

CALIFORNIA COASTAL COMMISSION

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W11a

July 20, 2017

TO: Commissioners and Interested Persons

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

RE: Amendment Request No. 2-17 (LCP-5-NPB-17-0047-1) to the City of Newport Beach Local Coastal Program, for Commission Action at its August 9-11, 2017 meeting in Calabasas.

Local Coastal Program Amendment No. 2-17

The Coastal Commission certified the City of Newport Beach Local Coastal Program (LCP) on January 13, 2017. Amendment Request No. 2-17 is a major LCP amendment that would change the Coastal Land Use Plan (CLUP) land use designation at 191 Riverside Avenue from Public Facilities (PF) to Mixed-Use Horizontal (MU-H1), and change the Implementation Plan (IP) zoning from Public Facilities (PF) to Mixed-Use-Mariners Mile (MU-MM). The site is a 0.52-acre lot bounded by Avon Street to the north, Mariner's Center (a commercial plaza) to the south and west, and Riverside Avenue to the east. The site is located inland of Coast Highway, which is the first public road paralleling the sea in this area ([Exhibit 1](#)). The site is currently developed with a vacant one-story 9,242 sq. ft. institutional building, previously occupied by a United States Post Office with a twenty-space surface parking lot.

The LCP amendment request was submitted for Commission certification by City Council Resolution No. 2016-124 ([Exhibit 2](#)). The proposed changes to the City's zoning code (IP) are contained in City Council Ordinance No. 2016-22 ([Exhibit 3](#)). The City held three public hearings for the ordinance: City Council Meetings on November 22, 2016 and December 13, 2016, and a Planning Commission Meeting on October 20, 2016. On June 12, 2017, the City submitted the LCP amendment request for Coastal Commission certification. Amendment Request No.2-17 was deemed by staff to be complete on June 23, 2017. The City's submittals are consistent with the procedural requirements of the Coastal Act and the regulations which govern such proposals (Sections 30501, 30510 and 30514 of the Coastal Act, and Sections 13551, 13552 and 13553 of Title 14 of the California Code of Regulations).

STAFF RECOMMENDATION

Staff recommends that the Commission, after a public hearing **certify the LCP Amendment Request as submitted**. The motions and resolutions are found on **Page Three**. The City agrees with the staff recommendation. The proposed LCP amendment will change the certified land use designation and the zoning at the subject site. Therefore, the proposed amendments to the LUP and the IP are major amendments because they represent a change in the intensity and density of the use of the property that is the subject of this LCP amendment. (*Cf.* 14 CCR § 131554 [defining "minor" LCP amendments as, among other things, amendments which do not change the kind, location, intensity, or density of use].) However, this change does not raise any significant coastal issues and will not result in adverse coastal

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impacts or changes to coastal access. The proposed LUP amendment component of this LCP amendment request meets the requirements of and is in conformity with Coastal Act Chapter 3 policies. (*See* Pub. Res. Code §§ 30512(c), 30514(b).) Likewise, the proposed IP amendment component of this LCP amendment request conforms with and is adequate to carry out the provisions of the certified LUP, as proposed to be amended. (*See* Pub. Res. Code §§ 30513, 30514(b).)

STANDARD OF REVIEW

The standard of review for the proposed amendment to the Coastal Land Use Plan (CLUP), pursuant to Section 30512(c) and 30514(b) of the Coastal Act, is that the proposed LUP amendment meets the requirements of, and is in conformance with the Chapter 3 policies of the Coastal Act. The standard of review for the proposed amendment to the LCP Implementing Ordinances (IP), pursuant to Sections 30513 and 30514(b) of the Coastal Act, is that the proposed IP amendment conforms with and is adequate to carry out the provisions of the certified Land Use Plan (LUP), as proposed to be amended.

DEADLINE FOR COMMISSION ACTION

The City submitted the LCP amendment request on June 12, 2017. The amendment request was deemed by staff to be complete ten days later on June 23, 2017. As such, the last date for Commission action on this item is September 21, 2017, ninety days from the date of filing. (*See* Pub. Res. Code § 30511(a).)

