

CALIFORNIA COASTAL COMMISSION

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

September 16, 2009

**Th20a****TO:** Commissioners and Interested Persons**FROM:** Peter Douglas, Executive Director
Sherilyn Sarb, Deputy Director
Teresa Henry, District Manager, South Coast
Karl Schwing, Supervisor, Regulation & Planning, Orange County Area**SUBJECT:** Concurrence with the Executive Director's determination that the action of the City of Newport Beach accepting certification with suggested modifications of Major LCP Amendment No. 1-07 (Land Use Changes) is legally adequate. For Commission review at its October 7-9, 2009, meeting in Oceanside.**STAFF RECOMMENDATION**

Staff recommends that the Commission concur with the Executive Director's determination that the City's action is legally adequate.

BACKGROUND

On February 5, 2009, the Commission denied City of Newport Beach Land Use Plan Amendment NPB-MAJ-1-07, as submitted, and approved it with suggested modifications. The approved land use plan amendment would: (a) change the land use classification and density/intensity system currently used in the LUP and LUP maps to reflect the new system adopted in the City General Plan's Land Use Element Update; (b) change land use designations on 55 sites involving several hundred properties in the coastal zone; (c) revise policies and add new policies to address land uses, site design, building volume, mass, clustering, setbacks, architecture, and nonconformities.

The major issues raised by the amendment were 1) the proposed establishment of residential uses as allowed uses in existing priority commercial areas or public tidelands (i.e. establishment of mixed use areas) that are priority visitor serving and marine commercial areas in the City (e.g. sites at Mariners' Mile, Balboa Bay Club & Resort Site, Lido Peninsula); 2) the conversion of certain sites that are currently designated for visitor serving uses and/or are developed with visitor serving uses to lower priority land use categories such as residential or private institutional) (e.g. sites at Coast Highway at Cedar Street, 3366 Via Lido, Balboa Blvd. at Island Avenue, and the Balboa Fun Zone); 3) the need to address prioritizing preservation of existing overnight visitor accommodations through appropriate land use designations and policies to address timeshare-type Limited Use Overnight Visitor Accommodations (LUOVAs), 4) the absence of policies to protect and provide for lower cost overnight visitor accommodations; 5) the need to include certain policy provisions to address transit issues and smart growth; and 6) the need to address deficiencies in the biological resource protection policies of the amended plan.

The Commission approved the amendment subject to suggested modifications to bring the amendment into conformity with the policies of Chapter 3 of the Coastal Act. Those modifications are shown in the attached Exhibit 2. The modifications maintained key

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Executive Director Concurrence
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properties in land use designations that prioritize visitor serving and coastal dependent commercial uses (e.g. Visitor Serving Commercial (CV), Mixed Use (MU-W)), established policies to address preservation and provision of lower cost overnight accommodations as well as regulations for LUOVAs, modified and added policies to address transit, smart growth, and biological resource protection.

On July 14, 2009, the Newport Beach City Council adopted Resolution No. 2009-53 acknowledging receipt of the Coastal Commission action and accepting and agreeing to the suggested modifications. The City has submitted the Resolution to the Executive Director for a determination that the City's action is consistent with the Commission's action on February 5, 2009 (see Exhibit 2).

As provided 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 Newport Beach LCP Amendment No. 1-07 shall become effective upon the filing of the required Notice of Certification with the Secretary of Resources as provided in Public Resources Code Section 21080.5(d)(2)(E).

RECOMMENDATION

Staff recommends that the Commission CONCUR with the Executive Director's determination as set forth in the attached letter (a letter that substantially conforms with Exhibit 1 to be sent after Commission endorsement).

CALIFORNIA COASTAL COMMISSION

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

October ____, 2009



Mr. David Lepo, Planning Director
City of Newport Beach
3300 Newport Blvd.
P.O. Box 1768
Newport Beach, CA 92658-8915

Subject: EFFECTIVE CERTIFICATION OF NEWPORT BEACH LOCAL COASTAL
PROGRAM AMENDMENT 1-07

Dear Mr. Lepo:

We are pleased to notify you that on October ____, 2009, the Commission concurred with the Executive Director's determination that the action of the City of Newport Beach accepting certification of Local Coastal Program Land Use Plan (LCP) Amendment No. 1-07 with suggested modifications was legally adequate. Therefore, the LCP amendment will be fully effective upon filing of the notice of the Commission's certification with the Secretary of the Resources Agency as provided by Public Resources Code Section 21080.5(d)(2)(v).

City of Newport Beach LCP Amendment No. 1-07 was submitted for Commission certification pursuant to City Council Resolution No. 2007-70. The approved land use plan amendment would: (a) change the land use classification and density/intensity system currently used in the LUP and LUP maps to reflect the new system adopted in the City General Plan's Land Use Element Update; (b) change land use designations on 55 sites involving several hundred properties in the coastal zone; (c) revise policies and add new policies to address land uses, site design, building volume, mass, clustering, setbacks, architecture, and nonconformities.

