

CALIFORNIA COASTAL COMMISSION

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



October 24, 2013

F21c

TO: COMMISSIONERS AND INTERESTED PERSONS

FROM: SHERILYN SARB, DEPUTY DIRECTOR
TERESA HENRY, SOUTH COAST DISTRICT MANAGER
KARL SCHWING, ORANGE COUNTY AREA SUPERVISOR
JEFFREY RABIN, COASTAL PROGRAM ANALYST

SUBJECT: STAFF RECOMMENDATION ON CITY OF NEWPORT BEACH
COASTAL LAND USE PLAN (LUP) AMENDMENT NO. NPB-MAJ-2-12 for
the Commission Meeting of November 15, 2013.

SYNOPSIS

SUMMARY OF AMENDMENT REQUEST

CLUP Amendment No. NPB-MAJ-2-12 would change the land use designation in the City of Newport Beach Coastal Land Use Plan (CLUP) for several properties in the City:

- 1) Modify the land uses at 2888 Bay Shore Drive from Multiple-Unit Residential (RM-C, with a maximum density of 19.9 dwelling units per acre) to Multiple-Unit Residential (RM-D, with a maximum density of 29.9 dwelling units per acre);
- 2) Modify land uses at 2890 Bay Shore Drive from Multiple Unit Residential (RM-C, with a maximum density of 19.9 dwelling units per acre) to Mixed-Use Water Related (MU-W);
- 3) Modify land uses at 514 E. Ocean Front from Two-Unit Residential (RT-E) to Mixed-Use Vertical (MU-V);
- 4) Modify land uses at 200 30th Street from Two-Unit Residential (RT-E) to Visitor Serving Commercial (CV-A).

These new land use designations would be consistent with a majority of the current uses of the properties (residential, commercial, or mixed use), which are currently non-conforming due to the present land use designation. No alterations to the existing buildings or uses on these sites are

proposed. In most cases, retaining the current residential land use designations would 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 and commercial land use designations. The new CLUP designations were approved by the Newport Beach City Council as reflected in the attached Resolutions, along with corresponding General Plan and Zoning Code Amendments to ensure consistency between all local land use regulations. The only action before the Commission is the change in the land use designations of the subject properties. The changes are embodied in the City of Newport Beach Coastal Land Use Plan Amendment NPB-MAJ-2-12. The City's General Plan and Zoning Code have not been certified by the Commission and are not currently subject to Commission review. The City's LCP is not yet fully certified since it does not have an Implementation Plan.

Several issues are raised by this amendment request. All of the existing uses on the subject properties that are part of this request are non-conforming. The Newport Beach City Council has established a maximum time period for the abatement and termination of nonconforming uses in residential districts. The current land use designations do not reflect the uses of the existing structures. The amendments would change the land use designations to bring the properties into conformance with the City's Certified Coastal Land Use Plan. In three cases, the amendments would change the residential land use designations to include existing visitor-serving retail and commercial development, which the Coastal Act identifies as having a higher priority than residential uses.

SUMMARY OF STAFF RECOMMENDATION

Coastal Commission staff recommends that the Commission **APPROVE** the proposed City of Newport Beach Coastal Land Use Plan (CLUP) Amendment NPB-MAJ-2-12 as submitted. The motion to accomplish this is found on Page 5.

The subject Coastal Land Use Plan (CLUP) Amendment was submitted October 22, 2012. On November 5, 2012, Commission staff advised the City that the application was incomplete. After the submittal of additional information, the application was deemed complete on June 7, 2013.

At the request of the City, a one (1) year time extension was granted by the Commission on August 14, 2013. As such, the last date for Commission action on this item is September 5, 2014.

ADDITIONAL INFORMATION

For further information, please contact **Jeffrey Rabin** in the South Coast District Office of the Coastal Commission at **(562) 590-5071**. The proposed amendments to the City of Newport Beach Certified Coastal Land Use Plan are available for review at the Long Beach office of the Coastal Commission or at the City of Newport Beach Planning Division. The Planning Division is located at 100 Civic Center Drive, Bay B-1, Newport Beach. The City's **Planning Manager Patrick Alford** is the contact person for the CLUP amendments. He may be reached by calling **(949) 644-3235**.

EXHIBITS

1. City Council Resolution No. 2012-17
2. City Council Resolution No. 2012-18
3. City Council Resolution No. 2012-25
4. City Council Resolution No. 2013-34
5. Proposed CLUP Amendment Map for 514 East Ocean Front
6. Proposed CLUP Amendment Map for 2888 and 2890 Bay Shore Drive
7. Proposed CLUP Amendment Map at 200 30th Street

PART I. OVERVIEW

A. LCP HISTORY

The 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 City of Newport Beach submitted the current CLUP Amendment request to the Commission's South Coast District Office on October 22, 2012. The application was deemed incomplete. Coastal Commission staff requested additional information on November 5, 2012.

After the submittal of additional information, Commission staff determined that the amendment request was complete on June 7, 2013. The ninety (90) day time limit on amendments to a certified CLUP would have required the Commission to schedule a public hearing and take action on the City's request by September 5, 2013.

The City of Newport Beach requested that Commission staff prioritize other high-priority City projects over the proposed land use changes. Accordingly, the Commission on August 14, 2013 granted a one (1) year extension for the CLUP amendment to be scheduled for a public hearing. The last date for Commission action on this item is September 5, 2014.

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 the proposed CLUP Amendments through three (3) different City Council and Planning Commission actions:

1) 514 East Ocean Front (SCAP III, LLC)

The Newport Beach City Council held a public hearing on February 14, 2012 and adopted City Council Resolution No. 2012-17 (Exhibit 1); the City Council held a public hearing on April 9, 2013 and approved City Council Resolution No. 2013-34 (Exhibit 4). The Newport Beach Planning Commission held a public hearing on January 19, 2012 and adopted Planning Commission Resolution No. 1865 recommending City Council adoption of the proposed General Plan Amendment, Coastal Land Use Plan Amendment, and Zoning Code Amendment.

