

CALIFORNIA COASTAL COMMISSION

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

W16.5a



May 24, 2016

TO: Commissioners and Interested Persons

FROM: Sherilyn Sarb, Deputy Director
Karl Schwing, Coastal Program Manager
Charles Posner, Supervisor of Planning
Fernie Sy, Coastal Program Analyst

RE: **Concurrence with the Executive Director's determination that the action of the City of Newport Beach accepting certification with suggested modifications of LUP Amendment No. 2-14 (LCP-5-NPB-14-0820-2) is legally adequate. For Commission review at the June 8, 2016 meeting in Santa Barbara.**

On July 11, 2014, the City submitted Local Use Plan (LUP) Amendment Request No. 2-14 for Commission certification. The LUP amendment request was submitted to the Commission's South Coast District office with City Council Resolution No. 2014-12. City of Newport Beach LUP Amendment 2-14 incorporates changes to the certified LUP to accommodate a future, mixed-use project known as Back Bay Landing and would change the land-use designation of a 6.97-acre portion of the 31-acre property located at 300 East Coast Highway from Recreational and Marine Commercial (CM-B) to Mixed-Use Water Related (MU-W).

On December 10, 2015, the Commission approved LUP Amendment No. 2-14 with suggested modifications. On April 12, 2016 the Newport Beach City Council unanimously adopted Resolution No. 2016-44 and rescinded Resolution No. 2014-12, incorporating into the Certified LUP the modifications suggested by the Commission pursuant to its approval of LCP Amendment No. 2-14 (see Exhibit A of attached resolution). The City submitted Resolution No. 2016-44, which acknowledged receipt of the Commission's resolution of certification, accepted and agreed to the Commission's modifications and adopted changes to its LUP consistent with the Commission's certification order.

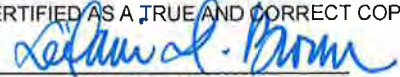
The City requests that the Executive Director determine that its resolution is legally adequate to satisfy the specific requirements set forth in the Commission's December 10, 2015 certification order (see attachment). In order for the City to carry out the Commission's action in its approval of LUP Amendment No. 2-14, the City revised the area of the Commission approved re-designation of a portion of the mobile home park site from Multiple Unit Residential (RM-C) to Mixed-Use Water Related (MU-W) from 0.304 acres of land to 0.387 acres of land in order to provide for future improved regional trail connection and future vertical access to the project site as part of a future coastal development permit for development of the project site, and included that revised area in its Resolution No. 2016-44. As a result of this revision, more land area (+0.083 acres) will be designated as higher priority Mixed-Use Water Related (MU-W) that was previously designated as lower priority Multi-Unit Residential (RM-C).

Pursuant to Section 13544.5 of the California Code of Regulations, Title 14, Division 5.5, the Executive Director must determine that the formal action taken by the City of Newport Beach acknowledging receipt and acceptance of and agreement with the Commission's certification of the above-referenced LCP amendment with suggested modifications is legally adequate to satisfy the specific requirements set forth in the Commission's certification order and report that determination to the Commission.

In this case, the Executive Director has determined that the City's action is legally adequate. Unless a majority of the Commissioners present object to the Executive Director's determination, the certification of City of Newport Beach Coastal Land Use Plan Amendment No. 2-14 shall become effective upon the filing of the required Notice of Certification with the Secretary of the Natural Resources Agency 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.



City Clerk of the City of Newport Beach

RESOLUTION NO. 2016-44

Date

4.15.16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, ACCEPTING THE SUGGESTED MODIFICATIONS FROM THE CALIFORNIA COASTAL COMMISSION (LCP-5-NPB-14-0820-2) AND CITY COUNCIL APPROVAL OF REVISED COASTAL LAND USE PLAN AMENDMENT NO. LC2011-007 FOR THE PLANNED COMMUNITY KNOWN AS BACK BAY LANDING (PA2011-216)



WHEREAS, on December 16, 2011, an application was filed by Bayside Village Marina, LLC ("Applicant") with respect to an approximately 31-acre parcel generally located north of East Coast Highway and northwest of Bayside Drive, legally described as Parcel 1 of PM 93-111, ("Property") requesting approval of various legislative and related approvals to allow for the future development of a mixed-use bayfront village comprising up to 94,035 square feet of marine-related and visitor-serving commercial uses and up to 49 residential units ("Project"). The following approvals were requested or required to implement the Project as proposed:

- a. General Plan Amendment (GPA) - To allow the development of residential units by changing the land use designation of portions of the site from Recreational and Marine Commercial (CM 0.5) to Mixed-Use Horizontal (MU-H1). The amendment would also change the designation of the 0.304-acre lot line adjustment area currently designated as Multiple Unit Residential (RM) to MU-H1. In addition to the land use changes, the amendment creates two new anomalies to reallocate 49 un-built residential dwelling units from the adjacent mobile home park (Anomaly No. 81) to the project site (Anomaly No. 80).
- b. Coastal Land Use Plan Amendment (CLUPA) - To allow the development of residential units by changing the land use designation of portions of the site from Recreational and Marine Commercial (CM-B) to Mixed-Use Horizontal (MU-H). The amendment also changes the designation of the 0.3-acre lot line adjustment area currently designated as Multiple Unit Residential (RM-C) to MU-H. In addition to the land use changes, the amendment establishes a site-specific development policy and a height exception to the 35-foot Shoreline Height Limit allowing for a single, 65-foot-tall coastal public view tower.
- c. Code Amendment - To amend the Zoning Map of the Zoning Code to expand the current Planned Community District boundaries (PC-9) of the site to include: 1) the 0.304-acre lot line adjustment area zoned as Bayside Village Mobile Home Park Planned Community (PC-1/MHP); and, 2) the existing 0.642-acre portion of the project site zoned as Recreational and Marine Commercial (CM).
- d. Planned Community Development Plan (PCDP) - Adoption of a Development Plan to allow for the classification of land within the existing Planned Community boundaries and establishment of development standards, design guidelines, and implementation of the future project and long-term operation of all planning areas of the site.
- e. Lot Line Adjustment (LLA) - To adjust the property boundaries between Parcel 3 (subject property) and Parcel 2 (adjacent Bayside Village Mobile Home Park) of Parcel Map No. PM 93-111 to improve ingress and egress to the project site with a new driveway.

