

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
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(562) 590-5071



October 25, 2012

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TO: COMMISSIONERS AND INTERESTED PERSONS

**FROM: SHERILYN SARB, DEPUTY DIRECTOR
TERESA HENRY, SOUTH COAST DISTRICT MANAGER
KARL SCHWING, ORANGE COUNTY AREA SUPERVISOR
FERNIE SY, COASTAL PROGRAM ANALYST II**

**SUBJECT: STAFF RECOMMENDATION ON CITY OF NEWPORT BEACH
LOCAL COASTAL PROGRAM (LCP) AMENDMENT NO. NPB-
MAJ-1-11 for Commission Meeting of November 14-15, 2012**

SYNOPSIS

SUMMARY OF AMENDMENT REQUEST

CLUP Amendment No. 1-11 involves changing the LUP designation in the City's Coastal Land Use Plan (CLUP) of several properties in the City of Newport Beach:

- 1) Change from Two-Unit Residential (RT) to Mixed-Use Vertical (MU-V) for properties at 6904 and 6908-6936 West Coast Highway;
- 2) Change from Two-Unit Residential (RT) to General Commercial (CG) for property at 6480 West Coast Highway;
- 3) Change from Multiple Unit Residential (RM) to Mixed-Use Vertical (MU-V) for properties at 3363, 3369 and 3377 Via Lido and 3378 Via Oporto; and
- 4) Change from Two-Unit Residential (RT) to Mixed Use Horizontal (MU-H) for property at 105 15th Street.

These new land use designations would be consistent with a majority of the current uses of the properties (commercial or mixed use), which are currently non-conforming due to the residential land use designation. No alterations to the existing buildings or uses on these sites are proposed. Retaining the current residential land use designations would not allow the establishment of higher priority uses and would also be inconsistent with the current uses of the properties. The proposed land use designation changes would allow retention of the existing land uses and allow for future development in accordance with the standards of the proposed higher priority commercial and visitor-serving retail commercial use land use designations. These new land use designations were approved by the City of Newport Beach City Council as reflected in the attached Resolutions with corresponding General Plan and Zoning Code Amendment (not certified) to ensure consistency between all local land use regulations. The only action before the Commission is the change to the land use designations of these properties in the Coastal Land Use Plan; the General Plan and Zoning Code have not been certified by the

Commission and are not currently subject to Commission review. The City is not yet fully certified as it does not have an Implementation Plan.

The major issue raised by this amendment request is adequate provision of visitor-serving retail and commercial development.

SUMMARY OF STAFF RECOMMENDATION

Coastal Commission staff recommends that the Commission **APPROVE** the proposed City of Newport Beach Local Coastal Program (LCP) Amendment 1-11 as submitted. The motion to accomplish this is found on Page 3.

The subject Coastal Land Use Plan (CLUP) Amendment was submitted and filed as complete on October 20, 2011. A one-(1) year time extension was granted on January 11, 2012. As such, the last date for Commission action on this item is January 18, 2013.

ADDITIONAL INFORMATION

For further information, please contact **Fernie Sy** at the South Coast District Office of the Coastal Commission at (562) 590-5071. The proposed amendment to the Certified Coastal Land Use Plan of the City of Newport Beach Local Coastal Program is available for review at the Long Beach Office of the Coastal Commission or at the City of Newport Beach Planning Department. The City of Newport Beach Planning Department is located at 3300 Newport Boulevard in Newport Beach. **James Campbell** is the contact person for the City's Planning Division, and he may be reached by calling (949) 644-3249.

EXHIBITS

1. City Council Resolution No. 2011-41
2. City Council Resolution No. 2011-79
3. City Council Resolution No. 2011-85
4. Proposed CLUP Amendment Map for 6904 and 6908-6936 West Coast Highway and 6480 West Coast Highway
5. Proposed CLUP Amendment Map 3363, 3369 and 3377 Via Lido and 3378 Via Oporto
6. Proposed CLUP Amendment Map 105 15th Street

PART I. OVERVIEW

A. LCP HISTORY

The Certified Coastal Land Use Plan (CLUP) for the City of Newport Beach was effectively certified on May 19, 1982, and subsequently amended multiple times. Most recently, the Certified CLUP was updated on October 8, 2009.

The current CLUP Amendment request was submitted by the City of Newport Beach on September 27, 2011 to the South Coast District Office. Additional information was requested by Coastal Commission staff on October 10, 2011. City staff submitted the information on October 20, 2011 and on that date Coastal Commission staff determined that the amendment request was complete. A one-(1) year time extension to extend the ninety (90)-day time limit for the Certified CLUP to be scheduled for a public hearing and have the Coastal Commission take action was granted on January 11, 2012, which extended the time limit to January 18, 2013.

B. 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 a CLUP Amendment if it finds that it meets the requirements of, and is in conformity with, the policies of Chapter 3 of the Coastal Act. Specifically, Section 30512 states: “(c) *The Commission shall certify a land use plan, or any amendments thereto, if it finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200). Except as provided in paragraph (1) of subdivision (a), a decision to certify shall require a majority vote of the appointed membership of the Commission.*”

C. PUBLIC PARTICIPATION

The City of Newport Beach approved this CLUP Amendment through three (3) different City Council and Planning Commission actions:

1) 6904 and 6908-6936 West Coast Highway and 6480 West Coast Highway

A City Council Public Hearing was held on May 10, 2011 which approved City Council Resolution No. 2011-41 (Exhibit #1); City Council Public Hearings were held on May 10, 2011 and May 24, 2011 which approved City Council Ordinance No. 2011-15; and a Planning Commission Hearing was held on April 7, 2011 which approved Planning Commission Resolution No. 1839.

2) 3363, 3369 and 3377 Via Lido and 3378 Via Oporto

A City Council Public Hearing was held on June 28, 2011 which approved City Council Resolution No. 2011-79 (Exhibit #2); City Council Public Hearings were held on June 28, 2011 and July 12, 2011 which approved

City Council Ordinance No. 2011-18; and a Planning Commission Hearing was held on May 5, 2011 which approved Planning Commission Resolution No. 1841.

3) 105 15th Street:

A City Council Public Hearing was held on August 9, 2011 which approved City Council Resolution No. 2011-85 (Exhibit #3); City Council Public Hearings were held on August 9, 2011 and September 13, 2011 which approved City Council Ordinance No. 2011-21; and a Planning Commission Hearing was held on July 7, 2011 which approved Planning Commission Resolution No. 1848.