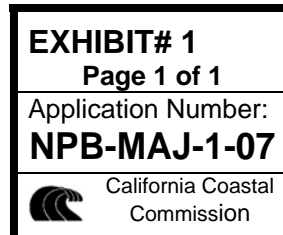
On February 5, 2009, the Commission approved LCP Amendment No. 1-07 with suggested modifications. On July 14, 2009, the Newport Beach City Council adopted Resolution No. 2009-53, acknowledging receipt of the Coastal Commission Action and accepting and agreeing to Local Coastal Program Amendment No. 1-07 as modified. On October ____, 2009, the Commission concurred with the Executive Director's determination that the City Council's acceptance of the Commission's suggested modification was legally adequate.

On behalf of the Coastal Commission, I would like to congratulate the City on the completion of LCP Amendment 1-07. If you have any questions, please contact Karl Schwing at our Long Beach office (562) 590-5071.

Sincerely,

Teresa Henry
District Manager

cc: James Campbell, Principal Planner



RESOLUTION NO. 2009-53

DATE:

7/31/09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH ACKNOWLEDGING RECEIPT OF THE CALIFORNIA COASTAL COMMISSION'S RESOLUTION OF APPROVAL AND RESOLUTION OF CERTIFICATION; ACCEPTING AND AGREEING TO SUGGESTED MODIFICATIONS; ADOPTING LOCAL COASTAL PROGRAM AMENDMENT NO. 2007-001 (PA2007-027) FOR A COMPREHENSIVE UPDATE OF THE LOCAL COASTAL PROGRAM LAND USE PLAN INCORPORATING COASTAL COMMISSION MODIFICATIONS; AND AGREEING TO IMPLEMENT THE MODIFIED COASTAL LAND USE PLAN IN ACCORDANCE WITH THE CALIFORNIA COASTAL ACT.

WHEREAS, the California Coastal Act of 1976 established policies relating to shoreline public access and recreation, lower cost visitor accommodations, terrestrial and marine habitat protection, visual resources, landform alteration, agricultural lands, commercial fisheries, industrial uses, water quality, offshore oil and gas development, transportation, development design, power plants, ports, and public works; and

WHEREAS, in order to achieve maximum responsiveness to local conditions, accountability, and public accessibility, the Coastal Act relies heavily on local government and local land use planning procedures and enforcement through the preparation of Local Coastal Programs; and

WHEREAS, the Coastal Land Use Plan (CLUP) is the policy document of the City's Local Coastal Program and pursuant to the California Coastal Act, the CLUP must include the relevant portion of the City's General Plan that is sufficiently detailed to indicate the kinds, location, and intensity of land uses and the applicable resource protection and development policies; and

WHEREAS, the Land Use Plan portion of City of Newport Beach Local Coastal Program was adopted in 2005 and certified by the Coastal Commission in 2005. However, the Implementation Plan of the Local Coastal Program was never completed; and

WHEREAS, in 2006, the City adopted a comprehensive update of its General Plan, after extensive public outreach and public participation, that changed the land use designations and policies affecting properties within the Coastal Zone; and

WHEREAS, a comprehensive update of the Coastal Land Use Plan is necessary to make it consistent with the comprehensive update of the General Plan adopted in 2006; and

WHEREAS, a public hearing on the Coastal Land Use Plan was held by the Planning Commission on March 8, 2007, in the City Hall Council Chambers, 3300 Newport

Boulevard, Newport Beach, California. A notice of time, place and purpose of the aforesaid meetings was given in accordance with the Municipal Code. Evidence, both written and oral, was presented to and considered by the Planning Commission at these meetings; and

WHEREAS, on July 30, 2007, a notice of the availability of the proposed Coastal Land Use Plan Amendment of the City Coastal Land Use Plan was provided in accordance with Section 13515(c) of the California Code of Regulations; and

WHEREAS, a public hearing on the Coastal Land Use Plan Amendment was held by the City Council on November 13, 2007, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the aforesaid meeting was given in accordance with the Municipal Code. Evidence, both written and oral, was presented to and considered by the City Council at this meeting; and

WHEREAS, on February 5, 2009, the Coastal Commission certified the Coastal Land Use Plan Amendment with the modifications (contained in Exhibit 1) on grounds that the Coastal Land Use Plan Amended with the suggested modifications meets the requirements of, and be in conformity with, the policies of Chapter 3 of the Coastal Act; and

WHEREAS, on July 14, 2009, the City Council held a noticed public hearing in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the aforesaid meeting was given in accordance with the Municipal Code. Evidence, both written and oral, was presented to and considered by the City Council at this meeting; and

WHEREAS, after the public hearing, the City Council did find as follows:

1. The Coastal Land Use Plan, as modified by the California Coastal Commission, indicates the kinds, location, and intensity of land uses and applicable resource protection and development policies as required by the California Coastal Act.
2. The Coastal Land Use Plan is intended to be carried out in a manner fully in conformity with the California Coastal Act.
3. Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the proposal is statutorily exempt from CEQA pursuant to Section 15265(a) (1) of the California Code of Regulations, Title 14, and Chapter 3 of the Coastal Act.
4. The Coastal Land Use Plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200) of the California Coastal Act.

