

CALIFORNIA COASTAL COMMISSION

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



F15a

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ADDENDUM

December 28, 2016

TO: Coastal Commissioners and Interested Parties

FROM: South Coast District Staff

SUBJECT: **Concurrence with the Executive Director's determination that the action of the City of Newport Beach accepting certification of the LCP Implementation Plan (LCP-5-NPB-15-0039-1) with suggested modifications is legally adequate for the Commission meeting of January 13, 2017.**

Attachments/Exhibits to Staff Report

Attached is Exhibit #1, the City of Newport Beach Ordinance approving the Local Coastal Program Implementation Plan as modified by the Coastal Commission. Exhibit #1 was inadvertently left out of the staff report dated December 22, 2016.

NOV 29 2016

ORDINANCE NO. 2016-19

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALIFORNIA
NEWPORT BEACH, CALIFORNIA, ADDING TITLE 21 TO THE COASTAL COMMISSION
NEWPORT BEACH MUNICIPAL CODE AND APPROVING THE
LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN, AS
MODIFIED BY THE CALIFORNIA COASTAL COMMISSION**

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

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

WHEREAS, an LCP is comprised of two parts that may be adopted together or separately, a Land Use Plan and an Implementation Plan;

WHEREAS, the Land Use Plan portion of the City of Newport Beach's (City) LCP was adopted in 2005 and certified that same year by the California Coastal Commission (Coastal Commission); however, the Implementation Plan of the LCP was not completed;

WHEREAS, in 2001, the California Legislature approved Senate Bill 516, which amended the Coastal Act to allow the County of Orange to exercise review authority pursuant to its certified LCP over annexed areas until such time as the City receives approval and certification from the Coastal Commission for its LCP;

WHEREAS, a public hearing was held on November 10, 2015, in the Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code and California Public Resources Code Section 30503. Evidence, both written and oral, was presented to, and considered by, the City Council at this hearing. The City Council adopted Resolution No. 2015-99, approving the LCP Implementation Plan and authorized City staff to submit the applications for LCP Implementation Plan, adjustments to the inland boundary of the coastal zone and an extension of the terms and conditions of Categorical Exclusion Order E-77-5 to the California Coastal Commission for review and approval;

WHEREAS, on April 14, 2016, at the California Coastal Commission hearing in Santa Rosa, California, the California Coastal Commission approved Minor Boundary Adjustment 2016-001. This action adjusted the coastal zone boundary in the City within the Buck Gully, Amigos Way, Dover Shores, and Hoag Hospital areas, as well as in the following areas of Upper Back Bay: The Bluffs, University Drive, La Salud, Bayview Commercial, Bayview Residential, Mesa Drive, and along Private Road;

WHEREAS, on September 8, 2016, at the California Coastal Commission hearing in Newport Beach, California, the California Coastal Commission approved, with modifications, LCP-5-NPB-15-0039-1, which certified the Implementation Plan to complete the City's certified LCP;

WHEREAS, on November 4, 2016, at the California Coastal Commission hearing in Half Moon Bay, California, the California Coastal Commission approved Categorical Exclusion Order CE-5-NPB-16-1, which effectively extends Categorical Exclusion Order E-77-5; and

WHEREAS, a public hearing was held on November 7, 2016, in the Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code and California Public Resources Code Section 30503. Evidence, both written and oral, was presented to, and considered by, the City Council at this hearing.

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

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

Section 2: The City Council finds that pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), the LCP is statutorily exempt from CEQA, pursuant to Section 15265(a)(1) of the California Code of Regulations, Title 14, and Chapter 3 of the Coastal Act, because CEQA does not apply to a local government's preparation and adoption of a LCP.

Section 3: The City Council finds that pursuant to California Public Resources Code Section 30503, the City provided maximum opportunities for the public and all affected governmental agencies to participate in the preparation and certification of the LCP Implementation Plan.

Section 4: The City Council finds that pursuant to the Coastal Act, the City actively consulted and collaborated with Coastal Commission staff during the preparation of the LCP Implementation Plan.

Section 5: The City Council finds that the LCP Implementation Plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with California Public Resources Code Sections 30200 *et seq.*) of the Coastal Act.

Section 6: The City Council finds that the LCP Implementation Plan conforms with, and is adequate to carry out, the provisions of the certified Coastal Land Use Plan.

Section 7: The City's certified Coastal Land Use Plan, including the LCP Implementation Plan, will be carried out fully in conformity with the Coastal Act.

Section 8: The City Council of the City of Newport Beach, California, hereby acknowledges receipt of the California Coastal Commission's resolution of certification, including the terms or modifications required for final certification; accepts and agrees to these terms and modifications; agrees to issue coastal development permits for the total area included in the certified Land Use Plan pursuant to Public Resources Code Section 30600.5; and approves the Local Coastal Program Implementation Plan, with the modifications approved by the California Coastal Commission, as attached in Exhibit A, and incorporated herein by reference.

Section 9: The City Council hereby adds the Local Coastal Program Implementation Plan with the modifications approved by the California Coastal Commission, as attached in Exhibit A, as Title 21 to the Newport Beach Municipal Code.