- f. Traffic Study - A traffic study pursuant to Chapter 15.40 (Traffic Phasing Ordinance) of the Municipal Code;

WHEREAS, the Property General Plan designations of Recreational and Marine Commercial (CM 0.5 and 0.3), Open Space (OS) and Tidelands and Submerged Lands (TS), with a total maximum development of 139,680 square feet allowed in the 2006 General Plan;

WHEREAS, the Property is currently located within the Coastal Zone and has Coastal Land Use Plan designations of Recreational and Marine Commercial (CM-A and CM-B), Open Space (OS) and Tidelands and Submerged Lands (TS) in the City's Certified Coastal Land Use Plan;

WHEREAS, the Property is currently located within the Planned Community zoning district (PC-9) and within the Recreational and Marine (CM 0.3) zoning district for the portion of Parcel 3 of Parcel Map 93-111 south of East Coast Highway;

WHEREAS, on November 7, 2013, the Planning Commission held a study session for the Project in the City Hall Council Chambers, located at 100 Civic Center Drive, Newport Beach, on the Draft Environmental Impact Report (DEIR) and Project;

WHEREAS, the Planning Commission held a public hearing on December 19, 2013, in the City Hall Council Chambers, located at 100 Civic Center Drive, Newport Beach, California. A notice of the time, place and purpose of the public hearing was provided in accordance with the California Environmental Quality Act (CEQA) and the Newport Beach Municipal Code (NBMC). The environmental documents for the Project comprising the DEIR, Final Environmental Impact Report (FEIR) which consists of Responses to Comments, Corrections and Additions to DEIR (collectively, the EIR), and Mitigation Monitoring and Reporting Program (MMRP), the draft Findings and Facts in Support of Findings (Findings), staff report, and evidence, both written and oral, were presented to and considered by the Planning Commission at this hearing;

WHEREAS, on December 19, 2013, the Planning Commission adopted Resolution No. 1928 by a unanimous vote of 7-0, recommending certification of the Back Bay Landing FEIR (SCH No. 20121010034) and approval of the Project to the City Council;

WHEREAS, the City Council held a public hearing on February 11, 2014, in the City Hall Council Chambers, located at 100 Civic Center Drive, Newport Beach, California. A notice of the time, place and purpose of the aforesaid meeting was provided in accordance with CEQA and the NBMC. The environmental documents for the Project comprising the DEIR, FEIR which consists of Responses to Comments, Corrections and Additions to DEIR (collectively, the EIR), and MMRP, the Findings, staff report, and evidence, both written and oral, were presented to and considered by the City Council at this hearing;

WHEREAS, on February 11, 2014, the City Council adopted Resolution No. 2014-10 certifying the FEIR No. ER2012-003 (SCH No. 2012101003) to be in compliance with the CEQA, the State CEQA Guidelines, and City Council Policy K-3 (Certified EIR);

WHEREAS, on February 11, 2014, the City Council adopted: Resolution No. 2014-11 approving General Plan Amendment No. GP2011-011; Resolution No. 2014-12 approving Coastal Land Use Plan Amendment No. LC2011-007; Resolution No. 2014-13 approving Traffic Study No. TS2011-003; and Resolution No. 2014-14 approving Lot Line Adjustment No. 2011-003. These resolutions were adopted but not effective until the approval of LC2011-011 by the California Coastal Commission becomes final;

WHEREAS, on February 25, 2014, the City Council adopted Ordinance No. 2014-3 approving Code Amendment No. CA2013-009 and Ordinance No. 2014-4 approving Planned Community Development Plan No. PC2011-001. These ordinances were adopted but not effective until the approval of LC2011-011 by the California Coastal Commission becomes final;

WHEREAS, on July 11, 2014, the California Coastal Commission received the City's submittal of Coastal Land Use Plan Amendment No. LC 2012-001 (LCP-5-NPB-14-0820-2);

WHEREAS, on December 10, 2015, the California Coastal Commission certified the City's application request (LCP-5- NPB-14-0820-2) with the suggested modifications to the proposed CLUP amendment, including:

- a. Modified the proposed CLUP land use category from Mixed-Use Horizontal (MU-H) to Mixed Use Water-Related (MU-W). The primary difference between the two designations is that the MU-H designation allowed free-standing residential while the MU-W designation allows for the vertical mixed-use structures, where residential uses are located above the ground floor. Freestanding residential units are prohibited.
- b. Eliminated a proposed height exception to the 35-foot Shoreline Height Limitation Zone under CLUP Policy 4.4.2-1 for a single, up to 65-foot tall coastal public view tower.
- c. Included new site specific CLUP Policies 2.1.9-2 and 2.1.9-3 requiring that the proposed public bayfront pedestrian promenade be continuous along the waterfront and connect the sidewalks along East Coast Highway at one end, to and along the shoreline of Back Bay Landing and the waterfront accessway adjacent to the mobilehome development on Parcel 2 of Parcel Map 93-111 to the waterfront pedestrian access at the Newport Dunes recreation area at the other (eastern) end).
- d. Included a new site specific CLUP Policy 2.1.9-4 requiring that a hazards assessment of the potential for erosion, flooding, and/or damage from natural forces be prepared and submitted as part of the future site development review/coastal development permit application phase of the project.
- e. Included a new site specific CLUP Policy 2.1.9-5 requiring the preparation and implementation of a shoreline management plan for the development and shoreline areas of the site subject to tidal action, flooding, wave hazards and erosion
- f. Required CLUP Coastal Access and Recreation Map 3-1 be revised to illustrate the proposed bayfront promenade as a future waterfront public access trail and Bikeways

and Trail Map 2 to be revised to illustrate the proposed bike lane and trail improvements on Bayside Drive;

WHEREAS, as a result of the Coastal Commission's action, the applicant is proposing General Plan, Coastal Land Use Plan, Code Amendment, and Planned Community Development Plan Amendments to modify the 2014 Council-approved land use designations and zoning regulations to make them consistent with Coastal Commission's approval on December 10, 2015 of Coastal Land Use Plan Amendment with Suggested Modifications and to expand the land use boundaries and amend the land use designations on the site to include the revised 0.387-acre lot line adjustment area;

WHEREAS, a revised Lot Line Adjustment is requested adjust the property boundaries between Parcel 3 (subject property) and Parcel 2 (adjacent Bayside Village Mobile Home Park) of Parcel Map No. PM 93-111 to improve ingress and egress to the project site with a new driveway. The revision increases the lot line adjustment area from 0.304-acres to 0.387-acres;

WHEREAS, on March 17, 2016, the Planning Commission held a public hearing in the City Hall Council Chambers, located at 100 Civic Center Drive, Newport Beach, California, at which time the Planning Commission considered the modifications of the Amendments as a result of the Coastal Commission's action and the applicant's request to revise the LLA and the PCDP, the Certified EIR, and Addendum. A notice of the time, place and purpose of the aforesaid hearing was provided in accordance with the NBMC. Evidence both written and oral was presented to and considered by the Planning Commission during this hearing;

WHEREAS, on March 17, 2016, the Planning Commission adopted Resolution No. 2015 by a unanimous vote of 5-0, recommending adoption of the Addendum to the Back Bay Landing Certified EIR, modifications to the previously approved Project, and Lot Line Adjustment No. LA2016-003 to the City Council;

WHEREAS, the City Council held a public hearing April 12, 2016, in the City Hall Council Chambers, located at 100 Civic Center Drive, Newport Beach, California. A notice of the time, place and purpose of this hearing was provided in accordance with CEQA and the NBMC. The environmental documents for the Project comprising the FEIR, the Findings and Facts in Support of Findings (Findings), Addendum, staff report, and evidence, both written and oral, were presented to and considered by the City Council at the scheduled hearing;

WHEREAS, the Back Bay Landing FEIR (SCH No. 20121010034) was prepared for the Project in compliance with the CEQA, the State CEQA Guidelines, and City Council Policy K-3;

WHEREAS, the City Council, having final approval authority over the Project, adopted and certified as complete and adequate the Back Bay Landing FEIR, and adopted "Findings and Facts in Support of Findings for the Back Bay Landing Project Final Environmental Impact Report" (CEQA Findings) contained within Resolution No. 2014-10 on February 11, 2014, which are hereby incorporated by reference (Certified EIR);

WHEREAS, on the basis of the entire environmental review record, the proposed Project will have a less than significant impact upon the environment with the incorporation of mitigation measures;

WHEREAS, the mitigation measures identified in the FEIR are feasible and reduce potential environmental impacts to a less than significant level. The mitigation measures would be applied to the Project through the MMRP;

WHEREAS, pursuant to CEQA Guidelines Sections 15162 and 15164, if changes occur to a project or its circumstances, or if new information becomes available after certification of an EIR, an addendum to the certified EIR may be prepared when the City is not required to prepare a subsequent environmental impact report to review the changes or new information;

WHEREAS, the City has prepared an Addendum to the Certified EIR, consistent with the requirements of CEQA, for the Back Bay Landing project to analyze the potential differences between the impacts in the Certified EIR and those that would be associated with the requested modifications to the Amendments resulting from the Coastal Commission's action;

WHEREAS, the City Council, having final approval authority over the Project, adopted and certified as complete and adequate the Addendum to the Back Bay Landing Certified EIR based upon the facts in the record and the reasons set forth in the Addendum and Resolution No. 2016-43 on April 12, 2016, which are hereby incorporated by reference;

WHEREAS, 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;

WHEREAS, amendments to the 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;

WHEREAS, the proposed project is consistent with the goals and policies of the Newport Beach Coastal Land Use Plan. The City Council concurs with the conclusion of the consistency analysis of the proposed project with these goals and policies provided in the Certified EIR;

WHEREAS, acceptance of the requested Coastal Land Use Plan Amendment with Suggested Modifications and transmittal of the City Council Resolution adopting same is necessary to complete the Coastal Commission's Certification of LCP-5-NPB-14-0820-2 with suggested modifications; and

WHEREAS, the Coastal Land Use Plan Amendment with Suggested Modifications is consistent with other applicable policies of the Coastal Land Use Plan related to land use, public access, and resource protection.

