

CALIFORNIA COASTAL COMMISSION

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

W26b

May 18, 2017

TO: Commissioners and Interested Persons

FROM: Karl Schwing, Deputy Director
Charles Posner, Supervisor of Planning
Amber Dobson, 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 LCP Amendment No. 1-17 (LCP-5-NPB-17-0010-1) is legally adequate. For Commission review at the June 7-9, 2017 meeting in Arcata.

On January 30, 2017, the City submitted Local Coastal Program (LCP) Amendment Request No. 1-17 for Commission certification. The LCP amendment request was submitted to the Commission's South Coast District office with City Council Resolution No. 2017-8. City of Newport Beach LCP Amendment No. 1-17 amends the recently adopted Implementation Plan's development standards for Commercial Coastal Zoning Districts to change Table 21.20-2 indicating the Maximum Limit for the CV-LV zone as 103,470 square feet for the site located at 3300 Newport Blvd.

On March 8, 2017 the Commission approved LCP Amendment No. 1-17 with suggested modifications to indicate that the proposed maximum floor area ratio does not include the existing or future fire station on the site. On April 11, 2017 the Newport Beach City Council adopted Ordinance No. 2017-9 incorporating into the Certified LCP the modifications suggested by the Commission pursuant to its approval of LCP Amendment No. 1-17. The City has submitted the modifications to the Executive Director with City Council Resolution No. 2017-25 for a determination that the City's action is consistent with the Commission's March 8, 2017 action (see attachment).

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 LCP amendment with suggested modifications 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 a majority of the Commissioners object to the Executive Director's determination, the certification of City of Newport Beach Implementation Plan Amendment No. 1-17 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.

RESOLUTION NO. 2017-25

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, FORWARDING ORDINANCE NO. 2017-9 TO CALIFORNIA COASTAL COMMISSION FOR A DETERMINATION OF ADEQUACY TO IMPLEMENT LOCAL COASTAL PROGRAM AMENDMENT LCP-5-NPB-17-0010-1 AS MODIFIED BY THE COASTAL COMMISSION (PA2016-061)

WHEREAS, on November 22, 2016, the City Council adopted Ordinance No. 2016-20 amending the City's Local Coastal Program (LCP) Implementation Plan [Newport Beach Municipal Code (NBMC) Title 21] to increase the maximum allowed development of the CV-LV coastal zoning district by 4,745 square feet consistent with a previously approved Coastal Land Use Plan Amendment (LC2016-001);

WHEREAS, on January 24, 2017, the City Council conducted a noticed public hearing and adopted Resolution No. 2017-008 authorizing the submission of Local Coastal Program Amendment No. LC2016-001 to the California Coastal Commission for consideration;

WHEREAS, on March 8, 2017, at their regular meeting in Ventura California, the California Coastal Commission certified LC2016-001 (LCP-5-NPB-16-0039-1 and LCP-5-NPB-17-0010-1), with suggested modifications to the draft LCP Implementation Plan amendment (LCP-5-NPB-17-0010-1) as consistent with the Coastal Act; and

WHEREAS, on April 11, 2017, the City Council conducted a noticed public hearing and adopted Ordinance No. 2017-9 accepting and adopting the Coastal Commission's suggested modifications to LCP-5-NPB-17-0010-1.

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

Section 1: The City Council of the City of Newport Beach, California, hereby acknowledges receipt of the California Coastal Commission's resolution of certification, including the suggested modifications required for final certification of LCP-5-NPB-17-0010-1 and accepts and agrees to the suggested modifications.

Section 2: 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 and the adoption of Ordinance No. 2017-9 is legally adequate to for final certification of LCP-5-NPB-17-0010-1 as set forth in the California Coastal Commission's action on March 8, 2017.