The applicants and members of the public made comments at the public hearings for each of the three (3) actions. Written correspondence was received regarding the public hearing for the properties located at 6904 and 6908-6936 West Coast Highway and 6480 West Coast Highway associated with City Council Resolution No. 2011-41; City Council Ordinance No. 2011-15; and Planning Commission Resolution No. 1839.

PART II. COMMISSION RESOLUTION ON CITY OF NEWPORT BEACH LOCAL COASTAL PROGRAM (LCP) AMENDMENT 1-11

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

MOTION:

*“I move that the Commission **CERTIFY** the City of Newport Beach Coastal Land Use Plan Amendment NPB-MAJ-1-11 as submitted.”*

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Coastal Land Use Plan Amendment as submitted and adoption of the following resolutions and findings. The motion to certify as submitted passes only upon affirmative vote of a majority of the appointed Commissioners.

RESOLUTION:

The Commission hereby CERTIFIES the City of Newport Beach Coastal Land Use Plan Amendment 1-11 as submitted and adopts the findings stated below on the grounds that the amendment will meet the requirements of and be in conformity with the policies of Chapter 3 of the California Coastal Act. Certification of the Coastal Land Use Plan Amendment complies with the California Environmental Quality Act (CEQA) because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that could

substantially lessen any significant adverse impacts on the environment that may result from certification of the Coastal Land Use Plan.

PART III. FINDINGS FOR APPROVAL OF THE CITY OF NEWPORT BEACH'S COASTAL LAND USE PLAN (CLUP) AMENDMENT AS SUBMITTED

The Commission hereby finds and declares as follows. The following pages contain the specific findings for approval of the City of Newport Beach Coastal Land Use Plan Amendment NPB-MAJ-1-11 as submitted.

A. SITE DESCRIPTION AND ZONE DESIGNATION

The proposed land use redesignations will affect a number of properties located in three (3) areas within the City of Newport Beach:

- 1) 6904 and 6908-6936 West Coast Highway and 6480 West Coast Highway in the City of Newport Beach, Orange County (West Newport Area-Inland Side of West Oceanfront).

The properties located at 6904 and 6908-6936 West Coast Highway are currently designated Two-Unit Residential (RT) in the City's Certified Coastal Land Use Plan (Exhibit #4, pages 1-2). The property at 6904 West Coast Highway is currently developed with an animal shelter (National Cat Protection Society) building, which is currently inconsistent with the current residential land use designation. The properties at 6908-6936 West Coast Highway (three (3) lots) are currently developed with a single-family residence located on the rear half (landward) of the two (2) westernmost properties, and a commercial building (The Frog House) located on the easternmost property, which are inconsistent with the current residential land use designation. Parking for The Frog House is located on the front half (fronting West Coast Highway) of the easternmost properties. This amendment proposes to change the land use designation of these properties to Mixed-Use Vertical (MU-V) (Exhibit #4, pages 1-2). The Certified Coastal Land Use Plan describes this land use designation as follows: *The MU-V category is intended to provide for the development of properties for (a) mixed-use structures that vertically integrate housing with retail uses, where the ground floor shall be restricted to retail and other pedestrian-active uses along the street frontage and/or the upper floors used for residential units, or (b) structures containing nonresidential uses including retail, office, restaurant, and similar uses.*

The property located at 6480 West Coast Highway is currently designated Two-Unit Residential (RT) in the City's Certified Coastal Land Use Plan and is currently developed with a commercial building, which is

inconsistent with the residential land use designation (Exhibit #4, page 3). This amendment proposes to change the land use designation of this property to General Commercial (CG) (Exhibit #4, page 3). The Certified Coastal Land Use Plan describes this land use designation as follows: *The CG category is intended to provide for a wide variety of commercial activities oriented primarily to serve citywide or regional needs.*

- 2) 3363, 3369 and 3377 Via Lido and 3378 Via Oporto in the City of Newport Beach, Orange County (Inland Side of Via Lido in the Lido Marina Village Area).

The properties located at 3363, 3369 and 3377 Via Lido and 3378 Via Oporto are currently designated Multiple Unit Residential (RM) in the City's Certified Coastal Land Use Plan (Exhibit #5). The properties are currently developed with two (2), single-story commercial buildings that are occupied by a salon, a day spa, and two (2) office developments. This amendment proposes to change the land use designation of these properties to Mixed-Use Vertical (MU-V) (Exhibit #5). The MU-V designation allows ground floor commercial and upper floor residential, as is described in greater detail above.

3. 105 15th Street in the City of Newport Beach, Orange County (Inland Side of West Oceanfront on the Balboa Peninsula).

The property located at 105 15th Street is currently designated Two-Unit Residential (RT) in the City's Certified Land Use (Exhibit #6). The property is currently developed with a mixed-use building with commercial use on the ground floor and a residential unit above. This amendment proposes to change the land use designation of this property to Mixed Use Horizontal (MU-H) (Exhibit #6). The Certified Coastal Land Use Plan describes this land use designation as follows: *The MU-H category is intended to provide for the development of areas for a horizontally distributed mix of uses, which may include general or neighborhood commercial, commercial offices, multi-family residential, visitor-serving and marine-related uses, and/or buildings that vertically integrate residential with commercial uses.*

B. COASTAL ACT POLICY AND PROPOSED CHANGES IN LAND USE DESIGNATION

As stated previously, the Coastal Act is the standard of review in the current analysis. The Coastal Act encourages the provision of visitor-serving commercial facilities. As explained below, the proposed CLUP Amendment is in conformity with all applicable sections of the Coastal Act, including the following:

Section 30222 of the Coastal Act 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.

- 1) 6904 and 6908-6936 West Coast Highway and 6480 West Coast Highway in the City of Newport Beach, Orange County (West Newport Area-Inland Side of West Oceanfront).

The properties located at 6904 and 6908-6936 West Coast Highway are currently designated Two-Unit Residential (RT) and the proposed CLUP Amendment (NPB-MAJ-1-11) involves a request to change the land use designation to Mixed-Use Vertical (MU-V). The property located at 6480 West Coast Highway is currently designated Two-Unit Residential (RT) and the proposed CLUP Amendment (NPB-MAJ-1-11) involves a request to change the land use designation to General Commercial (CG).