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

Section 1: The recitals provided above are true and correct and are incorporated into the operative part of this resolution.

Section 2: The City Council of the City of Newport Beach hereby rescinds Resolution No. 2014-12 as it is no longer consistent with the California Coastal Commission's certification of LCP-5-NPB-14-0820-2 due to suggested modifications.

Section 3: Pursuant to CEQA Guidelines Section 15062, the changes to the Project are not substantial, as they do not involve new significant effects or a substantial increase in the severity of previously identified significant effects, and therefore, a subsequent EIR does not need to be prepared.

Section 4: The City Council of the City of Newport Beach hereby approves Coastal Land Use Plan Amendment No. LC2011-007 with Suggested Modifications, as depicted in Exhibit A, which exhibit is attached hereto and incorporated herein by reference.

Section 5: The Community Development Director is hereby directed to revise all applicable Coastal Land Use Plan figures to reflect the changes in the land use designations upon the effective date of the amendments. Staff is also hereby directed to correct any typographical or scrivener's errors in compiling the final documentation, without the need for further review or approval by the City Council.

Section 6: The City Council of the City of Newport Beach hereby authorizes immediate submittal of this resolution to the Executive Director, California Coastal Commission, for certification that it complies with the Coastal Commission's December 10, 2015 approval with Suggested Modifications of LCP-5-NPB-14-0820-2.

Section 7: The City's certified Coastal Land Use Plan as amended by Coastal Land Use Plan Amendment No. LC2011-007 shall be implemented in a manner fully in conformity with the California Coastal Act.

Section 8: The approval of Coastal Land Use Plan Amendment No. LC2011-011 shall take effect automatically upon a determination by the California Coastal Commission that the adoption of Coastal Land Use Plan Amendment No. LC2011-011 by this resolution is legally adequate and conforms to the Coastal Commission's Certification of LCP-5-NPB-14-0820-2 on December 10, 2015.

Section 9: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection,

sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 10: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 12th day of April, 2016.


Diane B. Dixon
Mayor

ATTEST:



Leilani I. Brown
City Clerk



EXHIBIT A
COASTAL LAND USE PLAN AMENDMENT NO. LC2011-007

Consists of:

1. Amending Chapter 2.0 (Land Use and Development) of the Coastal Land Use Plan to include the following sections and policies (deletions illustrated in ~~strikeouts~~/ additions illustrated in underline) :

2.1.9 Back Bay Landing

Located at 300 East Coast Highway at the northwesterly corner of the intersection of East Coast Highway and Bayside Drive, the Back Bay Landing site is an approximately 7-acre privately-owned site adjacent to the Upper Newport Bay. The site is the landside portion of Parcel 3 of Parcel Map 93-111 and is currently improved with existing structures and paved areas utilized for outdoor storage space of RVs and small boats, parking and restrooms facilities for the Bayside Marina, a kayak rental and launch facility, parking and access to Pearson's Port seafood market, and marine service equipment storage under the Coast Highway Bridge.

The site would accommodate the development of an integrated, mixed-use waterfront project consisting of coastal dependent and coastal related visitor-serving commercial and recreational uses allowed in the current CLUP CM-A and CM-B designation, while allowing for mixed-use structures with residential uses above the ground floor. Residential development would be contingent upon the development of the above-referenced marine-related and visitor-serving commercial and recreational facilities on the ground floor, including a boat storage facility. The public bayfront promenade shall be continuous along the waterfront and connect the sidewalks along East Coast Highway at one end (west, to and along the shoreline of Back Bay Landing, then continuing along a waterfront accessway that is adjacent to the mobile home development located on Parcel 2 of Parcel Map 93-111) and then to the bike and waterfront pedestrian access at the Newport Dunes recreation area at the other end (east). Bike lanes and pedestrian access will be provided along Bayside Drive from the intersection of Bayside Drive/East Coast Highway intersection running northerly to the terminus of Bayside Drive at the Newport Dunes recreation area as shown on Coastal Access Map 3-1 and Bikeways and Trails: Map 2. These public bike and pedestrian improvements shall occur prior to or concurrent with any new development at Back Bay Landing.

Policy 2.1.9-1

The Back Bay Landing site shall be developed as a unified site with coastal-dependent, coastal-related, and visitor-serving development as priority uses, with residential uses allowed above the ground floor only.

The Mixed-Use Water Related – MU-W category is applicable to the project(s) site; it 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. A minimum

floor area to land area ratio of 0.25 and a maximum of 0.5 shall be used for non-residential uses. The amount of residential floor area shall not exceed the amount of non-residential floor area (commercial plus boat storage).

The site shall be limited to a maximum floor area to land area ratio as established in General Plan Land Use Element Anomaly Cap No. 80.

The boat storage, public promenade and public plazas, shall, as priority uses, be sited adjacent to the bayfront, with the public launch area and boat storage on the western/northwestern bayfront edge of the site, adjacent to the existing Pearson's Port seafood market. A seafood market is planned to be preserved as a priority visitor-serving/coastal-related commercial use.

A public coastal access proposal shall be submitted with any coastal development permit application for Parcel 3 (Back Bay Landing) which shall incorporate amenities that assure access for the public, including the development of a public pedestrian promenade along the bayfront (as described in Policy 2.1.9-2); bikeways with connections to existing regional trails and paths; boat storage; a public launch area for non-trailerred, non-motorized watercraft; public access parking; marina parking; public restrooms; and public plazas and open spaces that provide public views, view corridors, and new coastal view opportunities.