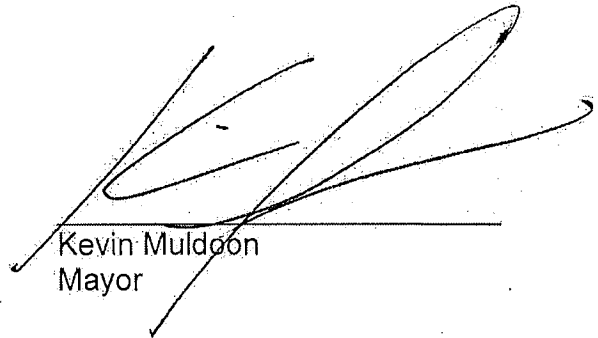
Section 3: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 4: 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 5: The requirement for environmental review under the California Environmental Quality Act (CEQA) is satisfied by the City Council's previous certification of the Lido House Hotel final EIR (SCH#2013111022) (Resolution No. 2014-80) and adoption of Addendum 1 (Resolution No. 2016-88) for the 4,745 square foot increase in floor area for the hotel. The findings made by these two Resolutions are incorporated here by reference.


Section 6: 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 11th day of April, 2017.



Kevin Muldoon
Mayor

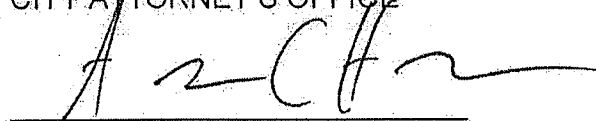
ATTEST:



Lellany L. Brown
City Clerk



APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

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

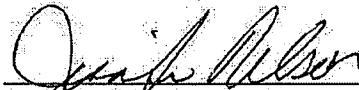
ss.

I, Jennifer Nelson, Assistant 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. 2017-25 was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 11th day of April, 2017, and that the same was so passed and adopted by the following vote, to wit:

AYES: Council Member Jeff Herdman, Council Member Brad Avery, Council Member Diane Dixon, Council Member Scott Peotter, Council Member Will O'Neill, Mayor Pro Tem Duffy Duffield, Mayor Kevin Muldoon

NAYS: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 12th day of April, 2017.



Jennifer Nelson
Assistant City Clerk
Newport Beach, California

(Seal)



ORDINANCE NO. 2017-9

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, ADOPTING LOCAL COASTAL PROGRAM AMENDMENT NO. LC2016-001 AS MODIFIED BY THE CALIFORNIA COASTAL COMMISSION RELATED TO THE CV-LV COASTAL ZONING DISTRICT FOR THE LIDO HOUSE HOTEL PROJECT LOCATED AT 3300 NEWPORT BOULEVARD AND 475 32ND STREET (PA2016-061)

WHEREAS, on November 22, 2016, the City Council adopted Ordinance No. 2016-20 amending the City's Local Coastal Program (LCP) Implementation Plan [Newport Beach Municipal Code (NBMC) Title 21] to increase the maximum allowed development of the CV-LV coastal zoning district by 4,745 square feet consistent with a previously approved Coastal Land Use Plan Amendment (LC2016-001);

WHEREAS, on January 24, 2017, the City Council conducted a noticed public hearing and adopted Resolution No. 2017-8 authorizing the submission of Local Coastal Program Amendment No. LC2016-001 to the California Coastal Commission for consideration;

WHEREAS, on March 8, 2017, at their regular meeting in Ventura California, the California Coastal Commission certified LC2016-001 (LCP-5-NPB-16-0039-1 and LCP-5-NPB-17-0010-1), with suggested modifications to the draft LCP Implementation Plan amendment (LCP-5-NPB-17-0010-1) as consistent with the Coastal Act;

WHEREAS, on April 11, 2017, the City Council held a public hearing in the City Hall Council Chambers located at 100 Civic Center Drive, Newport Beach, California to consider the certified amendment as modified; and

WHEREAS, a notice of the time, place and purpose of the public hearing was provided in accordance NBMC Chapter 20.62.

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

Section 1: The LCP Implementation Plan, NBMC Section 21.20.030 (Commercial Coastal Zoning Districts General Development Standards), is hereby amended, in part, to revise a single row in Table 21.20-2 to increase the maximum allowed development within the CV-LV coastal zoning district and to add note 8. All other provisions in NBMC Section 21.20.030 and Table 21.20-2 including notes shall remain unchanged.