5. Adoption of this Coastal Land Use Plan, as modified by the California Coastal Commission, does not preclude or prejudice the City from amending the Coastal Land Use Plan in the future in a manner consistent with the Coastal Act.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newport Beach as follows:

SECTION 1. The City Council acknowledges receipt of the Commission's resolution of approval on NPB-MAJ-1-07, including any modifications which may have been required.

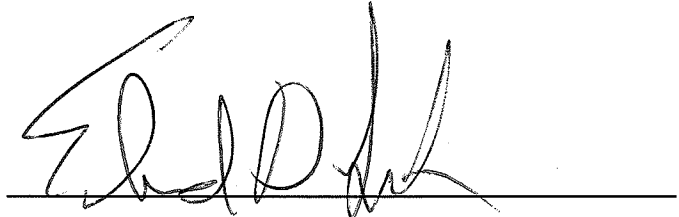
SECTION 2. The City Council acknowledges receipt of the Commission's resolution of certification, including any modifications suggested for final certification, for NPB-MAJ-1-07.

SECTION 3. The City Council accepts and agrees to the terms, conditions, and modifications upon which Local Coastal Program amendment NPB-MAJ-1-07 have been approved.

SECTION 4. The City Council hereby adopts the Coastal Land Use Plan with the modifications approved by the Coastal Commission (Exhibit 1) as contained in attached Exhibit 2.

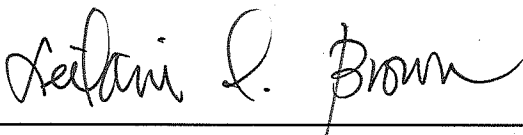
SECTION 5. The City Council agrees to implement the modified Coastal Land Use Plan (Exhibit 2) in accordance with the California Coastal Act.

PASSED, APPROVED, AND ADOPTED this 14th day of July 2009.



MAYOR

ATTEST:



CITY CLERK



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

I, Leilani I. Brown, 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. 2009-53 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 14th day of July, 2009, and that the same was so passed and adopted by the following vote, to wit:

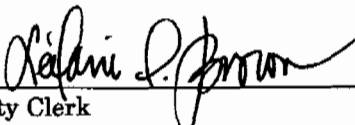
Ayes: Henn, Rosansky, Curry, Webb, Gardner, Daigle, Mayor Selich

Noes: None

Absent: None

Abstain: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 15th day of July, 2009.



City Clerk
Newport Beach, California

(Seal)



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Attachment 1

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Transmittal of Suggested Modifications
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The City shall modify its land use plan maps to reflect the following revisions to the land use categories associated with the listed sites. The City may select an alternative intensity of use for the sites listed, subject to the review and approval of the Executive Director and subject to confirmation by the Commission itself through the Executive Director checkoff procedure.

| Suggested Modification Item No. | Change Number (see Sub Map) | Site Location | Existing Use of Subject Properties | Current CLUP Land Use | Proposed CLUP Land Use | Suggested Modification |
|--|-----------------------------|--|--|--|------------------------------------|---|
| MAP 1 (see City of Newport Beach's Proposed Changes to the CLUP Map "Cp Lu amend Changes MAP_1")(Exhibit 6) | | | | | | |
| 1 | 4 | West Newport Area: Coast Highway at Cedar Street (6306, 6308, 6310 Coast HWY W) | Restaurant (Big Belly Deli); Real Estate Office; Professional Office | CV-A (Visitor Serving Commercial) | RT-E (Residential - Two Family) | Retain CV-A (Visitor Serving Commercial) Land Use Designation |
| MAP 2 (see City of Newport Beach's Proposed Changes to the CLUP Map "Cp Lu amend Changes MAP_2")(Exhibit 6) | | | | | | |
| 2 | 3 | Lido Village Area: 3366 Via Lido | 2-story office building and parking lot | CV-A (Visitor Serving Commercial) | RM-D (Residential - Multiple Unit) | Apply MU-W (Mixed Use-Water Related) Land Use Designation |
| 3 | 15 | Mariners' Mile Corridor: 1200 W. Coast Hwy | Public Tidelands; Balboa Bay Club & Resort - Hotel (available to public) & Private Club & 144 Residential Units | RH-A/CM-C (Residential High Density/Marine Commercial) | MU-W (Mixed Use-Water Related) | Apply CV-B (Commercial-Visitor) Land Use Designation to portion of site occupied by the existing public hotel and supporting facilities; Apply MU-W (Mixed Use-Water Related) to portion of site occupied by the existing residences and club |
| 4 | n/a | McFadden Square: 2102 Ocean Front W | Hotel - Doryman's Inn | CG-C (General Commercial) | MU-W (Mixed Use-Water Related) | Apply CV-B (Visitor Serving Commercial) Land Use Designation |
| 5 | n/a | Mariners' Mile (inland side): 2300 Coast Hwy W | Hotel - Holiday Inn Express | CG-B (General Commercial) | MU-W (Mixed Use-Water Related) | Apply CV-A (Visitor Serving Commercial) Land Use Designation |