2) 2888 and 2890 Bay Shore Drive (Presta Property)

The Newport Beach City Council held a public hearing on February 14, 2012 and adopted City Council Resolution 2012-18 (Exhibit 2); the City Council held a public hearing on April 9, 2013 and approved City Council Resolution No. 2013-34 (Exhibit 4). The Newport Beach Planning Commission held a public hearing on December 8, 2011 and adopted Planning Commission Resolution No. 1864 recommending City Council adoption of the proposed General Plan Amendment, Coastal Land Use Plan Amendment, and Zoning Code Amendment.

3) 200 30th Street (Beach Coin Laundry, LLC)

The Newport Beach City Council held a public hearing on March 27, 2012 and adopted City Council Resolution 2012-25 (Exhibit 3); the City Council held a public hearing on April 9, 2013 and approved City Council Resolution No. 2013-34 (Exhibit 4). The Newport Beach Planning Commission held a public hearing on February 9, 2012 and adopted Planning Commission Resolution No. 1869 recommending City Council adoption of the proposed General Plan Amendment, Coastal Land Use Plan Amendment, and Zoning Code Amendment.

The applicants and members of the public made comments at public hearings for each of the three (3) actions. Written correspondence was received from neighbors expressing concern about one of the retail stores on the property at 514 E. Ocean Front. The proposed change in land use designation for that property is discussed in City Council Resolutions No. 2012-17 and No. 2013-34. The neighbors said they are asthmatic and are negatively affected by cigar smoke from the cigar store across the street from their condominium. They complained that customers are smoking at tables outside the cigar shop until late at night. They also said patrons of the cigar store have illegally parked in spaces designated for residents of their condominium complex.

PART II. COMMISSION RESOLUTION ON CITY OF NEWPORT BEACH COASTAL LAND USE PLAN (CLUP) AMENDMENT 2-12

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-2-12 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 resolution 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 NPB-MAJ-2-12 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-2-12 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) 514 East Ocean Front in the City of Newport Beach, Orange County (Balboa Village Area).

The property located at 514 East Ocean Front is currently designated Two-Unit Residential (RT-E) in the City's Certified Coastal Land Use Plan (Exhibit 1, page 1). The two-story structure at the corner of East Ocean Front and Palm Street is currently divided into four storefronts on the ground floor (also known as 101–107 Palm Street) and five residential units on the second floor (Exhibit 5, page 1). The visitor-serving commercial uses on the ground floor include a snack shop/bicycle rental store and a cigar store. Two ground-floor storefronts are currently vacant. The commercial businesses are inconsistent with the current residential land use designation. This amendment proposes to change the property's land use designation to Mixed-Use Vertical (MU-V) (Exhibit 5, page 2). The City's 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.*

- 2) 2888 and 2890 Bay Shore Drive

Both properties located at 2888 and 2890 Bay Shore Drive, immediately south of West Coast Highway, are currently designated Multiple-Unit Residential (RM-C, with a maximum density of 19.9 dwelling units per acre) in the City's Certified Coastal Land Use Plan (Exhibit 2, page 1). The property at 2888 Bay Shore Drive (Exhibit 6, page 1) is currently developed with an apartment complex containing 39 residential units on a 1.55-acre site. The proposed amendment would change the land use designation of the property to Multiple-Unit Residential (RM-D, with a maximum density of 29.9 dwelling units per acre) (Exhibit 6, page 2). The Certified Coastal Land Use Plan describes the RM land use designation as follows: *The RM category is intended to provide primarily for multi-family residential development containing attached or detached dwelling units.*

Along with the proposed change in the Coastal Land Use Plan designation, the Newport Beach City Council has adopted a General Plan amendment and Zoning District amendment to restrict the density on the property to a maximum of 39 dwelling units. This translates into approximately 26 dwelling units per acre and is consistent with the density allowed by the proposed amendment to the Coastal Land Use Plan.

The adjacent property at 2890 Bay Shore Drive (Exhibit 6, page 1) is currently designated Multiple-Unit Residential (RM-C, with a maximum density of 19.9 dwelling units per acre). However, the 20,025 square foot property is currently developed with a mixed-use building containing a leasing office for the Bay Shores Apartments and Swales Anchorage Marina, a marine surveyor's office, and a caretaker's unit on the second floor. The property also has carports and surface parking to accommodate the adjacent Bay Shore Apartments and a storage unit facility. Swales Anchorage Marina contains 56 boat slips and provides power, water, restrooms, showers, phones, dock carts, and lockers. The commercial marina is not restricted to residents of Bay Shore Apartments or the adjacent gated Bayshores residential community. Both the apartments and marina are accessible to the public from nearby West Coast Highway and can be accessed by a driveway just before the gatehouse for the Bayshores community. The proposed amendment to the City's Coastal Land Use Plan would change designation of the property at 2890 Bay Shore Drive to MU-W (Mixed-Use Water Related) (Exhibit 6, page 2). The Certified Coastal Land Use Plan describes this land use designation 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 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.*

3) 200 30th Street in the City of Newport Beach, Orange County

The 2,371 square foot property located at 200 30th Street (Exhibit 7, page 1) is currently designated Two-Unit Residential (RT-E, with a maximum density of 39.9 dwelling units per acre) in the City's Certified Coastal Land Use Plan (Exhibit 3, page 1). The single-story structure at the corner of 30th Street and busy Balboa Boulevard was developed before the Coastal Act as a commercial building and has long been occupied by a laundromat. The proposed amendment would change the property's land use designation to Visitor Serving Commercial (CV-A) (Exhibit 7, page 2). The City's Certified Coastal Land Use Plan describes this land use designation as follows: *The CV category is intended to provide 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 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.