Properties fronting West Coast Highway are located in a prime location for visitor-serving retail and commercial opportunities because of their location near similar uses and the beach. The properties proposed for redesignation all front West Coast Highway and are located within close proximity of Visiting Serving Commercial (CV) areas identified in the City's Certified Coastal Land Use Plan that also front West Coast Highway (Exhibit #4). Additionally, the sites for redesignation are located near the beach (across West Coast Highway). The existing surrounding uses (i.e. restaurants, bike shop, etc.) provide visitor-serving retail and commercial opportunities for the beach going public, as well as, the additional surrounding residential areas. The redesignation of these subject properties to Mixed-Use Vertical (MU-V) and General Commercial (CG) would allow these properties to provide visitor-serving retail and commercial uses that would be consistent with the area along West Coast Highway that a residential use designation would not be able to provide. The existing uses on these properties would be consistent with the new land use designations, except for the existing single-family residence located at 6908-6936 West Coast Highway. While the existing residence would not be consistent with the new land use designation, the proposed new land use designation would require a higher priority use that must be adhered to for any future development that may occur on site. As such, the redesignation of the sites is consistent with the pattern of development and uses in the surrounding area.

- 2) 3363, 3369 and 3377 Via Lido and 3378 Via Oporto in the City of Newport Beach, Orange County (Inland Side of Via Lido in the Lido Marina Village Area).

The properties located at 3363, 3369 and 3377 Via Lido and 3378 Via Oporto are currently designated Multiple Unit Residential (RM) and the proposed CLUP Amendment (NPB-MAJ-1-11) involves a request to change the land use designation to Mixed-Use Vertical (MU-V).

The subject properties are located at the southern edge of the Lido Marina Village where visitor-serving retail and commercial uses such as, specialty retail uses, restaurants, office uses, City Hall and churches are currently found. Policies in

the certified Coastal Land Use Plan, including 2.1.5-10, encourage a combination of visitor-serving retail commercial and local commercial uses in the Lido Marina Village area. The subject properties are surrounded by Certified Coastal Land Use Plan designated Mixed-Use Water (MU-W) and General Commercial (CG) uses which encourage higher priority uses that provide opportunities for the public to enjoy the coast (Exhibit #5). The redesignation of these subject properties to Mixed-Use Vertical (MU-V) would allow the existing uses to retain and would also allow uses that are a higher priority. Retaining the current land use designation would foreclose the opportunity to provide high priority visitor-serving retail and commercial uses. Furthermore, the existing uses are not consistent with the current land use designation. The MU-V designation would still allow residential development; however, as required in the Certified Coastal Land Use Plan, it would have to be developed above visitor-serving retail and commercial uses, which are higher priority uses and should be located on the ground floor. Additionally, the redesignation would promote mixed use development on the sites in the future. As such, the redesignation of the sites is consistent with the pattern of development and uses in the surrounding area.

3. 105 15th Street in the City of Newport Beach, Orange County (Inland Side of West Oceanfront on the Balboa Peninsula).

The property located at 105 15th Street is currently designated Two-Unit Residential (RT) and the proposed CLUP Amendment (NPB-MAJ-1-11) involves a request to change the land use designation to Mixed-Use Horizontal (MU-H).

The subject property is located on 15th Street, which has historically and is currently developed with a mixed-use (residential/commercial) structure. The subject property is located adjacent to and along a stretch of properties that are also designated Mixed-Use Horizontal (MU-H) in the Certified Coastal Land Use Plan (Exhibit #6). The MU-H designation allows for a mixture of commercial and residential uses on the lot, however, the arrangement of those uses can include residential and commercial on the ground floor as well as upper floors. The redesignation of the subject property from residential to Mixed-Use Horizontal (MU-H) would be consistent with the current use, and would allow for future redevelopment as mixed use, including commercial development that is a higher priority than residential. Additionally, the site is near the public beach, where commercial development would better serve the needs of beach visitors. As such, the redesignation of the sites is consistent with the pattern of development and uses in the surrounding area.

The proposed land use plan changes will allow for high priority visitor-serving retail commercial uses that the current properties more or less already provide, but will also lay the groundwork for any future development on these sites to include higher priority uses, as well as in some cases elevate the use of the site to a higher priority use. These land use designation changes would make the properties consistent with the pattern of development and uses in their surrounding areas. Retaining the current residential land uses designations of these sites, would foreclose the opportunity to preserve and/or establish higher priority uses upon these properties. Therefore, the proposed amendment, as submitted, would be consistent with Section 30222 of the Coastal Act.

PART VI. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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

The CLUP Amendment involves a request to change the land use designations of a number of sites from Two-Unit Residential (RT) or Multiple Unit Residential (RM) to Mixed-Use Vertical (MU-V), General Commercial (CG) or Mixed-Use Horizontal (MU-H). As proposed, the changes in land use will be consistent with existing development and the character of the surrounding neighborhoods.

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

RESOLUTION NO. 2011-41

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH APPROVING AMENDMENTS TO THE LAND USE ELEMENT OF THE GENERAL PLAN AND COASTAL LAND USE PLAN TO CHANGE THE LAND USE DESIGNATION FROM TWO-UNIT RESIDENTIAL TO MIXED-USE VERTICAL (MU-V) FOR PROPERTIES LOCATED AT 6904, and 6908-6936 WEST COAST HIGHWAY (PA2010-182, AND PA2011-014); AND FROM TWO-UNIT RESIDENTIAL TO GENERAL COMMERCIAL (CG 0.5) FOR THE PROPERTY LOCATED AT 6480 WEST COAST HIGHWAY (PA2010-190), ALL LOCATED WITHIN LAND USE STATISTICAL AREA B1

THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. On July 25, 2006, the Newport Beach City Council adopted Resolution No. 2006-76 approving a comprehensive update to the Newport Beach General Plan ("General Plan Update").
2. On November 13, 2007, the City Council adopted Resolution No. 2007-71 approving Coastal Land Use Plan Amendment No. LC2007-001 making the Coastal Land Use Plan consistent with the General Plan Update.
3. On February 5, 2009, the Coastal Commission certified Coastal Land Use Plan Amendment No. LC2007-001 with suggested modifications as consistent with Chapter 3 of the Coastal Act (NPB_MAJ_1-07).
4. On July 14, 2009, the City Council adopted Resolution No. 2010-053 accepting all Coastal Commission suggested modifications and re-adopting Coastal Land Use Plan Amendment No. LC2007-001 to incorporate all of the suggested modifications within the Coastal Land Use Plan.
5. On July 14, 2009, the City Council adopted Resolution No. 2010-054 initiating a General Plan Amendment to make the Land Use Element of the General Plan consistent with Coastal Land Use Plan Amendment No. LC2007-001.
6. Pursuant to Section 65352.3 of the California Government Code, the appropriate tribe contacts identified by the Native American Heritage Commission were provided notice of the proposed General Plan Amendment on January 21, 2011. The California Government Code requires 90 days to allow tribe contacts to respond to the request to consult unless the tribe contacts mutually agree to a shorter time period. The response period ended on April 21, 2011, and only a single response was received, but no requests for consultation were received.

