

**CALIFORNIA COASTAL COMMISSION**

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

July 24, 2013

**W 16c**

**TO:** Commissioners and Interested Persons

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

**SUBJECT:** Concurrence with the Executive Director's determination that the action of the City of Newport Beach accepting certification of Major Coastal Land Use Plan (CLUP) Amendment No. 1-12 (NPB-MAJ-1-12) is legally adequate. For Commission review at its August 14-15, 2013 meeting in Santa Cruz.

**BACKGROUND**

On September 24, 2012, the City of Newport Beach submitted Major Coastal Land Use Plan (CLUP) Amendment No. 1-12 (NPB-MAJ-1-12) for Commission certification pursuant to Planning Commission Resolution No. 1889 and City Council Resolution No. 2012-80. Only the Land Use Plan portion of the City's Coastal Local Coastal Program has been certified by the Commission. Coastal Land Use Plan (CLUP) Amendment No. 1-12 would amend Policy 4.4.2-1 to include an exception to the Shoreline Height Limitation Zone to allow an architectural tower feature at Marina Park (1600 West Balboa Boulevard) at the Marina Park Project site (1600 West Balboa Boulevard) that was before the Commission at the June 2012 meeting. Currently, the height limit is 35-feet and the amendment would allow for a single, up to 73-foot tall architectural tower.

On March 6, 2013, the Commission approved the amendment with suggested modifications. These suggested modifications clarified the following: 1) that the maximum 73-foot tall architectural tower will be a faux lighthouse that will not only be an iconic landmark for the public to identify the site from the land and water, but also serve as a boating safety feature, may be allowed; 2) that no further exceptions to the height limit shall be allowed, including but not limited to, exceptions for architectural features, solar equipment or flag pole; 3) that any architectural tower that exceeds the 35-foot height limit, shall not include any floor area above the 35-foot height limit, but shall house screened communications or emergency equipment; 4) that the architectural tower shall be sited and designed to reduce visual impacts and be compatible with the character of the area by among other things, incorporating a tapered design with a maximum diameter of 34-feet at the base of the tower; and 5) that public viewing opportunities shall be provided above the 35-feet, as feasible.

On May 28, 2013, the Newport Beach City Council adopted Resolution No. 2013-44, acknowledging receipt of the Coastal Commission action and adopting the modifications recommended by the Commission (Exhibit #2).

As provided in Section 13544 of the California Code of Regulations, the Executive Director must determine whether the City's action is legally adequate and report that determination to the Commission. In this case, the Executive Director has determined that the City's action is legally adequate. Unless the Commission objects to the Executive Director's determination, the certification of the City of Newport Beach Major Coastal Land Use Plan (LUP) Amendment No. 1-12 shall become effective upon the filing of the required Notice of Certification with the Secretary of Resources as provided in Public Resources Code Section 21080.5(d)(2)(E).

**STAFF RECOMMENDATION**

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

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August XX, 2013

City of Newport Beach  
Planning Department  
Attn: Patrick Alford, Planning Manager  
3300 Newport Boulevard  
Newport Beach, CA 92658

Re: Effective Certification  
City of Newport Beach Local Coastal Program Amendment No. 1-12

Dear Mr. Alford:

We are pleased to notify you that on August 14, 2013, the Commission concurred with the Executive Director's determination that the action of the City of Newport Beach accepting certification of Local Coastal Program (LCP) Amendment No. 1-12 with suggested modifications was legally adequate. Therefore, the LCP amendment will be fully effective upon filing of the notice of the Commission's certification with the Secretary of the Resources Agency as provided by Public Resources Code Section 21080.5(d)(2)(E).

City of Newport Beach LCP Amendment No. 1-12 was submitted for Commission certification pursuant to City Council Resolution No. 2012-80. City of Newport Beach LCPA No. 1-12 reflects the changes to the Land Use Plan reflected in Ordinance No.: 2012-80.

On March 6, 2013, the Commission approved LCP Amendment No. 1-12 with suggested modifications. On May 28, 2013, the Newport Beach City Council adopted Resolution No. 2013-44 acknowledging receipt of the Coastal Commission action and accepting and agreeing to the suggested modifications. On August 14, 2013, the Commission concurred with the Executive Director's determination that the City Council's acceptance of the Commission's suggested modification was legally adequate.

On behalf of the Coastal Commission, I would like to congratulate the City on the completion of LCP Amendment No. 1-12. If you have any questions, please contact Fernie Sy at our Long Beach office (562) 590-5071.