EXHIBITS

1. [Location Map](#)
2. [City Council Resolution No. 2016-124](#)
3. [Ordinance No. 2016-22](#)

FOR ADDITIONAL INFORMATION

The LCP Amendment file is available for review at the South Coast District office located at 200 Oceangate, Suite 1000, Long Beach, 90802. The staff report can be viewed on the Commission's website: www.ca.coastal.ca.gov. For additional information, contact Liliana Roman or Charles Posner in the South Coast District office at (562) 590-5071.

I. MOTIONS AND RESOLUTIONS

MOTION I: *I move that the Commission certify Land Use Plan Amendment 2-17 as submitted by the City of Newport Beach.*

Staff recommends a **YES** vote. Passage of the motion will result in certification of the land use plan as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO CERTIFY THE LAND USE PLAN AMENDMENT

The Commission hereby certifies the Land Use Plan Amendment 2-17 as submitted by the City of Newport Beach and adopts the findings set forth below on the grounds that the amendment meets the requirements of and conforms with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

MOTION II: *I move that the Commission reject the Implementation Program Amendment for the City of Newport Beach as submitted.*

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Program Amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO CERTIFY IMPLEMENTATION PROGRAM AMENDMENT

The Commission hereby certifies the Implementation Program Amendment for the City of Newport Beach as submitted and adopts the findings set forth below on grounds that the Implementation Program conforms with and is adequate to carry out the provisions of the certified LUP, and certification of the Implementation Program will meet the requirements of the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program.

II. FINDINGS FOR CERTIFICATION OF THE LCPA AS SUBMITTED

A. Description of the LCP Amendment Request

The property at 191 Riverside Avenue is a 0.52-acre lot located near the corner of the intersection of Coast Highway and Riverside Drive. The site is located inland of Coast Highway, which is the first public road paralleling the sea in this area ([Exhibit 1](#)). The site is currently developed with a vacant one-story 9,242 sq. ft. institutional building, previously occupied by a United States Post Office with twenty-space surface parking lot. Mariner's Center, next to the site, is a commercial plaza zoned Mixed-Use Mariners Mile (MU-MM), the same as the proposed zone for the subject site. Surrounding uses are also zoned MU-MM with Commercial, with General (CG) zoned lots across the street. Residential and recreational park uses can also be found in the vicinity.

The LCP amendment proposes to change the Coastal Land Use Plan (CLUP) land use designation for the site from Public Facilities (PF) to Mixed Use Horizontal (MU-H1) and change the Implementation Plan (IP) zoning from Public Facilities (PF) to Mixed-Use Mariners Mile (MU-MM). The LCP amendment request affects both the CLUP and the IP portions of the certified LCP, and the proposed changes will be reflected on City's CLUP Map and the City's Zoning Map.

The Mixed Use Horizontal (MU-H1) land use designation and the Mixed-Use Mariners Mile (MU-MM) zone allow for residential uses as part of a mixed-use project and mixed-use structures that integrate residential above the ground floor with non-residential on use on the ground floor. The height limit for the site is currently 35 feet, and will not change. The maximum number of residential units on the site, with the proposed LCP amendment, would be thirteen (20.1 to 26.7 units per acre), and a maximum of 11,326 square feet of non-residential development (0.5 FAR) could be permitted on the site. No development is currently proposed at the subject site.

The subject site is located along the City's Mariners' Mile Corridor, a heavily traveled segment of Coast Highway (State Route One) between the Arches Bridge on the west and Dover Drive on the east. It is developed with a mix of highway-oriented retail and marine-related commercial uses. The latter are primarily concentrated on bay-fronting properties and include boat sales and storage, sailing schools, marinas, visitor serving restaurants, and comparable uses. Parcels on the inland side of Coast Highway are mixed-use containing retail businesses, offices, services, and housing.