7. A public hearing was held on April 7, 2011, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting. At the conclusion of the public hearing, the Planning Commission voted unanimously (7 ayes, 0 noes) to adopt Planning Commission Resolution No. 1839 recommending City Council adoption of the recommended General Plan Amendments, Coastal Land Use Plan Amendments, and amendments to the Zoning Code.
8. A public hearing was held on May 10, 2011, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the City Council at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15302 – Class 2 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment. Therefore, this activity is not subject to CEQA.
2. The City's action to amend the General Plan, the Coastal Land Use Plan and the Zoning Code as requested by the property owners is exempt from the California Environmental Quality Act pursuant to California Code of Regulations §15265.
3. The Planning Commission finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial challenge, and bear the responsibility for any costs, attorneys' fees, and damages which may be awarded to a successful challenger.

Therefore, to the fullest extent permitted by law, applicant and property owner shall defend, indemnify, release and hold harmless the City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to the project, the project's approval based on the City's CEQA determination and/or the City's failure to comply with the requirements of any federal, state, or local laws, including, but not limited to, CEQA, General Plan and zoning requirements. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, or

proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding.

SECTION 3. FINDINGS.

1. The proposed amendments of the Land Use Element of the General Plan, the Coastal Land Use Plan and the Zoning Code are necessary to implement the request of the property owner's of the three properties involved in the application to change the designations.
2. The General Plan Amendments No. GP2010-012, 013 and GP2011-002, when added to previous General Plan Amendments within the last 10 years, result in the following increases in residential units, peak hour A.M. and P.M. trips, and/or non-residential floor area within Land Use Statistical Area B1:

Table 1: Charter Section 423 Analysis Summary, Statistical Area B1				
	Allowed Floor Area	A.M. Peak Hour Trips	P.M. Peak Hour Trips	Increase in Allowed Dwelling Units
Proposed GP2010-002	4,708 sq. ft.	13.46	17.99	-2
Proposed GP2010-013	2,068 sq. ft.	5.32	7.19	-2
Proposed GP2011-002	6,711 sq. ft.	21.80	28.86	3
SUBTOTAL (CG, and MU-V with residential units)	13,487.5 sq. ft.	40.58	54.04	-1
Prior Amendment GP2010-001	2,550 sq. ft.(80%)	5.89 (80%)	8.04 (80%)	0
TOTAL	16,037.5 sq. ft.	46.47	62.08	-1

A.M. peak hour trip rate is 3 per 1,000 sq. ft

P.M. peak hour trip rate is 4 per 1,000 sq. ft.

Pursuant to the requirements of Charter Section 423 (Measure S) and Council Policy A-18 (Measure S Guidelines), General Plan Amendment Nos. GP2010-012, 013 and GP2011-002 are classified as a "Minor Amendment" and no vote of the electorate is required.

3. The existing buildings and uses, and future development of those properties affected by the proposed amendments will be consistent with the goals and policies of the Land Use Element of the General Plan and the Coastal Land Use Plan; and will be consistent with the purpose and intent of the CG 0.5 and MU-V zoning districts of the Newport Beach Municipal Code.

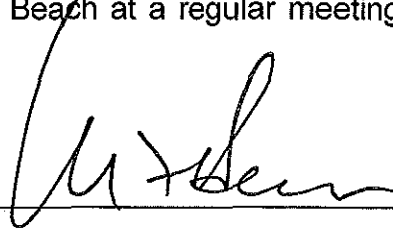
NOW, THEREFORE, BE IT RESOLVED:

The City Council of the City of Newport Beach hereby approves General Plan Amendments and Coastal Land Use Plan Amendments as indicated below and as shown in attached Exhibits A, B and C.

Exhibit:	Project File Nos.:	Locations:	Activity Nos.:
A	PA2010-190	6480 West Coast Hwy	GP2010-013 and LC2010-003
B	PA2011-014	6904 West Coast Hwy	GP2011-002 and LC2011-001
C	PA2010-182	6908-6936 West Coast Hwy	GP2010-002 and LC2010-002

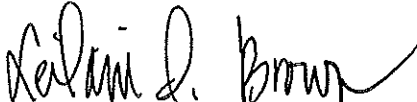
Passed and adopted by the City Council of Newport Beach at a regular meeting held on the May 10, 2011.

MAYOR



ATTEST:

CITY CLERK



RESOLUTION NO. 2011-79

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWPORT BEACH APPROVING AMENDMENTS TO THE
LAND USE ELEMENT OF THE GENERAL PLAN AND
COASTAL LAND USE PLAN FOR PROPERTY LOCATED AT
3363, 3369 & 3377 VIA LIDO AND 3378 VIA OPORTO (PA2011-
024)**

THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Allan Fainbarg, property owner, with respect to property located at 3363, 3369 & 3377 Via Lido and 3378 Via Oporto, and legally described as Portion of Lot 4 of Tract No. 1117, Book 35, Page 48 of Miscellaneous Maps, requesting approval of General Plan Amendment No. GP2011-003 and Local Coastal Plan Amendment LC2011-002, to change the General Plan Land Use and Coastal Land Use Plan designations from RM (Multiple-Unit Residential) to MU-V (Mixed-Use Vertical) Zoning District.
2. On July 25, 2006, the Newport Beach City Council adopted Resolution No. 2006-76 approving a comprehensive update to the Newport Beach General Plan ("General Plan Update").
3. On November 13, 2007, the City Council adopted Resolution No. 2007-71 approving Coastal Land Use Plan Amendment No. LC2007-001 making the Coastal Land Use Plan consistent with the General Plan Update.
4. On February 5, 2009, the Coastal Commission certified Coastal Land Use Plan Amendment No. LC2007-001 with suggested modifications as consistent with Chapter 3 of the Coastal Act (NPB_MAJ_1-07).
5. On July 14, 2009, the City Council adopted Resolution No. 2010-053 accepting all Coastal Commission suggested modifications and re-adopting Coastal Land Use Plan Amendment No. LC2007-001 to incorporate all of the suggested modifications within the Coastal Land Use Plan.
6. On July 14, 2009, the City Council adopted Resolution No. 2010-054 initiating a General Plan Amendment to make the Land Use Element of the General Plan consistent with Coastal Land Use Plan Amendment No. LC2007-001.