Section 10: The City Council hereby authorizes City staff to submit this ordinance for determination by the Executive Director of the California Coastal Commission that this action is legally adequate to satisfy the specific requirements set forth in the California Coastal Commission's certification order.

Section 11: This ordinance shall not become effective for thirty days or until notice of the certification of the LCP Implementation Plan is filed with the Secretary of the Resources Agency for posting and inspection.

Section 12: The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the ordinance, or a summary thereof, to be published pursuant to City Charter Section 414.

Section 13: If any section, subsection, sentence, clause or phrase of this ordinance 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 ordinance. The City Council hereby declares that it would have passed this ordinance, 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.

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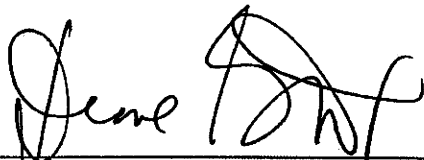
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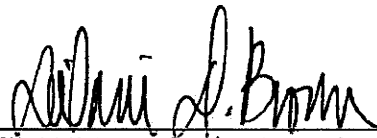
Section 14: This ordinance was introduced at a special meeting of the City Council of the City of Newport Beach, California, held on 7th day of November, 2016, and adopted on the 22nd day of November, 2016, by the following vote to-wit:

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



DIANE B. DIXON, MAYOR

ATTEST:



LEILANI I. BROWN, CITY CLERK



**APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE**



AARON C. HARP, CITY ATTORNEY

Exhibit A: Title 21 of the City of Newport Beach Municipal Code: City of Newport Beach Local Coastal Program Implementation Plan

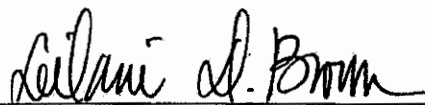
STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.
CITY OF NEWPORT BEACH }

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 ordinance, being Ordinance No. 2016-19 was duly introduced on the 7th day of November, 2016 at a special meeting, and adopted by the City Council at a regular meeting duly held on the 22nd day of November, 2016, and that the same was so passed and adopted by the following vote, to wit:

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

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 23rd day of November, 2016.





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

(Seal)

CERTIFICATE OF PUBLICATION

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

I, LEILANI I. BROWN, City Clerk of the City of Newport Beach, California, do hereby certify that Ordinance No. 2016-19 has been duly and regularly published according to law and the order of the City Council of said City and that same was so published in *The Daily Pilot*, a newspaper of general circulation on the following dates:

Introduced Ordinance: November 12, 2016
Adopted Ordinance: November 26, 2016

In witness whereof, I have hereunto subscribed my name this _____ day of _____, 2016.

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

(Seal)

CALIFORNIA COASTAL COMMISSION

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

F15a



December 22, 2016

TO: Commissioners and Interested Persons

FROM: Karl Schwing, Deputy Director
Charles Posner, Supervisor of Planning
Liliana Roman, Coastal Program Analyst

RE: Concurrence with the Executive Director's determination that the action of the City of Newport Beach accepting certification of the LCP Implementation Plan (LCP-5-NPB-15-0039-1) with suggested modifications is legally adequate. For Commission review at the January 13, 2017 meeting in San Luis Obispo.

On November 18, 2015, the City submitted the Local Coastal Program (LCP) Implementation Plan (IP) LCP-5-NPB-15-0039-1 for Commission certification. The request was submitted to the Commission's South Coast District office with City Council Resolution No. 2015-99. LCP-5-NPB-15-0039-1 is the Implementation Plan portion of the LCP which includes development standards, zoning map and community plans to carry out the policies of the certified Land Use Plan, together both documents would complete the City's LCP. LCP certification would grant the City coastal development permit authority for the area governed by the plan.

On September 8, 2016, the Commission approved LCP-5-NPB-15-0039-1(Implementation Plan) with suggested modifications. On November 22, 2016 the Newport Beach City Council unanimously adopted Ordinance No. 2016-19 and adding Title 21 to the Newport Beach Municipal Code and approving the Local Coastal Program Implementation Plan, as modified by the Commission. On November 29, 2016, the City submitted the Implementation Plan adopted by the City Council to the Executive Director for a determination that it is consistent with the Commission's September 8, 2016 action.

Pursuant to Section 13544 of the California Code of Regulations, Title 14, Division 5.5, the Executive Director must determine that the action taken by the City of Newport Beach acknowledging receipt and acceptance of and agreement with the Commission's certification of the above-referenced Implementation Plan with suggested modifications, as well as the required notification procedures for appealable development, are legally adequate and report that determination to the Commission. In this case, the Executive Director has determined that the City's action and required notification procedures for appealable development are legally adequate. Unless a majority of the Commissioners present object to the Executive Director's determination, the certification of the City of Newport Beach Implementation Plan shall become effective after 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). The City of Newport Beach is targeting January 30, 2017, as the date on which the City would begin to accept and process applications for coastal development permits.

STAFF RECOMMENDATION

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