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) 514 East Ocean Front in the City of Newport Beach, Orange County (Balboa Village Area).

The property located at 514 East Ocean Front is currently designated Two-Unit Residential (RT-E). The proposed CLUP Amendment NPB-MAJ-2-12 involves a request by the property owner to change the land use designation to Mixed-Use Vertical (MU-V).

The building at the corner of East Oceanfront—a popular beachfront pedestrian/bicycle path—and Palm Street is a prime location in Balboa Village. The two-story structure, which predates the Coastal Act, is close to the large Balboa Pier parking lot. Although two ground floor storefronts are currently vacant, the existing snack shop/bicycle rental store and cigar store on the Palm Street side of the building provide visitor-serving retail. The redesignation of the property as Mixed-Use Vertical (MU-V) would recognize this visitor-serving role while also allowing the existing residential uses on the second-floor. Opportunities for redevelopment of the property would be limited by a lack of on-site parking. The revised land use designation is consistent with the pattern of development and uses in the surrounding Balboa Village area.

2) 2888 and 2890 Bay Shore Drive

The property located at 2888 Bay Shore Drive, just south of West Coast Highway, is currently designated Multiple-Unit Residential (RM-C, with a maximum density of 19.9 dwelling units per acre). However, the 1.55-acre site is currently developed as a 39-unit apartment complex. The proposed CLUP amendment would change the land use designation of the property to Multiple-Unit Residential (RM-D, with a maximum density of 29.9 dwelling units per acre.) Although the apartment complex adjoins the gated Bayshores community, the bayfront site is accessible to the public. The redesignation would recognize the residential land use that exists today.

The adjacent property at 2890 Bay Shore Drive also is currently designated Multiple-Unit Residential (RM-C, with a maximum density of 19.9 dwelling units per acre). The designation does not reflect the reality of the current land use. The nearly half-acre property is currently developed with a mixed-use building containing a leasing office for the Bay Shores Apartments and Swales Anchorage Marina, a marine surveyor's office, and a caretaker's unit on the second floor. The property, which once was part of the same parcel where the Bay Shores Apartments are located, is currently developed with carports and surface parking for the apartment complex. Swales Anchorage Marina, located just south of the Coast Highway bridge that separates Upper and Lower Newport Bay, includes 56 boat slips. The proposed amendment to the City's Coastal Land Use Plan would change the land use designation at 2890 Bay Shore Drive to MU-W (Mixed-Use Water Related). The revised land use is consistent with the use of the property for coastal-dependent and coastal-related uses. The marina's boat slips are accessible to the public from nearby West Coast Highway and rental of the slips is not limited to residents of the apartment complex or the adjacent Bayshores community

3) 200 30th Street in the City of Newport Beach, Orange County

Although there are no residential units on the property at 200 30th Street, the site is currently designated as Two-Unit Residential (RT-E, with a maximum density of 39.9 dwelling units per acre). The single-story structure was developed as a commercial building before the Coastal Act became law. It has long been occupied by a Laundromat, which serves both visitors and residents of the predominantly residential area, a few blocks from the beach. The proposed amendment would change the property's land use designation to Visitor Serving Commercial (CV-A), which reflects the building's actual land use. Many of the residential units in the surrounding area are vacation homes or rentals. The building stands at the corner of 30th Street and Balboa Boulevard, one of two major arterial streets on the Balboa Peninsula. The revised land use designation is consistent with the pattern of development and land uses along the heavily-traveled Balboa Boulevard corridor.

The proposed land use plan changes will allow for the continuation of high priority coastal-dependent, coastal-related, and visitor-serving uses that the current properties more or less already provide. It will also lay the groundwork for any future development on these sites to include higher priority uses. These land use designation changes would make the properties consistent with the pattern of development and uses in their surrounding areas. The one location where the land use will remain residential has been developed with a residential use since before passage of the Coastal Act. Retention of that residential land use will not affect the City's ability to provide support for visitors in the area. 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 by property owners to change the land use designation of a number of parcels from Two-Unit Residential (RT) or Multiple-Unit Residential (RM-C) to Multiple-Unit Residential (RM-D); Mixed-Use Vertical (MU-V); Mixed-Use Water Related (MU-W); or Visitor Serving Commercial (CV-A). As proposed, the changes in land use would 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. 2012-17

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH APPROVING AMENDMENTS TO THE GENERAL PLAN AND COASTAL LAND USE PLAN FOR PROPERTY LOCATED AT 514 E. OCEAN FRONT (PA2011-196)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Terry A. Jones, on behalf of the property owner SCAP III, LLC, with respect to the subject property located at 514 E. Ocean Front, legally described as Lots 15 and 16, Block 6, Balboa Tract, requesting approval of General Plan Amendment No. GP2011-009 and Coastal Land Use Plan Amendment LC2011-005 changing the land use designation from Two-Unit Residential (RT and RT-E) to Mixed-Use Vertical (MU-V); and Code Amendment No. CA2011-012 changing the zoning designation from Two-Unit Residential (R-2) to Mixed-Use Vertical (MU-V).
2. In 1948, the City of Newport Beach permitted the construction of a mixed-use building located at 514 E. Ocean Front.
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"), resulting in the land use designation of the subject property to change from Retail and Service Commercial with an allowance for residential above the first floor to Two-Unit Residential.
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. The Coastal Land Use Plan designation for the property was changed from General Commercial with an allowance for residential above the first floor to Two-Unit Residential.
5. On January 28, 2008, the City Council adopted an ordinance (Ordinance No. 2008-05) that established the maximum time period for the abatement and termination of nonconforming uses in residential districts. However, determinations of nonconformity could not be made until the finalization of the City's Local Coastal Plan (LCP), which occurred on July 14, 2009, and subsequent Zoning Code Update which became effective November 25, 2010.