**TABLE 21.20-2
DEVELOPMENT STANDARDS FOR COMMERCIAL COASTAL ZONING DISTRICTS**

Development Feature	CC	CG	CM	CN	CV	CV-LV	OG	Additional Requirements
Floor Area Ratio or Maximum Limit (2) (3) (4)	0.75	0.75	0.50	0.30	1.50	103,470 sf (8)	1.30	

Notes:

(8) 103,470 gross square feet not including a fire station. A fire station may not occupy more than 10% of the total project site.

Section 2: The Local Coastal Program Implementation Plan, Coastal Zoning Map established by NBMC Section 21.14.010 is hereby amended to add the following note to the CV-LV coastal zoning district as follows and shown on Exhibit A:

"CV-LV: 103,470 gross square feet not including a fire station. A fire station may not occupy more than 10% of the total project site."

Section 3: The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

Section 4: The LCP Amendment established by this ordinance is intended to be carried out in a manner fully in conformity with the Coastal Act and the City's certified LCP.

Section 5: The LCP Amendment established by this ordinance shall take effect automatically upon a determination by the California Coastal Commission or the Executive Director that this ordinance is legally adequate to accept and adopt the suggested modifications as certified by the Coastal Commission on March 8, 2017.

Section 6: 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.

Section 7: The requirement for environmental review under the California Environmental Quality Act (CEQA) is satisfied by the City Council's previous certification of the Lido House Hotel final EIR (SCH#2013111022) (Resolution No. 2014-80) and adoption of Addendum 1 (Resolution No. 2016-88) for the 4,745 square foot increase in floor area for the hotel. The findings made by these two Resolutions are incorporated here by reference.

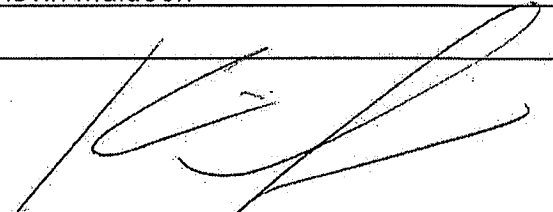
Section 8: Except as expressly modified in this ordinance, all other Sections, Subsections, terms, clauses and phrases set forth in the LCP and NBMC shall remain unchanged and shall be in full force and effect.

Section 9: 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.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 11th day of April, 2017, and adopted on the 25th day of April, 2017, by the following vote, to-wit:

AYES: Council Member Scott Peotter, Council Member Jeff Herdman, Council Member Brad Avery, Council Member Diane Dixon, Council Member Will O'Neill, Mayor Pro Tem Duffy Duffield, Mayor Kevin Muldoon

NAYS: None



KEVIN MULDOON, MAYOR

ATTEST:



LEILANI Y. BROWN, CITY CLERK

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

 (for)

AARON C. HARP, CITY ATTORNEY



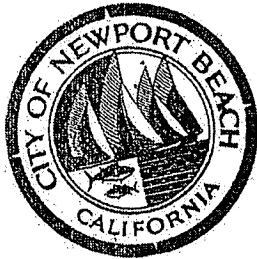
Attachment: Updated Coastal Zoning Map

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. 2017-9 was duly introduced on the 11th day of April, 2017 at a regular meeting, and adopted by the City Council at a regular meeting duly held on the 25th day of April, 2017, and that the same was so passed and adopted by the following vote, to wit:

AYES: Council Member Scott Peotter, Council Member Jeff Herdman,
Council Member Brad Avery, Council Member Diane Dixon,
Council Member Will O'Neill, Mayor Pro Tem Duffy Duffield, Mayor Kevin
Muldoon
NAYS: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 26th day of April, 2017.



Leilani I. Brown
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. 2017-9 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: April 15, 2017
Adopted Ordinance: April 29, 2017

In witness whereof, I have hereunto subscribed my name this _____ day of _____, 2017.

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

(Seal)