B. Consistency with the Coastal Act and the Certified Land Use Plan

The certified LCP sets forth policies to control development, protect coastal resources, and enhance shoreline access. The site of the proposed land use change is currently designated Public Facilities (PF), a land use category for non-coastal dependent public facilities such as public schools, cultural institutions, government facilities, libraries, community centers, public hospitals, and public utilities. The existing zoning at the subject site is also PF which allows for the same uses. The current land use designation at the subject site is consistent with its prior use as a U.S. Post Office.

The proposed Coastal Land Use Plan (CLUP) land use designation change from Public Facilities (PF) to Mixed Use Horizontal (MU-H1) and Implementation Plan (IP) zoning change from Public Facilities (PF) to Mixed-Use Mariners Mile (MU-MM) will be consistent with existing development in the immediate vicinity, as described by the CLUP.

Section 2.1.4 of the CLUP describes the Mariners' Mile Corridor as follows:

“The vitality of the Mariners’ Mile Corridor will be enhanced by establishing a series of distinct retail, mixed-use, and visitor-serving centers. Harbor-fronting properties would accommodate a mix of visitor-serving retail, marine-related businesses and vertically integrated mixed-use structures...Parcels on the inland side of Coast Hwy., generally between Riverside Avenue and the southerly projection of Irvine Avenue, would evolve as a pedestrian-oriented mixed-use “village” containing retail businesses, offices, services, and housing.”

The subject site is located on the inland side of Coast Highway, and may be developed as part of the Mariners' Mile mixed-use “village” as a result of the proposed LCP amendment. The proposed MU-MM zoning is specific to properties located on the inland side of Coast Highway in the Mariners' Mile Corridor. The proposed mixed-use land use designation and zoning for the site would allow for similar uses and development standards as the surrounding area (e.g., visitor-serving retail, offices, services, as well as up to thirteen residential units). Properties to the rear of the commercial frontage in the MU-MM zone may be developed for freestanding nonresidential uses, multi-unit residential units, or mixed-use structures that integrate residential above the ground floor with nonresidential uses on the ground floor.

No development is currently proposed at the subject site and any specific development proposal would require a CDP to be issued and found in conformance with the certified LCP, as proposed to be amended. The proposed land use and zoning change will continue to be consistent with the Chapter 3 policies of the Coastal Act and meet the CLUP goals and policies for the Mariners' Mile Corridor, respectively. The proposed LCP amendment does not raise any significant Coastal Act or LUP issues. The proposed changes will not adversely impact public access or recreation. The current 35-foot height limit for the site is not affected by the amendment. Therefore, the Commission finds that the proposed land use change conforms with the provisions of Chapter 3 policies of the Coastal Act, and the proposed zone change conforms with, and is adequate to carry out, the provisions of certified LUP as proposed to be amended.

C. California Environmental Quality Act (CEQA)

Public Resources Code section 21080.9 exempts from CEQA activities and approvals by local government necessary for the preparation and adoption of an LCP (including an LCP amendment), although the Commission does take into consideration any environmental documentation prepared by the local government in determining whether to certify a proposed LCP amendment. Here, the City did adopt a negative declaration (SCH 2014011028) under CEQA for the proposed LCP amendment. Furthermore, certification of an LCP by the Coastal Commission is still subject to CEQA requirements. In that regard, as a certified regulatory program, the preparation, approval, and certification of an LCP by the Commission is the functional equivalent of CEQA. (*See* Pub. Res. Code § 21080.5(a); 14 CCR § 15251(f).) Pursuant to section 21080.5(d)(2)(A) of the Public Resources Code, the Commission's regulatory program for LCPs requires that a proposal not be approved or adopted if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. (*See* 14 CCR §§ 13540(f), 13542(a).)

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The Commission finds that, for the reasons discussed in this report, the proposed LCP amendment complies with the California Environmental Quality Act because: 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment as applicable, and 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts which the LCP Amendment may have on the environment. The Commission finds that the proposed LCP amendment will be consistent with Section 21080.5(d)(2)(A) of the Public Resources Code.