6. On October 25, 2010, the City Council adopted a Comprehensive Update to the Zoning Code (Title 20) bringing consistency between the Zoning Code and the Land Use Element of the General Plan. The zoning designation of the property was changed from Specific Plan No. 8/Retail and Service Commercial (SP8/RSC) to Two-Unit Residential (R-2). The result of that action rendered commercial uses located within residential districts nonconforming. In accordance with Ordinance No. 2008-05, mentioned above, those properties are subject to abatement.
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 November 3, 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 February 1, 2012. No requests for consultation were received.
8. A public hearing was held on January 19, 2012, 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 (6 ayes, 0 noes) to adopt Planning Commission Resolution No. 1865 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 February 14, 2012, 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 15301 – Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3. The proposed amendments are exempt since they do not entail alteration to the subject property and are establishing consistency between the General Plan Land Use designation and Coastal Land Use designation with the existing use of the buildings located on the subject property.
2. The City's action to amend the Coastal Land Use Plan 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. Council Policy A-18 requires that proposed General Plan amendments be reviewed to determine if a vote of the electorate would be required. If a project (separately or cumulatively with other projects over a 10-year span) exceeds any one of the following thresholds, a vote of the electorate would be required: if the project generates more than 100 peak hour trips (AM or PM); adds 40,000 square feet of non-residential floor area; or, adds more than 100 dwelling units in a statistical area.
3. This is the second General Plan Amendment that affects Statistical Area D3 since the General Plan update in 2006. Although there is no increase in the number of dwelling units, the amendment results in 4,061 additional square feet of non-residential floor area. The additional floor area results in an increase of 10 a.m. peak hour trips and an increase 14 p.m. peak hour trips based on the commercial and residential housing trip rates reflected in Council Policy A-18. As none of the thresholds specified by Charter Section 423 are exceeded, no vote of the electorate is required.

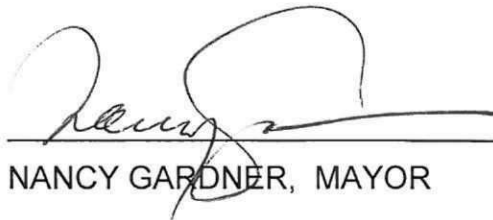
4. The existing building and uses, and future development of the property affected by the proposed amendments will be consistent with the goals and policies of the Land Use Element of the General Plan and the Coastal Land Use Plan; and will be consistent with the purpose and intent of the MU-V zoning 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 approves General Plan Amendment No. GP2011-009 as shown in attached Exhibit A and Coastal Land Use Plan Amendment No. LC2011-005 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. This resolution 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 February 14, 2012, by the following vote to wit:



NANCY GARDNER, MAYOR

ATTEST:



LEILANI BROWN, CITY CLERK

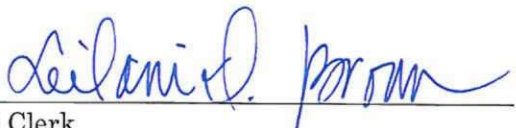


STATE OF CALIFORNIA }
COUNTY OF ORANGE }
CITY OF NEWPORT BEACH } ss.

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. 2012-17 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 February, 2012, and that the same was so passed and adopted by the following vote, to wit:

Ayes: Hill, Rosansky, Curry, Selich, Henn, Daigle, Mayor Gardner
Noes: None
Absent: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 15th day of February, 2012.



City Clerk
Newport Beach, California

(Seal)



RESOLUTION NO. 2012-18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH APPROVING GENERAL PLAN AMENDMENT NO. GP2011-008 AND COASTAL LAND USE PLAN AMENDMENT NO. LC2011-004 FOR PROPERTY LOCATED AT 2888 AND 2890 BAY SHORE DRIVE (PA2011-179)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by property owner Ron E. Presta of Palmo Investments GP, with respect to the subject property located at 2888 and 2890 Bay Shore Drive, requesting approval of amendments to the General Plan, Coastal Land Use Plan and the Zoning Code to change the land use.
2. The requested change of the General Plan designation of 2888 Bay Shore Drive is from Multiple-Unit Residential (RM, 20 du/ac) to Multiple-Unit Residential (RM, 39 du). The requested change to the Coastal Land Use Plan designation is from Multiple-Unit Residential (RM-C) to Multiple-Unit Residential (RM-D). The requested change of the Zoning District designation is from Multi-Unit Residential (RM, 2178) to Multi-Unit Residential (RM, 39 du).
3. The requested change of the General Plan designation of 2890 Bay Shore Drive is from Multiple-Unit Residential (RM, 20 du/ac) to Mixed-Use Water Related (MU-W2, 1 du). The requested change to the Coastal Land Use Plan is from Multiple-Unit Residential (RM-C) to Mixed-Use Water Related (MU-W). The requested change of the Zoning District designation is from Multi-Unit Residential (RM, 2178) to Mixed-Use Water Related (MU-W2, 1 du).
4. On May 21, 1959, the Newport Beach Planning Commission approved Ordinance No. 635 approving Use Permit No. UP518 and Variance No. VA535 for the development of 39 dwelling units with an accessory building, office, and carports at 2888 Bay Shore Drive.
5. On July 15, 1959, building permits were issued that authorized the construction of a mixed-use building consisting of an accessory office, apartment, and carports located at 2890 Bay Shore Drive. At that time, the property was in the U (Unclassified) Zoning District.
6. On August 14, 1961, Ordinance No. 969 was adopted by the City Council to change the land use designation of the subject properties from U (Unclassified) to the R-3 (Restricted Multiple Family Residential) Zoning District.