7. Pursuant to Section 65352.3 of the California Government Code, the appropriate tribe contacts identified by the Native American Heritage Commission were provided notice of the proposed General Plan Amendment on February 28, 2011. The California Government Code requires 90 days to allow tribe contacts to respond to the request to consult unless the tribe contacts mutually agree to a shorter time period. The response period ended on May 28, 2011. No requests for consultation were received.
8. A public hearing was held on May 5, 2011, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting. At the conclusion of the public hearing, the Planning Commission voted unanimously (7 ayes, 0 noes) to adopt Planning Commission Resolution No. 1841 recommending City Council adoption of the proposed General Plan Amendment, Coastal Land Use Plan Amendment, and Zoning Code Amendment.
9. A public hearing was held on June 28, 2011, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the City Council at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15302 – Class 2 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3. The proposed amendments are exempt since they do not entail any significant alternation to the subject property and are essentially bringing the General Plan Land Use designation, Coastal Land Use designation and Zoning District to be consistent with the existing use of the buildings located on the subject property involved.
2. The City's action to amend the General Plan, the Coastal Land Use Plan and the Zoning Code as requested by the property owner is exempt from the California Environmental Quality Act pursuant to California Code of Regulations §15265.
3. The Planning Commission finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial challenge, and bear the responsibility for any costs, attorneys' fees, and damages which may be awarded to a successful challenger.

Therefore, to the fullest extent permitted by law, applicant and property owner shall defend, indemnify, release and hold harmless the City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to the project, the project's approval based on the City's CEQA determination and/or the City's failure to comply with the requirements of any federal, state, or local laws, including, but not limited to, CEQA, General Plan and zoning requirements. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding.

SECTION 3. FINDINGS.

1. The proposed amendments of the Land Use Element of the General Plan, the Coastal Land Use Plan and the Zoning Code are necessary to implement the property owner request.
2. General Plan Amendment No. GP2011-003 when added to previous General Plan Amendments within the last 10 years, results in the following increases in residential units, peak hour A.M. and P.M. trips, and/or non-residential floor area within Land Use Statistical Area B5:

Table 1 Charter Section 423 Analysis Summary Statistical Area B5				
	Allowed Floor Area	A.M. Peak Hour Trips	P.M. Peak Hour Trips	Increase in Allowed Dwelling Units
Prior Amendment GP2010-005	12,083 (at 80%)	36.30 (at 80%)	48.40 (at 80%)	0
Proposed GP2011-003	4,053	12.67	16.83	1
TOTAL	16,136	48.97	65.23	1

Pursuant to the requirements of Charter Section 423 (Measure S) and Council Policy A-18 (Measure S Guidelines), General Plan Amendment No. GP2011-003 is classified as a "Minor Amendment" and no vote of the electorate is required.

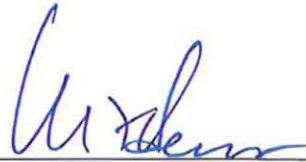
3. The existing buildings and uses, and future development of the subject property affected by the proposed amendment will be consistent with the goals and policies of the Land Use Element of the General Plan and the Coastal Land Use Plan; and will be consistent with the purpose and intent of the MU-V zoning district of the Newport Beach Municipal Code.

SECTION 4. DECISION

NOW, THEREFORE, BE IT RESOLVED:

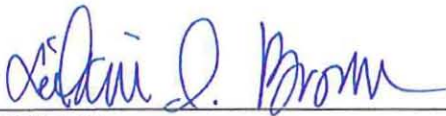
1. Amendments to the General Plan and Local Coastal Land Use Plan are legislative acts. Neither the City nor State Planning Law set forth any required findings for either approval or denial of such amendments.
2. The City Council of the City of Newport Beach hereby authorizes submittal of the Local Coastal Land Use Plan Amendment to the California Coastal Commission for formal review and approval.
3. Local Coastal Land Use Plan Amendment No. LC2011-002 shall not become effective until after California Coastal Commission approves it and subsequent action is taken to adopt the Amendment by the City Council.
4. The City Council of the City of Newport Beach hereby approves General Plan Amendment as shown in attached Exhibit A and Coastal Land Use Plan Amendment as shown in attached Exhibit B.

Passed and adopted by the City Council of Newport Beach at a regular meeting held on the June 28, 2011.



MAYOR

ATTEST:



CITY CLERK



RESOLUTION NO. 2011-85

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH APPROVING AMENDMENTS TO THE LAND USE ELEMENT OF THE GENERAL PLAN AND COASTAL LAND USE PLAN FOR PROPERTY LOCATED AT 105 15th STREET (PA2011-061)

THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Morrie and Wanda Nero with respect to the subject property located at 105 15th Street, legally described as Lot 3, Block 15, Section B, Newport Beach Tract, requesting approval of General Plan Amendment No. GP2011-004, and Coastal Land Use Plan Amendment LC2011-003, changing the designation from Two-Unit Residential (RT and RT-D) to Mixed-Use Horizontal (MU-H4 AND MU-H); and Code Amendment No. CA2011-007 changing the zoning designation from Two-Unit Residential (RT) to Mixed-Use Cannery Village and 15th Street (MU-CV/15th ST) Zoning District.
2. On June 7, 1990, the Planning Commission approved Use Permit No. 3383 that authorized the construction of a mixed-use building located at that time in the C-1 Zoning District, for the property located at 105 15th Street.
3. On July 25, 2006, the Newport Beach City Council adopted Resolution No. 2006-76 approving a comprehensive update to the Newport Beach General Plan ("General Plan Update").
4. On November 13, 2007, the City Council adopted Resolution No. 2007-71 approving Coastal Land Use Plan Amendment No. LC2007-001 making the Coastal Land Use Plan consistent with the General Plan Update.
5. On February 5, 2009, the Coastal Commission certified Coastal Land Use Plan Amendment No. LC2007-001 with suggested modifications as consistent with Chapter 3 of the Coastal Act (NPB_MAJ_1-07).
6. On July 14, 2009, the City Council adopted Resolution No. 2010-053 accepting all Coastal Commission suggested modifications and re-adopting Coastal Land Use Plan Amendment No. LC2007-001 to incorporate all of the suggested modifications within the Coastal Land Use Plan.
7. On July 14, 2009, the City Council adopted Resolution No. 2010-054 initiating a General Plan Amendment to make the Land Use Element of the General Plan consistent with Coastal Land Use Plan Amendment No. LC2007-001.