Bayside Drive shall be improved on both sides with a new Class 2 (on-street) bike lane up to Bayside Way and a new Class 3 (shared-use) bikeway east of Bayside Way. A Class 1 (off-street) bikeway and pedestrian trail will also be provided on the east side of Bayside Drive originating at the Bayside Drive/East Coast Highway intersection and running northerly to the terminus of Bayside Drive at the Newport Dunes recreation area to accommodate both cyclists and pedestrians. This improvement shall serve as an enhanced link between the new public bayfront promenade and the existing City and County trail systems and the Newport Dunes recreation area.

The site shall be developed as a unified site to prevent fragmentation and to assure each use's viability, quality, and compatibility with adjoining uses. Development shall be designed and planned to achieve a high level of architectural quality with pedestrian, non-automobile and vehicular circulation and adequate parking provided.

Policy 2.1.9-2

A public bayfront pedestrian promenade shall be continuous along the waterfront and connect the sidewalks along East Coast Highway at one end (west), to and along the shoreline of Back Bay Landing, then continuing along a waterfront accessway that is adjacent to the mobile home development located on Parcel 2 of Parcel Map 93-111 and then connecting to the waterfront pedestrian access at the Newport Dunes recreation area at the other end (east). These public access improvements shall be provided and made available for public use concurrent with the development of the Back Bay Landing site. Restrictions on the hours of public access, if any, and landscape improvements shall only be established if they are approved as part of a coastal development permit for development of Back Bay Landing.

Policy 2.1.9-3

As a condition of approval on any coastal development permit issued for development of the Back Bay Landing site, the applicant/landowner shall record a public easement, or an Offer to Dedicate (OTD) a public access easement, across the entire width and length of the public

accessways described in Policy 2.9.1-2, including over the marina accessway adjacent to the mobile home development and also across the private beach/submerged fee owned land located on Parcel 3 of Parcel Map 93-111, and across any portion of Parcel 2 underlying the private beach or marina access way necessary to provide sufficient width to complete a continuous, connected, bayfront walkway.

Policy 2.1.9-4

A site-specific hazards assessment of the potential for erosion, flooding and/or damage from natural forces including, but not limited to, tidal action, waves, storm surge, or seiches, prepared by a licensed civil engineer with expertise in coastal processes, shall be submitted as part of any coastal development permit application for Parcel 3 (Back Bay Landing). The conditions that shall be considered in a hazards analysis are: a seasonally eroded beach/shoreline combined with long-term (75 years) erosion; high tide conditions, combined with long-term (75 year) projections for sea level rise using the best available science; storm waves from a 100-year event or a storm that compares to the 1982/83 El Niño event.

Policy 2.1.9-5

Require any coastal development permit application for Parcel 3 (Back Bay Landing) to develop and implement a shoreline management plan for the development and shoreline areas subject to tidal action, flooding, wave hazards and erosion. The shoreline management plan shall incorporate measures to adapt to sea level rise over time and provide for the long term protection and provision of public improvements, coastal access, public opportunities for coastal recreation, and coastal resources including beach and shoreline habitat.