Exhibit 1

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| Suggested Modification No. | Change Number (see Map) | Site Location | Existing Use of Subject Property | Current CLUP Land Use | Proposed CLUP Land Use | Suggested Modification |
|--|-------------------------|---|---|--|-----------------------------------|---|
| 6 | n/a | McFadden Square Area: 2306 Ocean Front W | Hotel - Newport Beach Hotel | CG-C (General Commercial) | MU-W (Mixed Use-Water Related) | Apply CV-B (Visitor Serving Commercial) Land Use Designation |
| 7 | n/a | Lido Peninsula (Planning Study Area 1 (PSA-1)) includes Shipyard Way, Anchorage Way, The Rhine, Anza St, Beach Dr, Cabrillo St, Nomad St, Drake St, El Paseo St, Bolivar St, Fremont St, Channel Road, and a portion of Lido Park Dr. | Shipyard, Mobile Home Park, Commercial, Residential | CM-B & RM-B (Recreation & Marine Commercial and Medium Density Residential) | MU-W (Mixed Use-Water Related) | Retain existing CM-B (Recreation & Marine Commercial) and RM-C (Medium Density Residential) Land Use Designations |
| MAP 3 (see City of Newport Beach's Proposed Changes to the CLUP Map "Icp lu amend_Changes_MAP_3") (Exhibit 6) | | | | | | |
| 8 | 2 | Balboa Peninsula: Northerly side of Balboa Boulevard at Island Avenue (500-514 Balboa Blvd. W) | New market under development; plus existing restaurant, hair salon, barber, Laundromat, coffee shop | CR (Commercial -Residential) | RT-E (Residential-Two Family) | Apply MU-V (Mixed Use-Vertical) Land Use Designation |
| 9 | 7 | Balboa Village: 600 E. Bay Ave/ 600 Edgewater Pl) | Balboa Fun Zone - Visitor Serving Commercial & Nautical Museum | CG-C (General Commercial) | PI-C (Private Institutional) | Apply CV-B (Visitor Serving Commercial) Land Use Designation |
| 10 | 11 | 1901-1911 Bayside Drive | Orange County Harbor Patrol/Coast Guard Site | OS (Open Space) | PF-A (Public Facility) | Apply PR (Public Recreation) Land Use Designation over sandy beach area |
| 11 | n/a | Balboa Village: 105 Main Street | Hotel - Balboa Inn | CG-C (General Commercial) | MU-V (Mixed Use-Vertical) | Apply CV -B (Visitor Serving Commercial) Land Use Designation |

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The addition of new policies may affect the numbering of subsequent LUP policies when the City of Newport Beach publishes the final LUP incorporating the Commission's suggested modifications. This staff report will **not** make revisions to the policy numbers. The City will make modifications to the numbering system when it prepares the final LUP for submission to the Commission for certification pursuant to Sections 13544 and 13544.5 of the California Code of Regulations.

California Coastal Commission Suggested Modifications - Inserted language shown in underline; deleted language shown in ~~strike out~~.

Suggested Modification No. 12: In consultation with the Coastal Commission's mapping unit, modify all maps that depict the coastal zone boundary in the Banning Ranch area to accurately depict the location of the coastal zone boundary.

Suggested Modification No. 13: In Chapter 2.0 (Land Use and Development), Section 2.1 (Land Use), Sub-section 2.1.1 (Land Use Categories) modify the 'uses' for Mixed Use Water Related-MU-W in Table 2.1.1-1 (Land Use Plan Categories), as follows: The MU-W category is intended to provide for commercial development on or near the bay in a manner that will encourage the continuation of coastal-dependent and coastal-related uses and visitor-serving uses, as well as allow for the ~~integrated development of mixed-use structures with residential uses above the ground floor.~~ Freestanding residential uses shall be prohibited. Overnight accommodations (e.g. hotels, motels, hostels) are allowed. Limited Use Overnight Visitor Accommodations (e.g. time shares, fractionals, condominium-hotels) may be permitted in lieu of allowable residential development provided the use is above the ground floor.

Suggested Modification No. 14: In Chapter 2.0 (Land Use and Development), Section 2.1 (Land Use), Sub-section 2.1.1 (Land Use Categories) modify the 'uses' for Visitor Serving Commercial-CV in Table 2.1.1-1 (Land Use Plan Categories), as follows: The CV category is intended to provide for accommodations (e.g. hotels, motels, hostels), goods, and services intended to primarily serve visitors to the City of Newport Beach. Limited Use Overnight Visitor Accommodations (e.g. time shares, fractionals, condominium-hotels) (LUOVA) are an allowed use when provided together with traditional overnight, hotel visitor accommodations. Furthermore, any permitted LUOVA shall be subject to specific restrictions on the quantity, duration of owner use of such facilities, management of the accommodations as part of the hotel facility and an allowance for transient overnight use by the general public when not owner occupied. All of these requirements shall be further defined in the implementing regulations for this land use plan (when such regulations are certified) and through the coastal development permit process.

