF THE CITY OF NEWPORT BEACH LOCAL COSTAL PROGRAM COASTAL LAND USE PLAN:

2.3.1-8 LCP Amendment No. 2005-001 (NPB-MAJ-1-06 Part A) to the Coastal Land Use Plan changing a portion of land, not to exceed 4.25 acres in size, designated Visitor-Serving Commercial (CV) in Newport Center to a residential designation shall require a payment of a fee to mitigate for the loss of visitor-serving land. The mitigation fee shall be used for the protection, enhancement and provision of lower-cost visitor-serving uses at Crystal Cove State Park. The mitigation fee shall be in the amount of five million (5,000,000.00) dollars to off-set the loss of the priority land use in Newport Center. The mitigation fee shall be paid prior to issuance of any coastal development permit granted for any residential project within the newly designated area and to an entity, identified by the permitting agency, capable of implementing the mitigation at Crystal Cove State Park. Until paid in accordance with the terms and conditions of the coastal development permit, the amount shall be increased every July 1st by an amount calculated on the basis of the percentage change from the year 2007 in the California Consumer Price Index for Urban Consumers as determined by the entity that grants the coastal development permit.

COASTAL COMMISSION

EXHIBIT # 1
PAGE 3 OF 4

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. 2007-56 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 24th day of July 2007, and that the same was so passed and adopted by the following vote, to wit:

Ayes: Henn, Curry, Selich, Webb, Daigle, Gardner, Mayor Rosansky

Noes: None

Absent: None

Abstain: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 25th day of July 2007.

LaVonne M. Harkless

City Clerk
Newport Beach, California

(Seal)



COASTAL COMMISSION

EXHIBIT # 1
PAGE 4 OF 4