Sincerely,

Teresa Henry  
District Manager

**RESOLUTION NO. 2013-44**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
NEWPORT BEACH APPROVING COASTAL LAND USE PLAN  
AMENDMENT NO. LC2012-002 TO POLICY 4.4.2-1, AS  
MODIFIED BY THE CALIFORNIA COASTAL COMMISSION IN  
RESPECT TO MARINA PARK (PA2012-079)**

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

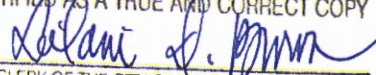
**SECTION 1. STATEMENT OF FACTS.**

1. On September 11, 2012, the City Council adopted Resolution No. 2012-80 approving Coastal Land Use Plan Amendment No. LC2012-002 to modify Policy 4.4.2-1 to allow a faux lighthouse tower architectural feature on the proposed Marina Park located at 1600 West Balboa Boulevard.
2. On March 6, 2013, the California Coastal Commission approved the proposed amendment with modifications.
3. Resolution No. 2012-80 provided that should the California Coastal Commission approve a modified amendment, a separate action would be required by the City Council, pursuant to Section 13518(b) of Title 14, Division 5.5 of the California Code of Regulations.
4. The City Council held a public hearing on May 28, 2013, in the City Hall Council Chambers, 100 Civic Center Drive, Newport Beach, California. Notices of time, place and purpose of these meetings were given in accordance with the Newport Beach Municipal Code and Public Resources Code Section 30510(a). 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. The Marina Park Project Environmental Impact Report (EIR) (SCH # 2008051096) was certified to the City Council in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and City Council Policy K-3 on May 11, 2010.
2. A 73-foot-high tower element was analyzed in the EIR which concluded that the potential impact of the project on public views and access would be less than significant. Therefore, the EIR concluded that the project, including the tower element, was consistent with the goals and policies of the Coastal Land Use Plan and the California Coastal Act.

CERTIFIED AS A TRUE AND CORRECT COPY

  
CITY CLERK OF THE CITY OF NEWPORT BEACH

DATE: 6.3.13





### SECTION 3. FINDINGS.

1. Amendments to the Coastal Land Use Plan are a legislative act. Neither the City nor State Planning Law set forth any required findings for either approval or denial of such amendments.
2. The amendment, as modified by the California Coastal Commission, of the City's Coastal Land Use Plan will allow for a tower feature to be incorporated into the previously approved Marina Park Project. The tower, which will depict a lighthouse, is considered a critical feature of the project in that it provides an iconic element of a public facility and will assist in wayfinding for the public from land and water.
3. The analysis of the proposed project and architectural tower element demonstrate no impacts to designated public view sheds or public access. The project analysis demonstrated the project, including the 73-foot-high tower element, would be in compliance with the California Coastal Act. In that the subject amendment would only allow a tower element on the subject site, the amendment is also consistent with the California Coastal Act.
4. The City's certified Coastal Land Use Plan, including this amendment, shall be implemented in a manner fully in conformity with the California Coastal Act.

### SECTION 4. DECISION.

#### NOW, THEREFORE, BE IT RESOLVED:

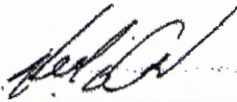
1. The City Council of the City of Newport Beach hereby approves Coastal Land Use Plan Amendment No. LC2012-002, as modified by the California Coastal Commission, to amend Policy No. 4.4.2-1 to read as follows (changes are underlined):

- 4.4.2-1. Maintain the 35-foot height limitation in the Shoreline Height Limitation Zone, as graphically depicted on Map 4-3, except for the following site:

Marina Park located at 1600 West Balboa Boulevard: A single, up to maximum 73-foot- tall faux lighthouse architectural tower, that creates an iconic landmark for the public to identify the site from land and water as a boating safety feature, may be allowed. No further exceptions to the height limit shall be allowed, including but not limited to, exceptions for architectural features, solar equipment or flag poles. Any architectural tower that exceeds the 35-foot height limit shall not include floor area above the 35-foot height limit, but shall house screened communications or emergency equipment, and shall be sited and designed to reduce adverse visual impacts and be compatible with the character of the area by among other things, incorporating a tapered design with a maximum diameter of 34-feet at the base of the tower. Public viewing opportunities shall be provided above the 35-feet, as feasible.

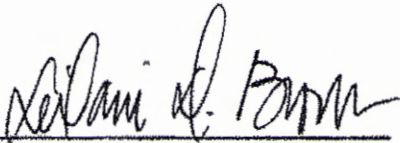
2. The City Council authorizes the Community Development Director to submit this resolution approving Coastal Land Use Plan Amendment No. LC2012-002, incorporating the California Coastal Commission modifications, to the Executive Director of the California Coastal Commission for certification.
3. This amendment shall not become effective until the Executive Director of the California Coastal Commission certifies that the City has complied with the March 6, 2013, California Coastal Commission action, pursuant to Section 13544 of Title 14, Division 5.5 of the California Code of Regulations.
4. The Coastal Land Use Plan will be carried out fully in conformity with the California Coastal Act.

ADOPTED this 28<sup>th</sup> day of May, 2013.



Keith D. Curry, Mayor

ATTEST:



Leilani I. Brown, City Clerk



STATE OF CALIFORNIA  
COUNTY OF ORANGE  
CITY OF NEWPORT BEACH

}  
}  
} ss.

I, Lellani 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. 2013-44 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 28<sup>th</sup> day of May, 2013, and that the same was so passed and adopted by the following vote, to wit:

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

Absent: Hill

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 29<sup>th</sup> day of May, 2013.

  
\_\_\_\_\_  
City Clerk  
Newport Beach, California

(Seal)