7. On May 29, 1990, the City Council adopted Ordinance No. 90-24, changing the land use of the subject properties from Restricted Multiple-Family Residential (R-3) to Multiple-Family Residential (MFR, 2178).
8. On June 30, 1995, Resubdivision No. 1007, which identifies the subject properties as Parcel 1 and 2 of Parcel Map No. 94-115, was recorded.
9. 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").
10. 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.
11. On January 28, 2008, the City Council adopted Ordinance No. 2008-05, which in addition to other Zoning Code changes, established the maximum time period for the abatement and termination of nonconforming uses in residential districts. However, determinations of nonconformity could not be made until the finalization of the City's Local Coastal Plan (LCP), which occurred on July 14, 2009, and the subsequent Zoning Code Update which became effective November 25, 2010.
12. On October 25, 2010, the City Council Adopted a Comprehensive Update to the Zoning Code (Newport Beach Municipal Code Title 20) bringing consistency between the Zoning Code and the Land Use Element of the General Plan. The multiple residential zoning designations of the subject properties were changed from Multiple-Family Residential (MFR, 2178) to Multi-Unit Residential (RM, 2178). Upon the effective date of the Comprehensive Update to the Zoning Code, Ordinance No. 2008-005 became effective. As a result of that action, existing nonconforming commercial uses located within residential districts became subject to abatement in accordance with Ordinance No. 2008-05.
13. 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 October 27, 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 January 25, 2012. No requests for consultation were received.
14. A public hearing was held on December 8, 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 (6 ayes and 0 noes) to adopt Planning Commission Resolution No. 1864 recommending City Council adoption of the General Plan Amendment, Coastal Land Use Plan Amendment, and Zoning Code Amendment.

15. A public hearing was held on February 14, 2012, 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 15301 - Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3. The proposed amendments are exempt since they do not entail alteration to the subject property and are essentially making the General Plan Land Use designation, Coastal Land use designation, and Zoning District consistent with the existing use of the buildings located on the subject property involved.
2. The City's action to amend the Coastal Land Use Plan 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, 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 related (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, attorney's 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 proceedings.

SECTION 3. FINDINGS.

1. The amendments of the Land Use Element of the General Plan and the Coastal Land Use Plan will provide consistency with the proposed Zoning Code amendment and are necessary to implement the property owner's request.
2. Council Policy A-18 requires that proposed General Plan amendments be reviewed to determine if a vote of the electorate would be required. If a project (separately or cumulatively with other projects over a 10-year span) exceeds any one of the following thresholds, a vote of the electorate would be required: if the project generates more than 100 peak hour trips (AM or PM), adds 40,000 square feet of non-residential floor area, or adds more than 100 dwelling units in a statistical area.
3. This is the third General Plan Amendment that affects Statistical Area H4 since the General Plan update in 2006. There is no change in the number of dwelling units and the amendment results in 10,019 additional square feet of non-residential floor area. The additional floor area results in an increase of 30.1 a.m. peak hour trips and an increase 40.1 p.m. peak hour trips based on the commercial and residential housing trip rates reflected in Council Policy A-18. As none of the thresholds specified by Charter Section 423 are exceeded, no vote of the electorate is required.
4. 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 RM and MU-W2 zoning districts of the Newport Beach Municipal Code.

SECTION 4. DECISION.

NOW THEREFORE, the City Council of the City of Newport Beach, California, hereby resolves as follows:

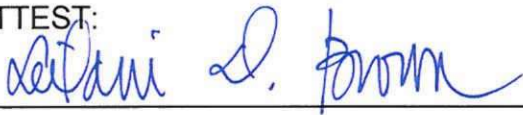
1. Amendments to the General Plan and Coastal Land Use Plan are legislative acts. Neither the City nor State Planning Law set forth any required findings for either approval or denial of such amendments.
2. The City Council of the City of Newport Beach hereby approves General Plan Amendment Permit No. GP2011-008 as depicted in Exhibit "A" and Local Coastal Program Amendment No. LC2011-004 as depicted in Exhibit "B", which is attached hereto and incorporated by reference.
3. The City Council of the City of Newport Beach hereby authorizes submittal of the Local Coastal Program CLUP Amendment to the California Coastal Commission for review and approval.
4. This resolution 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 the 14th of February, 2012.

MAYOR



ATTEST:



CITY CLERK



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

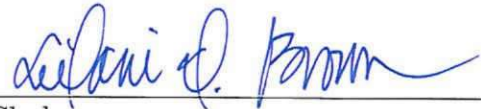
I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing resolution, being Resolution No. 2012-18 was duly and regularly introduced before and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 14th day of February, 2012, and that the same was so passed and adopted by the following vote, to wit:

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

Noes: None

Absent: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 15th day of February, 2012.



City Clerk
Newport Beach, California

(Seal)



RESOLUTION NO. 2012-25

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWPORT BEACH APPROVING GENERAL PLAN
AMENDMENT NO. GP2011-010 AND COASTAL LAND USE
PLAN AMENDMENT LC2011-006 FOR PROPERTY LOCATED
AT 200 30th STREET (PA2011-209)**

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Pete Fenton, representing Beach Coin Laundry LLC, with respect to property located at 200 30th Street, and legally described as Lot 1, Block 129 of the Lake Tract, requesting approval of a General Plan Amendment, Coastal Land Use Plan Amendment, and Zoning Code Amendment.
2. The applicant proposes to change the General Plan Land Use Element category from Two-Unit Residential (RT) to Visitor Serving Commercial (CV), the Coastal Land Use Plan designation from Two-Unit Residential (RT-E) to Visitor Serving Commercial (CV-A), and the Zoning District from Two-Unit Residential (R-2) to Commercial Visitor-Serving (CV).
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"), resulting in the land use designation of the subject property as Two-Unit Residential.
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. The Coastal Land Use Plan designation for the property was Two-Unit Residential.
5. On January 28, 2008, the City Council adopted an ordinance (Ordinance No. 2008-05) that established the maximum time period for the abatement and termination of nonconforming uses in residential districts. However, determinations of nonconformity could not be made until the finalization of the City's Local Coastal Plan (LCP), which occurred on July 14, 2009, and subsequent Zoning Code Update that became effective on November 25, 2010.
6. On October 25, 2010, the City Council adopted a Comprehensive Update to the Zoning Code (Newport Beach Municipal Code Title 20) bringing consistency between the Zoning Code and the Land Use Element of the General Plan. The zoning designation of the subject property was changed from Two Family Residential (R-2) District to Two-Unit Residential (R-2). The result of that action rendered commercial uses located within residential districts nonconforming. In accordance with Ordinance No. 2008-05, mentioned above, those properties are subject to abatement.