8. Pursuant to Section 65352.3 of the California Government Code, the appropriate tribe contacts identified by the Native American Heritage Commission were provided notice of the proposed General Plan Amendment on May 9, 2011. The California Government Code requires 90 days to allow tribe contacts to respond to the request to consult unless the tribe contacts mutually agree to a shorter time period. The response period ended on August 7, 2011. No requests for consultation were received.
9. A public hearing was held on July 7, 2011, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting. At the conclusion of the public hearing, the Planning Commission voted unanimously (7 ayes, 0 noes) to adopt Planning Commission Resolution No. 1848 recommending City Council adoption of the proposed General Plan Amendment, Coastal Land Use Plan Amendment, and Zoning Code Amendment.
10. A public hearing was held on August 9, 2011, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the City Council at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15302 – Class 2 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3. The proposed amendments are exempt since they do not entail any significant alternation to the subject property and are essentially bringing the General Plan Land Use designation, Coastal Land Use designation and Zoning District to be consistent with the existing use of the buildings located on the subject property involved.
2. The City's action to amend the General Plan, the Coastal Land Use Plan and the Zoning Code as requested by the property owner is exempt from the California Environmental Quality Act pursuant to California Code of Regulations §15265.
3. The City Council finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial challenge, and bear the responsibility for any costs, attorneys' fees, and damages which may be awarded to a successful challenger.

Therefore, to the fullest extent permitted by law, applicant and property owner shall defend, indemnify, release and hold harmless the City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses,

judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to the project, the project's approval based on the City's CEQA determination and/or the City's failure to comply with the requirements of any federal, state, or local laws, including, but not limited to, CEQA, General Plan and zoning requirements. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding.

SECTION 3. FINDINGS.

1. The proposed amendments of the Land Use Element of the General Plan, the Coastal Land Use Plan and the Zoning Code are necessary to implement the property owner request.
2. General Plan Amendment No. GP2011-004 (added to previous General Plan Amendments within the last 10 years, there were none) results in the following increases in residential units, peak hour A.M. and P.M. trips, and/or non-residential floor area within Land Use Statistical Area D1:

Table 1: Charter Section 423 Analysis Summary Statistical Area D1				
	Allowed Floor Area	A.M. Peak Hour Trips	P.M. Peak Hour Trips	Increase in Allowed Dwelling Units
Proposed GP2011-004	1,250 sq. ft.	3.38	4.54	0
Prior Amendments	None	None	None	None
TOTALS (MU-H4 is permitted)	1,250 sq. ft.	3.38	4.54	0

Pursuant to the requirements of Charter Section 423 (Measure S), and Council Policy A-18 (Measure S Guidelines), General Plan Amendment No. GP2011-004 is classified as a "Minor Amendment" and no vote of the electorate is required.

3. The existing building and uses, and future development of the property affected by the proposed amendments will be consistent with the goals and policies of the Land Use Element of the General Plan and the Coastal Land Use Plan; and will be consistent with the purpose and intent of the MU-CV/15th ST zoning district of the Newport Beach Municipal Code.

SECTION 4. DECISION

NOW, THEREFORE, BE IT RESOLVED:

1. Amendments to the General Plan and Local Coastal Land Use Plan are legislative acts. Neither the City nor State Planning Law set forth any required findings for either approval or denial of such amendments.
2. The City Council of the City of Newport Beach hereby approves General Plan Amendment as shown in attached Exhibit A and Coastal Land Use Plan Amendment as shown in attached Exhibit B.
3. The City Council of the City of Newport Beach hereby authorizes submittal of the Local Coastal Land Use Plan Amendment to the California Coastal Commission for formal review and approval.
4. The City of Newport Beach approval of Local Coastal Land Use Plan Amendment No. LC2011-003 shall not become effective until the effective date of the California Coastal Commission approval.

Passed and adopted by the City Council of Newport Beach at a regular meeting held on August 9, 2011.

MAYOR

ATTEST:

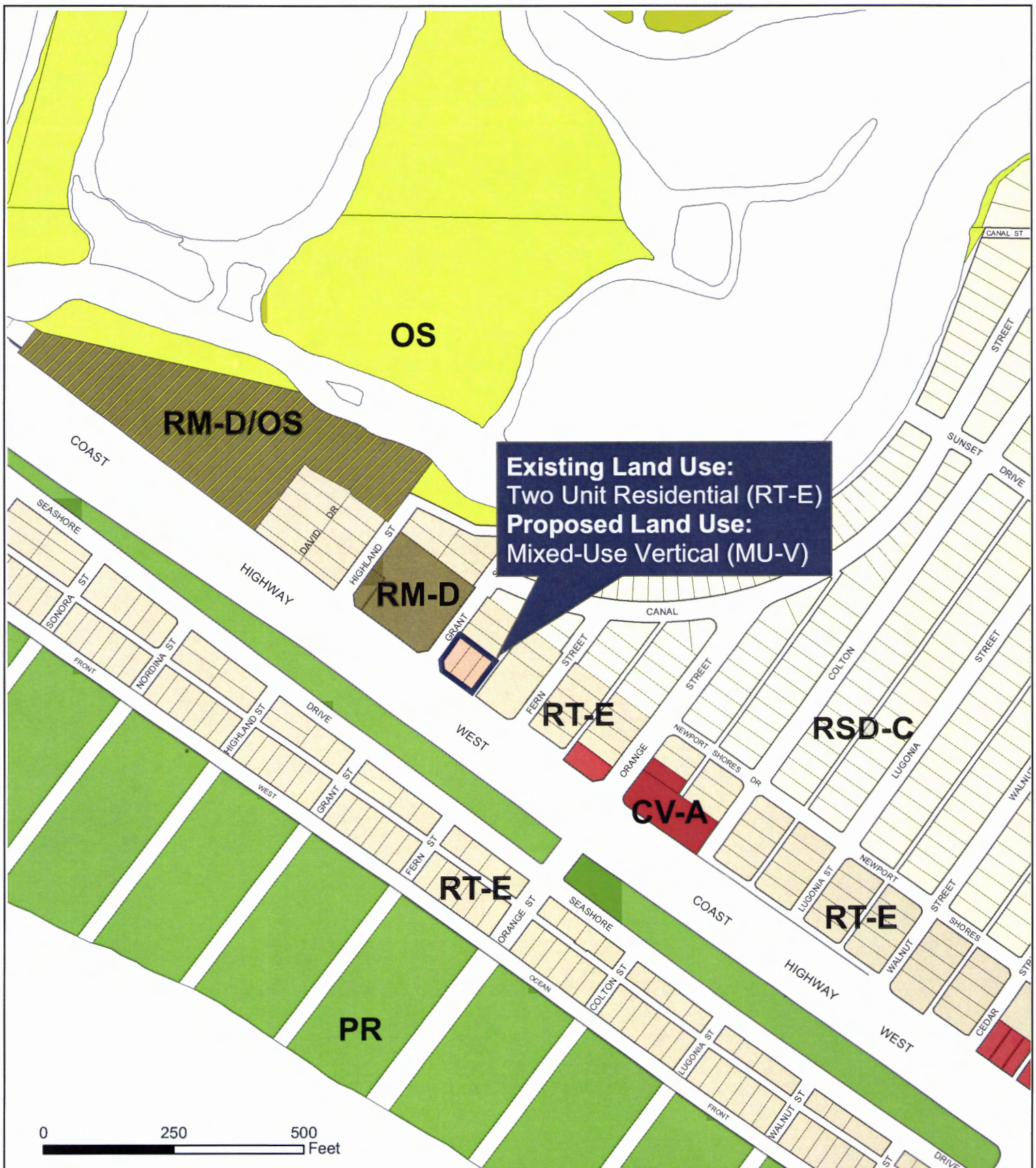
CITY CLERK





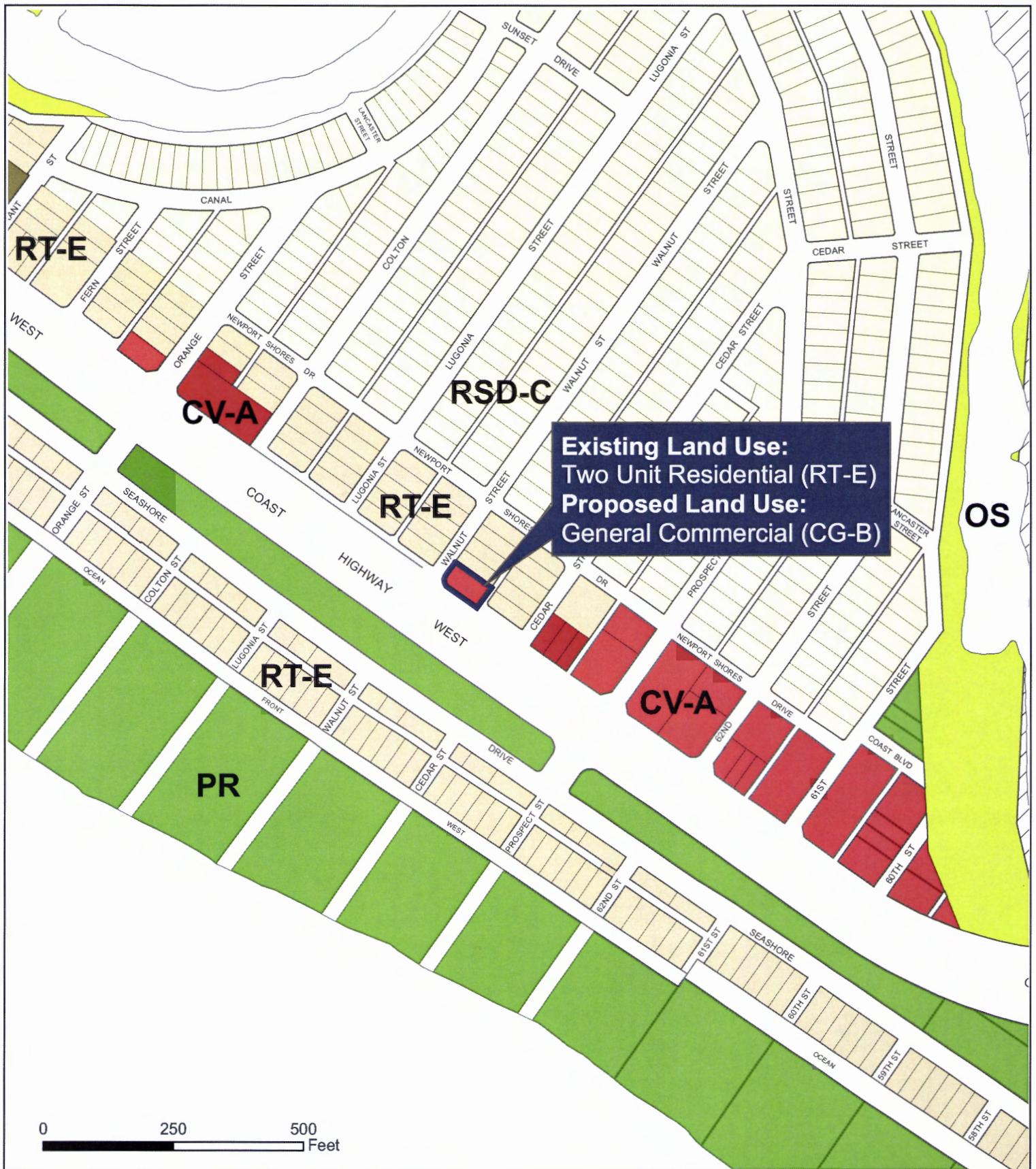
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Coastal Land Use Plan Amendment
6904 West Coast Highway