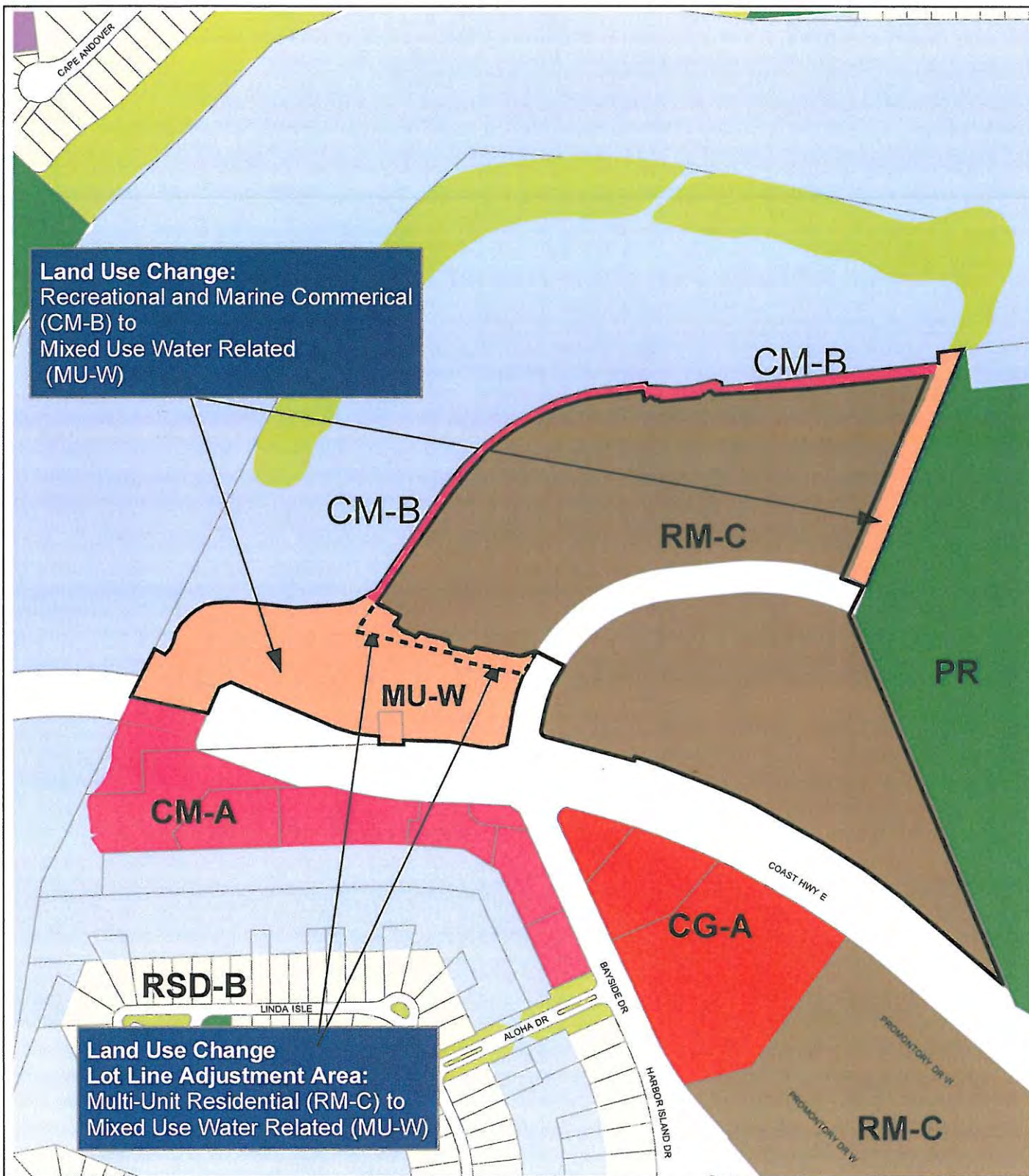
2.1.9 10 Coastal Land Use Plan Map

The Coastal Land Use Plan Map depicts the land use category for each property and is intended to provide a graphic representation of policies relating to the location, type, density, and intensity of all land uses in the coastal zone.

Policy 2.1.9-10-1

Land use and new development in the coastal zone shall be consistent with the Coastal Land Use Plan Map and all applicable LCP policies and regulations.

2. Except for the area seaward of the mobile home park described further below, amending Figure 2.1.7-1 of the Coastal Land Use Plan to change the designation of the existing 6.028-acre portion of the project site designated as Recreational and Marine Commercial (CM-B) to Mixed-Use Water Related (MU-W) and the 0.387-acre lot line adjustment area designated as Multiple Unit Residential (RM-C) to MU-W. The land use designation over the strip of land seaward of the mobile home development shall remain Recreation and Marine Commercial (CM-B) as it is currently designated.
3. Amending CLUP Coastal Access and Recreation Map 3-1 to illustrate the proposed bayfront promenade as a future waterfront public access trail and Bikeways and Trail Map 2 to illustrate the proposed bike lane and trail improvements on Bayside Drive.



LC2011-007 (PA2011-216)
Coastal Land Use Plan Amendment
300 Coast Hwy E

0 200 400 Feet



NEWPORT
Info
NEWPORT INFORMATION SYSTEMS

Coastal Access and Recreation:

Map 3-1

(Map 3 of 3)

LEGEND

-  Public Beach Location
-  Public Beach Access Location
-  Potential Access Point
-  Coastal Zone Boundary
-  Lateral Access
-  Potential Lateral Access
-  Vertical Access
-  Potential Vertical Access
-  Blufftop Access
- Potential Blufftop Access
- City Boundary
- Proposed Park
- Public Beach or Park



City of Newport Beach, California (Harbor Area)



**Local Coastal Program
Coastal Land Use Plan**

MAP3-1LCP05AccessRecHarb.mxd

3-40



1 Miles

December / 2005

Bikeways and Trails: Map 2

LEGEND

- Trail Types
- Class 1
- Class 2
- Class 3
- Class 4
- Equestrian Trail
- Potential Equestrian Trail
- Coastal Zone Boundary
- City Boundary
- Public Beach or Park

- Class 1**
Bicycle Trail - Off-street or sidewalk facility designated for bicycle and pedestrian use.
- Class 2**
Bicycle Lane - A lane in the street, normally the parking lane, or a separate lane, striped and signed for the exclusive or semi-exclusive use of bicycles.
- Class 3**
Bicycle Route - Shared facilities. Signed-only routes.
- Class 4**
Bicycle Path - A dirt pathway designated for the use of bicycles which is physically separated from motor vehicle traffic.

City of Newport Beach, California
Local Coastal Program
Coastal Land Use Plan

MAP2-LCP05BikeTrails_no_nc.mxd



1 Miles


July / 2009

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. 2016-44 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 12th day of April, 2016, and that the same was so passed and adopted by the following vote, to wit:

AYES: Council Member Peotter, Council Member Selich, Council Member Curry,
Council Member Petros, Mayor Pro Tem Muldoon, Mayor Dixon
NAYS: None
RECUSED: Council Member Duffield

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 13th day of April, 2016.



Leilani I. Brown, MMC
City Clerk
Newport Beach, California

(Seal)



CALIFORNIA COASTAL COMMISSION

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



December 31, 2015

City of Newport Beach
Planning Department
Attn: Jaime Murillo, Senior Planner
100 Civic Center Drive
P.O. Box 1768
Newport Beach, CA 92658

Re: City of Newport Beach Coastal Land Use Plan (CLUP) Amendment No. 2-14 (LCP-5-NPB-14-0820-2).