7. The subject property is located within the coastal zone. The requested change of the Coastal Land Use Plan designation is from Two-Unit Residential (RT-E) to Visitor Serving Commercial (CV-A) and will not become effective until the amendment to the Coastal Land Use Plan is approved by the Coastal Commission.
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 December 16, 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 March 16, 2012. No requests for consultation were received.
9. A public hearing was held on February 9, 2012, 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 (6 ayes, 0 noes) to adopt Planning Commission Resolution No. 1869 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 March 27, 2012, 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 has been determined to be categorically exempt under the requirements of the California Environmental Quality Act ("CEQA") under Class 1 (Existing Facilities).
2. The proposed amendments are exempt because they do not entail alteration to the subject property and are bringing the General Plan land use designation, Coastal Land Use Plan designation and Zoning district into consistency with the exiting development and use of the property.
3. The City's action to amend the Coastal Land Use Plan is exempt from the CEQA pursuant to California Code of Regulations §15265 (Statutory Exemptions – Adoption of Coastal Plans and Programs).
4. 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, the applicant shall indemnify, defend and hold harmless 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 related (directly or indirectly) to City's approval of the proposed Beach Coin Laundry, LLC Property Amendments (PA2011-209) including, but not limited to, General Plan Amendment No. GP2011-010, Coastal Land Use Plan Amendment LC2011-006, and Code Amendment No. CA2011-013. 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, causes of action, suit 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. The amendments of the Land Use Element of the General Plan and the Coastal Land Use Plan will provide consistency with the proposed Code Amendment to change the zoning of the subject property from Two-Unit Residential (R-2) to Visitor Serving Commercial (CV).
3. Council Policy A-18 requires that proposed General Plan amendments be reviewed to determine if a vote of the electorate would be required. If a project (separately or cumulatively with other projects over a 10-year span) exceeds any one of the following thresholds, a vote of the electorate would be required: if the project generates more than 100 peak hour trips (AM or PM); adds 40,000 square feet of non-residential floor area; or, adds more than 100 dwelling units in a statistical area.
4. This is the third General Plan Amendment that affects Statistical Area B5 since the General Plan update in 2006. Although there is no increase in the number of dwelling units, the amendment results in 1,187.5 additional square feet of non-residential floor area. The additional floor area results in an increase of 2.68 AM peak hour trips and an increase 3.67 PM peak hour trips based on the commercial and residential housing trip rates reflected in Council Policy A-18. As none of the thresholds specified by Charter Section 423 are exceeded, no vote of the electorate is required.
5. 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 Commercial Visitor-Serving (CV) 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 No. GP2011-010 as shown in attached Exhibit A and Coastal Land Use Plan Amendment No. LC2011-006 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 amendments authorized under this resolution 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 March 27, 2012.



NANCY GARDNER, MAYOR

ATTEST:



LEILANI BROWN, 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. 2012-25 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 27th day of March, 2012, and that the same was so passed and adopted by the following vote, to wit:

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

Noes: None

Absent: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 28th day of March, 2012.



City Clerk
Newport Beach, California

(Seal)



RESOLUTION NO. 2013-34

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 VARIOUS PROPERTIES LOCATED WITHIN THE COASTAL ZONE

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Terry A. Jones, on behalf of the property owner SCAP III, LLC, with respect to the subject property located at 514 E. Ocean Front, legally described as Lots 15 and 16, Block 6, Balboa Tract, requesting approval of General Plan Amendment No. GP2011-009 and Coastal Land Use Plan Amendment LC2011-005 changing the land use designation from Two-Unit Residential (RT and RT-E) to Mixed-Use Vertical (MU-V); and Code Amendment No. CA2011-012 changing the zoning designation from Two-Unit Residential (R-2) to Mixed-Use Vertical (MU-V).
2. An application was filed by property owner Ron E. Presta of Palmo Investments GP, with respect to the subject property located at 2888 and 2890 Bay Shore Drive, requesting approval of amendments to the General Plan, Coastal Land Use Plan and the Zoning Code to change the land use.
3. The requested change of the General Plan designation of 2888 Bay Shore Drive is from Multiple-Unit Residential (RM, 20 du/ac) to Multiple-Unit Residential (RM, 39 du). The requested change to the Coastal Land Use Plan designation is from Multiple-Unit Residential (RM-C) to Multiple-Unit Residential (RM-D). The requested change of the Zoning District designation is from Multi-Unit Residential (RM, 2178) to Multi-Unit Residential (RM, 39 du).
4. The requested change of the General Plan designation of 2890 Bay Shore Drive is from Multiple-Unit Residential (RM, 20 du/ac) to Mixed-Use Water Related (MU-W2, 1 du). The requested change to the Coastal Land Use Plan is from Multiple-Unit Residential (RM-C) to Mixed-Use Water Related (MU-W). The requested change of the Zoning District designation is from Multi-Unit Residential (RM, 2178) to Mixed-Use Water Related (MU-W2, 1 du).
5. A public hearing was held on February 14, 2012, 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. At the conclusion of the public hearing, the City Council voted unanimously (7 ayes, 0 noes) to adopt City Council Resolution No. 2012-17 adopting the proposed General Plan Amendment and Coastal Land Use Plan Amendment, properties located 514 East Ocean Front (PA2011-196).