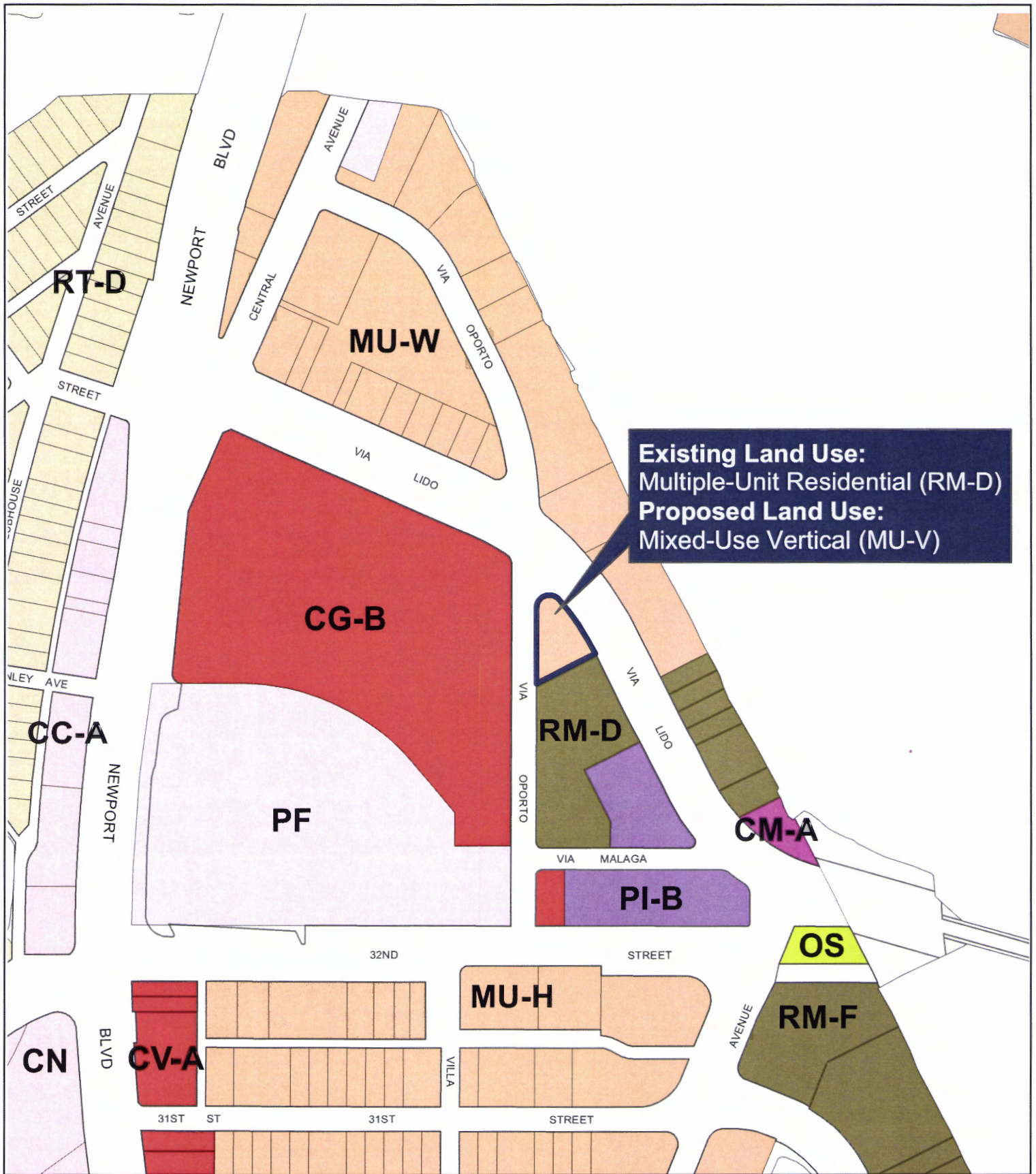
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Coastal Land Use Plan Amendment
6908-6936 West Coast Highway





LC2010-003 (PA2010-190)
Coastal Land Use Plan Amendment
6480 West Coast Highway





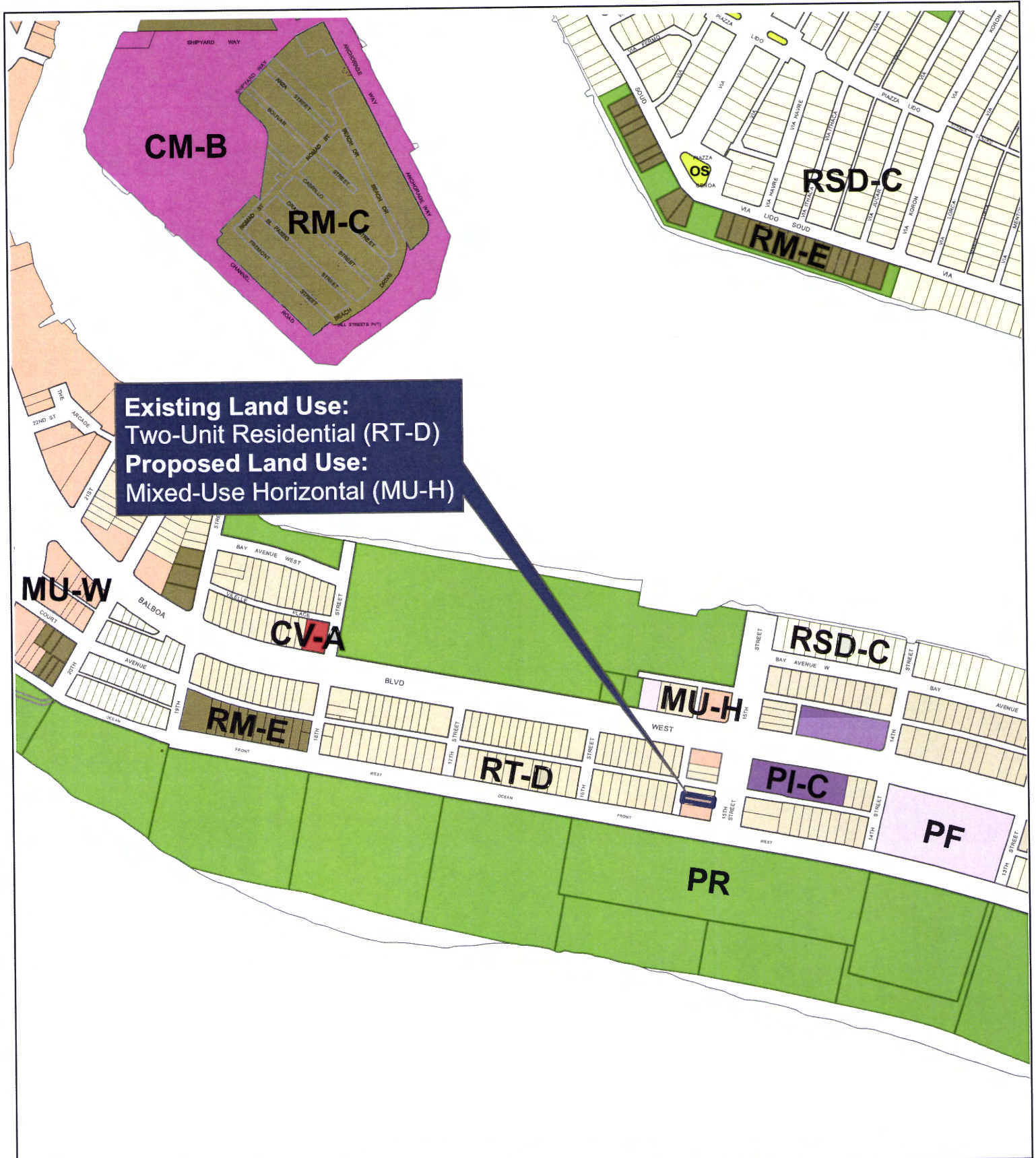
LC2011-002 (PA2011-024)
Coastal Land Use Plan Amendment
 3363, 3369, and 3377 Via Lido
 & 3378 Via Oporto

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LC2011-003 (PA2011-061) Coastal Land Use Plan Amendment

105 15th Street

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