Suggested Modification No. 15: In Chapter 2.0 (Land Use and Development), Section 2.1 (Land Use), Sub-section 2.1.3 (West Newport) modify proposed Policy 2.1.3-1, as follows: Work with community groups and the County to facilitate the acquisition of a portion or all of the Western Entry Parcel (designated RM/OS) as open space, which may be used as a staging area for Orange Coast River Park with public parking, public park-related uses, and an underpass access to the ocean. As an alternative, accommodate multi-family residential on ~~all or portions of the property not used for open space,~~ public parking, and

Exhibit 1

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public park-related uses. Require the siting and design of new development, including landscaping and public access, to maintain buffers of sufficient size to protect sensitive or rare resources including but not limited to those within the Semeniuk Slough wetland against significant disruption of habitat values.

Suggested Modification No. 16: In Chapter 2.0 (Land Use and Development), Section 2.1 (Land Use), Sub-section 2.1.4 (Mariners' Mile), modify introductory narrative as follows: The vitality of the Mariners' Mile Corridor will be enhanced by establishing a series of distinct retail, mixed-use, and visitor-serving centers. Harbor-fronting properties would accommodate a mix of visitor-serving retail, and marine-related businesses and vertically integrated mixed-use structures, with portions of the properties available for housing and mixed-use structures. View and public access corridors from Coast Highway to the Harbor would be required, with a public pedestrian promenade developed along the length of the Harbor frontage. Parcels on the inland side of Coast Highway, generally between Riverside Avenue and the southerly projection of Irvine Avenue, would evolve as a pedestrian-oriented mixed-use "village" containing retail businesses, offices, services, and housing. Sidewalks would be improved with landscape and other amenities to foster pedestrian activity. Inland properties directly fronting onto Coast Highway and those to the east and west of the village would provide for retail, marine-related, and office uses. Streetscape amenities are proposed for the length of Mariners' Mile to improve its appearance and identity.

Suggested Modification No. 17: In Chapter 2.0 (Land Use and Development), Section 2.1 (Land Use), Sub-section 2.1.4 (Mariners' Mile), Modify proposed Policy 2.1.4-1, as follows: For properties located on the inland side of Coast Highway in the Mariners' Mile Corridor (that are designated as MU-H), (a) the Coast Highway frontages shall be developed for marine-related and highway-oriented general commercial uses in accordance with CM and CG categories; and (b) portions of properties to the rear of the commercial frontage may be developed for free-standing neighborhood-serving retail, multi-family residential units, or mixed-use buildings that integrate residential with retail uses on the ground floor in accordance with the CN, RM, CV, or MU-V categories respectively.

Suggested Modification No. 18: In Chapter 2.0 (Land Use and Development), Section 2.1 (Land Use), Sub-section 2.1.4 (Mariners' Mile), Modify proposed Policy 2.1.4-2, as follows: For bay-fronting properties (that are designated as MU-W), encourage marine-related and visitor-serving retail, restaurant, hotel, institutional, and recreational uses intermixed with residential uses. Vertically integrated mixed use structures are allowed as described below. Permitted uses include those permitted by the CM, CV, MFR, and MU-V categories. On sites developed with mixed-use structures, a minimum of 50 percent of the permitted square footage shall be devoted to non-residential uses, any lot shall be used for the CM or CV land uses. Mixed-use structures may only be developed on sites with 200 feet or more of street frontage along Coast Highway and, in aggregate, no more than 50 percent of the waterfront land area along Coast Highway between the Arches Bridge and the Boy Scout Sea Base may be developed with mixed use structures.

Exhibit 1

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Suggested Modification No. 19: In Chapter 2.0 (Land Use and Development), Section 2.1 (Land Use), Sub-section 2.1.4 (Mariners' Mile), Add new policy to Section 2.1.4 (Mariner's Mile), as follows: For bay-fronting properties that are designated as CV or CM, encourage marine-related and visitor-serving retail, restaurant, hotel/motel, institutional, and recreational uses.

Suggested Modification No. 20: In Chapter 2.0 (Land Use and Development), Section 2.1 (Land Use), Sub-section 2.1.4 (Mariners' Mile), Add new policy to Section 2.1.4 (Mariner's Mile), as follows: Development shall be designed and planned to achieve high levels of architectural quality and compatibility among on-site and off-site uses. Adequate pedestrian, non-automobile and vehicular circulation and parking shall be provided.

Suggested Modification No. 21: In Chapter 2.0 (Land Use and Development), Section 2.1 (Land Use), Sub-section 2.1.4 (Mariners' Mile), Add new policy to Section 2.1.4 (Mariner's Mile), as follows: Require sufficient area be provided for individual uses to prevent fragmentation and assure each use's viability, quality, and compatibility with adjoining uses.

Suggested Modification No. 22: In Chapter 2.0 (Land Use and Development), Section 2.1 (Land Use), Sub-section 2.1.4 (Mariners' Mile), Add new policy to Section 2.1.4 (Mariner's Mile), as follows: For bay-fronting properties, provide plazas and other open spaces that protect existing and provide new view corridors and access from Coast Highway to the Harbor.

Suggested Modification No. 23: In Chapter 2.0 (Land Use and Development), Section 2.1 (Land Use), Sub-section 2.1.4 (Mariners' Mile), Add new policy to Section 2.1.4 (Mariner's Mile), as follows: For bay-fronting properties, require that development on the Bay frontage implement amenities that assure access for coastal visitors including the development of a public pedestrian promenade along the bayfront.