6. A public hearing was held on February 14, 2012, 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. At the conclusion of the public hearing, the City Council voted unanimously (7 ayes, 0 noes) to adopt City Council Resolution No. 2012-18 adopting the proposed General Plan Amendment and Coastal Land Use Plan Amendment, properties located 2888 and 2890 Bay Shore Drive (PA2011-179).
7. A public hearing was held on March 27, 2012, 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. At the conclusion of the public hearing, the City Council voted unanimously (7 ayes, 0 noes) to adopt City Council Resolution No. 2012-25 adopting the proposed General Plan Amendment and Coastal Land Use Plan Amendment for property located at 200 30th Street (PA2011-209).
8. A public hearing was held on April 9, 2013, in the City Hall Council Chambers, 100 Civic Center Drive, 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 and Coastal Land Use designation 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 and the Coastal Land Use Plan as requested by the property owner is exempt from CEQA 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 and the Coastal Land Use Plan are necessary to implement the property owner requests.
2. 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 zoning districts of the Newport Beach Municipal Code.

SECTION 4. DECISION

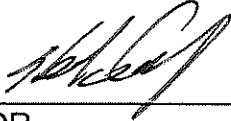
NOW, THEREFORE, BE IT RESOLVED:

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 approved by previous action the General Plan and Coastal Land Use Plan Amendments by Resolution No. 2012-17, Resolution No. 2012-18 and Resolution No. 2012-25.
3. That the Local Coastal Program and its amendments approved by Resolution No. 2012-17, Resolution No. 2012-18 and Resolution No. 2012-25 shall be carried out fully in conformity with the Coastal Act.
4. The City Council of the City of Newport Beach hereby authorizes submittal of the Local Coastal Land Use Plan Amendment approved by Resolution No. 2012-17, Resolution

No. 2012-18 and Resolution No. 2012-25 to the California Coastal Commission for formal review and certification.

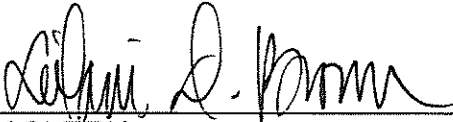
5. The City of Newport Beach approval of Local Coastal Land Use Plan Amendments noted above shall not become effective until the effective date of the California Coastal Commission approval.

Passed and adopted by the City Council of Newport Beach at a regular meeting held on April 9, 2013.

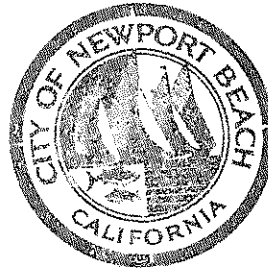


MAYOR

ATTEST:



CITY CLERK



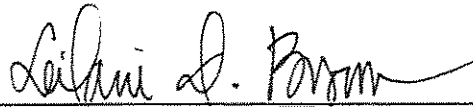
STATE OF CALIFORNIA }
COUNTY OF ORANGE }
CITY OF NEWPORT BEACH } ss.

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. 2013-34 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 9th day of April, 2013, and that the same was so passed and adopted by the following vote, to wit:

Ayes: Gardner, Petros, Hill, Selich, Henn, Daigle, Mayor Curry

Nays: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 11th day of April, 2013.



City Clerk
Newport Beach, California

(Seal)



514 E. Ocean Front, Newport Beach Coastal Land Use Plan Amendment NPB-MAJ-2-12





LC2011-005 (PA2011-196)
Coastal Land Use Plan Amendment
514 E Ocean Front

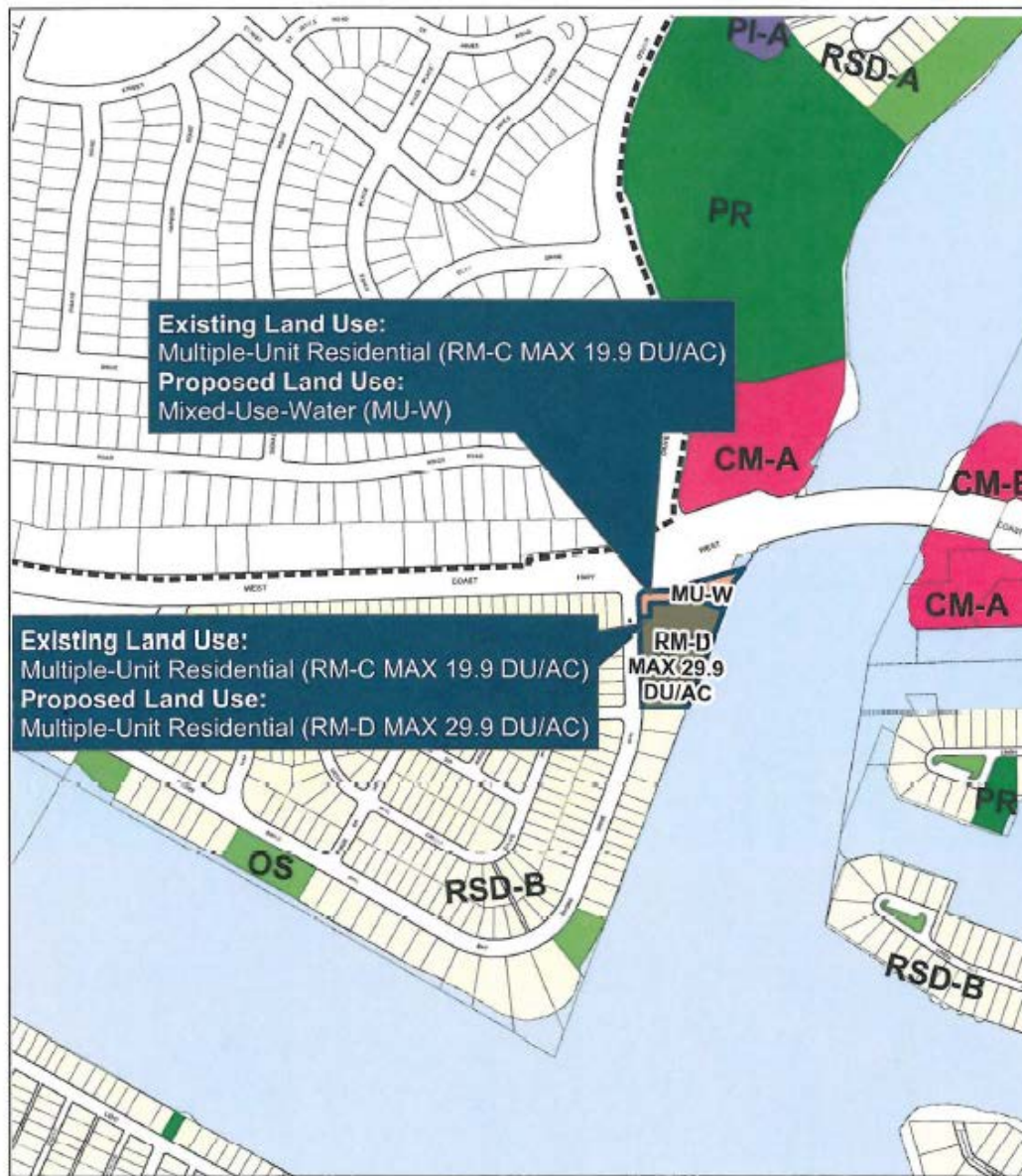
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NEWPORT
Beach