Dear Mr. Murillo:

You are hereby notified that the California Coastal Commission, at its December 10, 2015 meeting in Monterey, approved City of Newport Beach Coastal Land Use Plan (CLUP) Amendment No. 2-14 with suggested modifications. Coastal Land Use Plan (CLUP) Amendment No. 2-14 was submitted pursuant to City Council Resolution No. 2014-12. Coastal Land Use Plan (CLUP) Amendment No. 2-14 incorporates changes to the certified LUP to accommodate a future, mixed-use project known as Back Bay Landing and would change the land-use designation of a 6.97-acre portion of the 31-acre property located at 300 East Coast Highway from Recreational and Marine Commercial (CM-B) to Mixed-Use Water Related (MU-W).

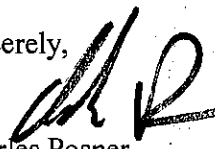
The Commission approved the CLUP Amendment with suggested modifications. Thus, the Amendment will become final once: 1) the City of Newport Beach City Council adopts the Commission's suggested modifications, 2) the City of Newport Beach City Council forwards the adopted suggested modifications to the Commission by Resolution, and, 3) the Executive Director certifies that the City has complied with the Commission's December 10, 2015 action. The Coastal Act requires that the City's adoption of the suggested modifications be completed within six (6) months of the Commission's action.

Pursuant to the Commission's action on December 10, 2015, certification of City of Newport Beach Coastal Land Use Plan (CLUP) Amendment No. 2-14 is subject to the attached Suggested Modifications (Attachment "A").

Please note that, in addition to the suggested modifications to the CLUP Policies, changes to the CLUP Map 1, Coastal Access Map 3-1 and the Bikeways and Trails: Map 2 will need to be made to be consistent with the suggested modifications.

Thank you for your cooperation and we look forward to working with you and your staff in the future. Please call Fernie Sy or myself at (562) 590-5071 if you have any questions regarding the modifications required for effective Certification of City of Newport Beach Coastal Land Use Plan (CLUP) Amendment No. 2-14

Sincerely,


Charles Posner
Supervisor of Planning

Attachment: Attachment "A" Suggested Modifications

Certification of City of Newport Beach Coastal Land Use Plan (CLUP) Amendment No. 2-14 is subject to the following modifications.

Text added by the suggested modification is ***bold, italicized and underlined***, and text suggested to be deleted is ~~struck through~~. Only those subsections of the LUP for which modifications are being suggested are shown below.

2.1.9 Back Bay Landing

Located at 300 East Coast Highway at the northwesterly corner of the intersection of East Coast Highway and Bayside Drive, the Back Bay Landing site is an approximately 7-acre ~~privately-owned~~ site adjacent to the Upper Newport Bay. The site is the landside portion of Parcel 3 of Parcel Map 93-111 and is currently improved with existing structures and paved areas utilized for outdoor storage space of RVs and small boats, parking and restrooms facilities for the Bayside Marina, a kayak rental and launch facility, parking and access to Pearson's Port seafood market and marine service equipment storage under the Coast Highway Bridge.

The site would accommodate the development of an integrated, mixed-use waterfront project consisting of coastal dependent and coastal related visitor-serving commercial and recreational uses allowed in the current CLUP CM-A and CM-B designation, while allowing for ~~limited freestanding multifamily residential and mixed-use structures with residential uses above the ground floor~~. Residential development would be contingent upon the ~~concurrent~~ development of the above-referenced marine-related and visitor-serving commercial and recreational facilities on the ground floor, including a boat storage facility, including the enclosed dry stack boat storage facility, and completion of a new public bayfront promenade connecting with Bayside Drive and Newport Dunes/County trails. The public bayfront promenade shall be continuous along the waterfront and connect the sidewalks along East Coast Highway at one end (west, to and along the shoreline of Back Bay Landing, then continuing along a waterfront accessway that is adjacent to the mobile home development located on Parcel 2 of Parcel Map 93-111) and then to the bike and waterfront pedestrian access at the Newport Dunes recreation area at the other end (east). Bike lanes and pedestrian access will be provided along Bayside Drive from the intersection of Bayside Drive/East Coast Highway intersection running northerly to the terminus of Bayside Drive at the Newport Dunes recreation area as shown on Coastal Access Map 3-1 and Bikeways and Trails: Map 2. These public bike and pedestrian improvements shall occur prior to or concurrent with any new development at Back Bay Landing.

Policy 2.1.9-1

The Back Bay Landing site shall be developed as a unified site with coastal-dependent, coastal-related, and visitor-serving development as priority uses, with residential uses allowed above the ground floor only marine-related and visitor-serving commercial and recreational uses. ~~Limited freestanding multifamily residential and mixed-use structures with residential uses above the ground floor are allowed as integrated uses as described below.~~

The Mixed Use Horizontal – MU-H category is applicable to the project(s) site; permitted uses include those allowed under the CM, CV, RM, and MU-V categories; however, a minimum of 50 percent of the permitted building square footage shall be devoted to nonresidential uses;

The Mixed-Use Water Related – MU-W category is applicable to the project(s) site; it 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. A minimum floor area to land area ratio of 0.25 and a maximum of 0.5 shall be used for non-residential uses. The amount of residential floor area shall not exceed the amount of non-residential floor area (commercial plus boat storage).

The site shall be limited to a maximum floor area to land area ratio as established in General Plan Land Use Element Anomaly Cap No. 80. A minimum of 50 percent of the residential units shall be developed in mixed-use buildings with nonresidential use on the ground floor.

The boat storage, public promenade and public plazas, shall, as priority uses, be sited adjacent to the bayfront, with the public launch area and boat storage on the western/northwestern bayfront edge of the site, adjacent to the existing Pearson's Port seafood market. A seafood market is planned to be preserved as a priority visitor-serving/coastal-related commercial use.