Suggested Modification No. 24: In Chapter 2.0 (Land Use and Development), Section 2.1 (Land Use), Sub-section 2.1.4 (Mariners' Mile), Add new policy to Section 2.1.4 (Mariner's Mile), as follows: For bay-fronting properties require that buildings be located and sites designed to provide clear views of and access to the Harbor and Bay from the Coast Highway in accordance with the following principles, as appropriate:

- Clustering of buildings to provide open view and access corridors to the Harbor
- Modulation of building volume and mass
- Variation of building heights
- Inclusion of porticoes, arcades, windows, and other "see-through" elements in addition to the defined open corridor
- Minimization of landscape, fencing, parked cars, and other nonstructural elements that block views and access to the Harbor
- Prevention of the appearance of the harbor being walled off from the public right-of-way
- Inclusion of setbacks that in combination with setbacks on adjoining parcels

Exhibit 1

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cumulatively form functional view corridors

- Encourage adjoining property owners to combine their view corridors to achieve a larger cumulative corridor than would be achieved independently
- A site-specific analysis shall be conducted for new development to determine the appropriate size, configuration, and design of the view and access corridor that meets these objectives, which shall be subject to approval in the Coastal Development Permit process.

Suggested Modification No. 25: In Chapter 2.0 (Land Use and Development), Section 2.1 (Land Use), Sub-section 2.1.5 (Balboa Peninsula) add new maps (or modify existing proposed maps) that define the boundaries of the areas labeled 'Lido Village', 'Cannery Village', 'McFadden Square', 'Lido Peninsula', and 'Balboa Village' consistent with the draft maps submitted by City staff on October 7, 2008.

Suggested Modification No. 26: In Chapter 2.0 (Land Use and Development), Section 2.1 (Land Use), Sub-section 2.1.5 (Balboa Peninsula), Modify proposed Policy 2.1.5-1, as follows: For bay-fronting properties ~~(that are~~ designated as MU-W), marine-related uses may be intermixed with buildings that provide residential on the upper floors. Permitted uses include those permitted by the CM, CV, and MU-V categories. In the MU-W designation, free-standing and ground floor residential shall not be permitted in Lido Marina Village, Cannery Village, McFadden Square, and Balboa Island.

Suggested Modification No. 27: In Chapter 2.0 (Land Use and Development), Section 2.1 (Land Use), Sub-section 2.1.5 (Balboa Peninsula), Modify proposed Policy 2.1.5-2, as follows: Encourage uses that take advantage of Lido Village's location at the Harbor's turning basin and its vitality and pedestrian character, including visitor-serving and retail commercial, small lodging facilities (bed and breakfasts, inns), and mixed-use buildings that integrate residential above the ground floor with retail uses.

Suggested Modification No. 28: In Chapter 2.0 (Land Use and Development), Section 2.1 (Land Use), Sub-section 2.1.5 (Balboa Peninsula), Modify proposed Policy 2.1.5-7, as follows: Accommodate visitor- and local-serving uses that take advantage of McFadden Square's waterfront setting including specialty retail, restaurants, and small scale overnight accommodations, as well as mixed-use buildings that integrate upper floor residential with ground level retail.

Suggested Modification No. 29: In Chapter 2.0 (Land Use and Development), Section 2.1 (Land Use), Sub-section 2.1.5 (Balboa Peninsula), Modify proposed Policy 2.1.5-10, as follows: ~~For~~ For the Balboa Village core properties that are (designated as MU-V), encourage local- and visitor-serving retail commercial and mixed-use buildings that integrate residential with ground level retail or office uses that attract customer activity and improve pedestrian character.

Suggested Modification No. 30: In Chapter 2.0 (Land Use and Development), Section 2.1 (Land Use), Sub-section 2.1.5 (Balboa Peninsula), Add new policy as follows:

Exhibit 1

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Development and use of lands designated CV (Visitor Serving Commercial) within Balboa Village may include a component that is a visitor serving private institutional facility such as a nautical museum, or similar visitor serving private institutional use.

Suggested Modification No. 31: In Chapter 2.0 (Land Use and Development), Section 2.1 (Land Use), Sub-section 2.1.8 (Balboa Bay Tennis Club), Modify proposed Policy 2.1.8-1, as follows: Allow the horizontal intermixing of 27 short-term rental units and 5 single-family homes with the expanded tennis club facilities. Permitted uses include those permitted by the MU-H and PR categories.

Suggested Modification No. 32: In Chapter 2.0 (Land Use and Development), Section 2.2 (General Development Policies), Sub-section 2.2.5 (Nonconforming Structures and Uses), Modify proposed Policy 2.2.5-2, as follows: In the older commercial districts of Balboa Village and Corona del Mar allow existing commercial buildings that exceed current intensity limits to be renovated, upgraded, or reconstructed to no more than their pre-existing intensity, when appropriate to complement the scale and form of existing development, only where a finding can be made that the development will not perpetuate or establish a physical impediment to public access to coastal resources, nor adversely impact coastal views or biological resources. Where such development cannot meet current parking standards, such approval may only be granted if the proposed development includes at least as much parking as the existing development, and provides for or facilitates the use of alternative modes of transportation such as ride-sharing, carpools, vanpools, public transit, bicycling or walking to the extent feasible.