2488 and 2490 Bay Shore Drive, Newport Beach Coastal Land Use Plan Amendment NPB-MAJ-2-12





LC2011-004 (PA2011-179)
Coastal Land Use Plan Amendment
2888 & 2890 Bay Shore Drive

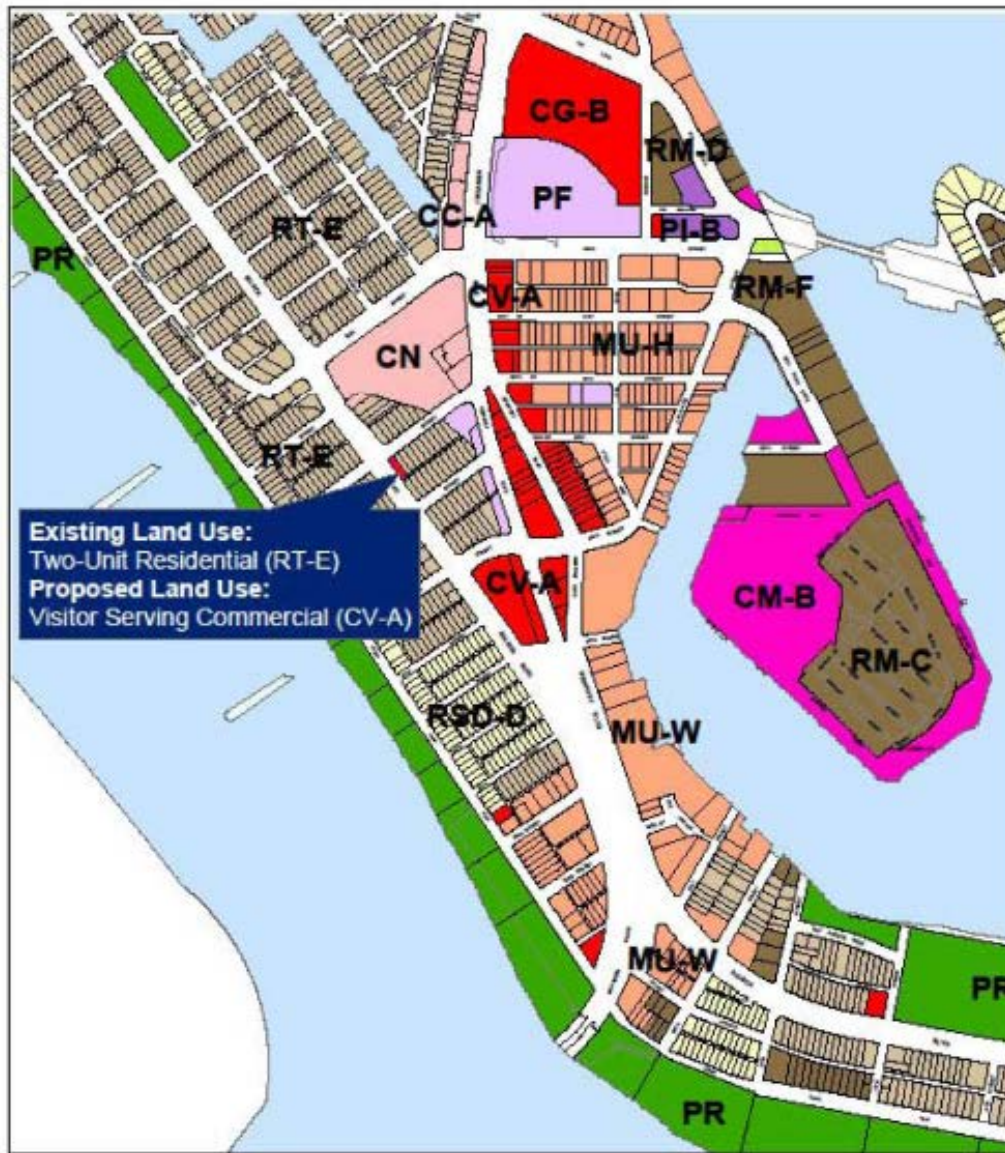
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NEWMARK
HARBOR COMMUNITY SERVICES

200 30th Street, Newport Beach
Coastal Land Use Plan Amendment NPB-MAJ-2-12





LC2011-006 (PA2011-209)
Coastal Land Use Plan Amendment
200 30th Street

0 250 500 Feet



NEWPORT
Rhode Island

LC2011-006.mxd March/2012