A public coastal access proposal shall be submitted with any coastal development permit application for Parcel 3 (Back Bay Landing) which Development shall incorporate amenities that assure access for the coastal-visitors public, including the development of a public pedestrian promenade along the bayfront (as described in Policy 2.1.9-2); bikeways with connections to existing regional trails and paths; an enclosed dry stack boat storage facility; a public launch area for non-trailerred, non-motorized watercraft; public access parking; marina parking; public restrooms; and public plazas and open spaces that provide public views, view corridors, and new coastal view opportunities.

Bayside Drive shall be improved on both sides with a new Class 2 (on-street) bike lane up to Bayside Way and a new Class 3 (shared-use) bikeway east of Bayside Way. A Class 1 (off-street) bikeway and pedestrian trail will also be provided on the east side of Bayside Drive originating at the Bayside Drive/East Coast Highway intersection and running northerly to the terminus of Bayside Drive at the Newport Dunes recreation area to accommodate both cyclists and pedestrians. This improvement shall serve as an enhanced link between the new public bayfront promenade and the existing City and County trail systems and the Newport Dunes recreation area.

The site shall be developed as a unified site to prevent fragmentation and to assure each use's viability, quality, and compatibility with adjoining uses. Development shall be designed and planned to achieve a high level of architectural quality with pedestrian, non-automobile and vehicular circulation and adequate parking provided.

Policy 2.1.9-2

A public bayfront pedestrian promenade shall be continuous along the waterfront and connect the sidewalks along East Coast Highway at one end (west), to and along the shoreline of Back Bay Landing, then continuing along a waterfront accessway that is adjacent to the mobile home development located on Parcel 2 of Parcel Map 93-111 and then connecting to the waterfront pedestrian access at the Newport Dunes recreation area at the other end (east). These public access improvements shall be provided and made available for public use concurrent with the development of the Back Bay Landing site. Restrictions on the hours of public access, if any, and landscape improvements shall only be established if they are approved as part of a coastal development permit for development of Back Bay Landing.

Policy 2.1.9-3

As a condition of approval on any coastal development permit issued for development of the Back Bay Landing site, the applicant/landowner shall record a public easement, or an Offer to Dedicate (OTD) a public access easement, across the entire width and length of the public accessways described in Policy 2.9.1-2, including over the marina accessway adjacent to the mobile home development and also across the private beach/submerged fee owned land located on Parcel 3 of Parcel Map 93-111, and across any portion of Parcel 2 underlying the private beach or marina access way necessary to provide sufficient width to complete a continuous, connected, bayfront walkway.

Policy 2.1.9-4

A site-specific hazards assessment of the potential for erosion, flooding and/or damage from natural forces including, but not limited to, tidal action, waves, storm surge, or seiches, prepared by a licensed civil engineer with expertise in coastal processes, shall be submitted as part of any coastal development permit application for Parcel 3 (Back Bay Landing). The conditions that shall be considered in a hazards analysis are: a seasonally eroded beach/shoreline combined with long-term (75 years) erosion; high tide conditions, combined with long-term (75 year) projections for sea level rise using the best available science; storm waves from a 100-year event or a storm that compares to the 1982/83 El Niño event.

Policy 2.1.9-5

Require any coastal development permit application for Parcel 3 (Back Bay Landing) to develop and implement a shoreline management plan for the development and shoreline areas subject to tidal action, flooding, wave hazards and erosion. The shoreline management plan shall incorporate measures to adapt to sea level rise over time and provide for the long term protection and provision of public improvements, coastal access, public opportunities for coastal recreation, and coastal resources including beach and shoreline habitat.

2.1.910 Coastal Land Use Plan Map

The Coastal Land Use Plan Map depicts the land use category for each property and is intended to provide a graphic representation of policies relating to the location, type, density, and intensity of all land uses in the coastal zone.

Policy 2.1.910-1. Land uses and new development in the coastal zone shall be consistent with the Coastal Land Use Plan Map and all applicable LCP policies and regulations.

4.4.2 Bulk and Height Limitation

Policy 4.4.2-1

Maintain the 35-foot height limitation in the Shoreline Height Limitation Zone, as graphically depicted on Map 43, except for Marina Park and the following sites:

- A. Marina Park...[no change to existing language]
- B. Former City Hall Complex...[no change to existing language]
- C. ~~Back Bay Landing at East Coast Highway/Bayside Drive: A single, up to 65-foot-tall coastal public view tower, that will be ADA compliant and publicly accessible, to provide new coastal and Upper Newport Bay view opportunities where existing views are impacted by the East Coast Highway Bridge, other existing structures and topography.~~

2. Except for the area seaward of the mobile home park described further below, aAmending Figure 2.1.7-1 of the Coastal Land Use Plan to change the designation of the existing 6.028-acre portion of the project site designated as Recreational and Marine Commercial (CM-B) to ~~Mixed-Use Horizontal (MU-H)~~ **Mixed-Use Water Related (MU-W)** and the 0.304-acre lot line adjustment area designated as Multiple Unit Residential (RM-C) to MU-HW. **The land use designation over the strip of land seaward of the mobile home development shall remain Recreation and Marine Commercial (CM-B) as it is currently designated.**

***Changes to the Coastal Land Use Map 1, Coastal Access Map 3-1 and the Bikeways and Trails: Map 2 will need to be made to be consistent with the above suggested modifications.**