Suggested Modification No. 33: In Chapter 2 (Land Use and Development), Section 2.3 (Visitor Serving and Recreational Development), Sub-section 2.3.1 (Commercial), add the following policy: Any proposal to demolish existing overnight accommodations shall be required to demonstrate that rehabilitation of the units is not feasible. Any hotel/motel rooms for which a certificate of occupancy has been issued on or before the effective date of adoption of Coastal Land Use Plan Amendment No. 2007-001 (NPB-MAJ-1-07) shall not be permitted to convert to a Limited Use Overnight Visitor Accommodation, except as provided in Policy 2.3.3-V.

Suggested Modification No. 34: In Chapter 2 (Land Use and Development), Section 2.3 (Visitor Serving and Recreational Development), Sub-section 2.3.3 (Lower Cost Visitor and Recreational Facilities), Modify existing policy 2.3.3-1, as follows: Protect, encourage and provide lower cost visitor accommodations, including campgrounds, recreational vehicle parks, hostels, and lower cost hotels and motels. Lower-cost visitor and recreational facilities, including campgrounds, recreational vehicle parks, hostels, and lower-cost hotels and motels, shall be protected, encouraged and, where feasible, provided. Developments providing public recreational opportunities are preferred. New development that eliminates existing lower-cost accommodations or provides high-cost overnight visitor accommodations or limited use overnight visitor accommodations such as timeshares, fractional ownership and condominium-hotels shall

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provide lower-cost overnight visitor accommodations commensurate with the impact of the development on lower-cost overnight visitor accommodations in Newport Beach or pay an "in-lieu" fee to the City in an amount to be determined in accordance with law that shall be used by the City to provide lower-cost overnight visitor accommodations.

Suggested Modification No. 35: DELETED BY COMMISSION ACTION AT THE FEBRUARY 5, 2009, HEARING.

Suggested Modification No. 36: DELETED BY COMMISSION ACTION AT THE FEBRUARY 5, 2009, HEARING.

Suggested Modification No. 37: In Chapter 2 (Land Use and Development), Section 2.3 (Visitor Serving and Recreational Development), Sub-section 2.3.3 (Lower Cost Visitor and Recreational Facilities), add the following policy: Policy 2.3.3-W - DEFINING LOW-, MODERATE- AND HIGH-COST OVERNIGHT ACCOMMODATIONS.

A method to define whether a facility providing overnight accommodations is low, moderate, or high cost for the City of Newport Beach coastal zone shall be developed in the implementing regulations for this land use plan (when such regulations are certified) and through the coastal development permit process.

Suggested Modification No. 38: In Chapter 2 (Land Use and Development), Section 2.3 (Visitor Serving and Recreational Development), Policy 2.3.3-V:

Permit limited-use overnight visitor accommodations on the hotel resort property located at 1107 Jamboree Road where such accommodations are provided together with traditional overnight, hotel visitor accommodations and which shall be subject to specific restrictions, including on: quantity (no less than 391 units shall be traditional hotel units available for transient overnight use by the general public year round and no more than 88 of the total 479 units planned may be limited-use overnight visitor accommodations), duration of owner use of such facilities (maximum use of 90 days per calendar year with a maximum of 29 days of use during any 60 day period), management of the units as part of the hotel facility and allowance for transient overnight use by the general public when not owner occupied; all of which shall be further defined in the implementing regulations for this land use plan (when such regulations are certified) and through the coastal development permit process.

Suggested Modification No. 39, add the following definition to Section 5.0 (Glossary): Limited Use Overnight Visitor Accommodations – Any hotel, motel, or other similar facility that provides overnight visitor accommodations wherein some or all of the units, rooms, lots or parcels or other segment of the facility may be sold to a subsequent purchaser who receives the right in perpetuity, for life, or a term of years, to the recurrent, exclusive use or occupancy of a lot, parcel, unit, room(s), or segment of the facility, annually or on some other seasonal or periodic basis, for a period of time that has been or will be allotted from

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the use or occupancy periods into which the facility has been divided and shall include, but not be limited to timeshare, condominium-hotel, fractional ownership hotel, or uses of a similar nature, as those terms shall be defined in the implementing regulations for this land use plan (when such regulations are certified).

Suggested Modification No. 40: In Chapter 2 (Land Use and Development), Section 2.9 (Transportation), Sub-section 2.9.1 (Public Transit), Modify existing Policy 2.9.1-3, as follows: Locate and design larger commercial and residential developments to be served by facilitate provision or extension of transit service and provide non-automobile circulation to serve new within the development to the greatest extent possible.

Suggested Modification No. 41: In Chapter 2 (Land Use and Development), Section 2.9 (Transportation), Sub-section 2.9.1 (Public Transit), Modify existing Policy 2.9.2-6 (Transportation), as follows: Require new non-residential developments with floor areas of 10,000 square feet or more to provide bicycle racks for use by customers. Encourage smaller non-residential developments to provide such facilities, when feasible.

Suggested Modification No. 42: In Chapter 2 (Land Use and Development), Section 2.9 (Transportation), Sub-section 2.9.1 (Public Transit), Modify existing Policy 2.9.2-7 (Transportation), as follows: Require new non-residential developments with a total of 100 or more employees to provide bicycle racks, lockers, and showers for use by employees and tenants who commute by bicycle. Encourage smaller non-residential developments to provide such facilities, when feasible.

Suggested Modification No. 43: In Chapter 2 (Land Use and Development), Section 2.9 (Transportation), Sub-section 2.9.1 (Public Transit), add new policy: The City shall study alternative funding mechanisms to provide a low-cost public transportation system to serve beach areas impacted by traffic during summertime, peak-use periods. The City shall address feasible implementation measures for a summertime shuttle or other transit opportunities in the Implementation Plan of the LCP.

Suggested Modification No. 44: In Chapter 2 (Land Use and Development), Section 2.9 (Transportation), Sub-section 2.9.1 (Public Transit), add new policy: Employment, retail, and entertainment districts and coastal recreational areas should be well served by public transit and easily accessible to pedestrians and bicyclists. Streets, sidewalks, bicycle paths, and recreational trails (including the Coastal Trail) should be designed and regulated to encourage walking, bicycling, and transit ridership.

Suggested Modification No. 45: In Chapter 2 (Land Use and Development), Section 2.9 (Transportation), Sub-section 2.9.1 (Public Transit), add new policy: The City shall encourage employers to provide incentives for transit ridership (e.g. subsidies for transit use, shuttles to transit stations), ridesharing, vanpools, and other transportation demand measures designed to reduce vehicle miles traveled.

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Suggested Modification No. 46: In Chapter 2 (Land Use and Development), Section 2.9 (Transportation), Sub-section 2.9.1 (Public Transit), add new policy: Encourage new developments to design projects to facilitate transit ridership and ridesharing through such means as locating and designing building entries that are convenient to pedestrians and transit riders.

Suggested Modification No. 47, Chapter 4 (Coastal Resource Protection), Section 4.1 (Biological Resources), Sub-section 4.1.1 (Environmentally Sensitive Habitats), add the following policy: In conjunction with new development, require that all preserved ESHA, buffers, and all mitigation areas, onsite and offsite, be conserved/dedicated (e.g. open space direct dedication, offer to dedicate (OTD), conservation easement, deed restriction) in such a manner as to ensure that the land is conserved in perpetuity. A management plan and funding shall be required to ensure appropriate management of the habitat area in perpetuity.

Suggested Modification No. 48, Chapter 4 (Coastal Resource Protection), Section 4.1 (Biological Resources), Sub-section 4.1.1 (Environmentally Sensitive Habitats), add the following policy: Require all direct open space dedications or OTDs to be made to a public agency or other appropriate entity that will manage the open space area on behalf of the public.

Suggested Modification No. 49, Chapter 4 (Coastal Resource Protection), Section 4.1 (Biological Resources), Sub-section 4.1.1 (Environmentally Sensitive Habitats), add the following policy: Encourage the acceptance of direct open space dedications or OTDs to the public by the City, a public agency, a private association, or other appropriate entity.

Suggested Modification No. 50, Chapter 4 (Coastal Resource Protection), Section 4.1 (Biological Resources), Sub-section 4.1.1 (Environmentally Sensitive Habitats), add the following policy: Give consideration to applying the Open Space land use category to lands with open space restrictions, dedications, or offers to dedicate.

Suggested Modification No. 51, Chapter 4 (Coastal Resource Protection), Section 4.1 (Biological Resources), Sub-section 4.1.1 (Environmentally Sensitive Habitats), add the following policy: Dedicated open space areas, or areas where there are open space offers to dedicate, open space easements, and/or open space deed restrictions shall be protected consistent with the requirements of the dedication, offer to dedicate, easement or deed restriction.

Suggested Modification No. 52, Chapter 4 (Coastal Resource Protection), Section 4.1 (Biological Resources), Sub-section 4.1.1 (Environmentally Sensitive Habitats), add the following policy: The City shall maintain an inventory of open space dedications or offers to dedicate to ensure such areas are known to the public and are protected through the coastal development permit process.

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Suggested Modification No. 53, in Chapter 4 (Coastal Resource Protection), Section 4.2 (Wetlands and Deepwater Areas) , Sub-section 4.2.3 (Dredging, Diking, and Filling), Modify Existing Policy 4.2.3-1, as follows (and re-letter as appropriate): Permit the diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes in accordance with other applicable provisions of the LCP, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects and limited to the following:

- A. Construction or expansion of port/marine facilities.
 - B. Construction or expansion of coastal-dependent industrial facilities, including commercial fishing facilities, and commercial ferry facilities.
 - ~~C. In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities shall not exceed 25 percent of the degraded wetland.~~
 - D. In open coastal waters, other than wetlands, including estuaries and streams, new or expanded boating facilities, including slips, access ramps, piers, marinas, recreational boating, launching ramps, and pleasure ferries, and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.
- ...
- [no intervening changes]

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