

CALIFORNIA COASTAL COMMISSION

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W21d

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STAFF REPORT: APPEAL – NO SUBSTANTIAL ISSUE

Appeal No.: A-5-NPB-19-0197

Applicant: Russell Fluter

Agent: William Guidero

Local Government: City of Newport Beach

Local Decision: Approval with Conditions

Appellants: Charles Klobe

Project Location: 1808 W. Oceanfront, Newport Beach, Orange County
(APN: 047-173-29)

Project Description: Appeal of City of Newport Beach Local Coastal Development Permit No. CD2019-034 for demolition of a 1,700 sq. ft. duplex and construction of a 3,447 sq. ft. single family home with 626 sq. ft. two-car garage.

Staff Recommendation: No substantial issue.

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission, after public hearing, determine that **no substantial issue exists** with respect to the grounds on which the appeal has been filed for the following reasons: the demolition of the existing duplex and construction of a single-family home on a single lot, as approved by the City of Newport Beach, conforms to the City of Newport Beach certified Local Coastal Program (LCP) and the public access policies of the Coastal Act.

The City-approved project is the demolition of a 1,700 sq. ft. duplex and construction of a 3,477 sq. ft. single-family residence with 626 sq. ft. garage. The subject site is located on West Oceanfront, between 18th and 19th Streets on Balboa Peninsula. The property is designated for Multiple-Unit Residential (RM-E) in the certified coastal Land Use Plan (LUP), and is zoned Multi-unit Residential (RM) in the certified Implementation Plan (IP). Detached Single-unit dwellings such as the City-approved project are an allowed use in the RM zone, pursuant to Section 21.18.020 of the Implementation Plan.

The appellant is Charles Klobe, who contends that the City's approval of CD2019-034 is inconsistent with Land Use Plan Policy 2.1.1-1 and Land Use Table 2.1.1-1, based on inappropriate application of development standards meant for multi-unit residential development. Mr. Klobe contends that the proposed single-family residence benefitted from an extra 4 feet of allowable height compared to the Single-Unit Residential (R-1) zone.

The City's decision to approve this subject coastal development permit raises no significant issues with respect to the development standards set forth in the IP because the project is consistent with land use and height standards for the RM zone. However, the appellants contention that the City's action to approve the construction of a larger single-family residence in the RM zone highlights a potential inconsistency in the structuring of the City's coastal zoning districts with regard to implementing the land use designation. Essentially, the Land Use Plan suggests the area should support higher density residential development, and the Implementation Plan contains standards to encourage denser development, but the Implementation Plan also includes single family homes as an allowable use. In light of this potential inconsistency, and the potential precedential value of approving low-density development in high-density zones, the City should be judicious in further coastal development permit applications involving significant losses of housing density, which may be inconsistent with the standards of the Land Use Plan.

The extent of the subject development (replacement of a duplex with a single family home on a single lot), when considered in the broader context of coastal development, is relatively minor. The proposed development is theoretically the minimal reduction in density possible. Other projects in the same jurisdiction have been approved by the City and by the Commission with reductions of one or two housing units. Larger projects which would result in greater loss of density (more than one or two units) have generally not been proposed or approved in areas designated for high density by the Land Use Plan. There is concern that the cumulative effect of such proposals to demolish multi-unit residential structures to build single family homes will have an adverse impact on housing supply and change the character of the community inconsistent with the Land Use Plan. In this case, the City's decision does not rise to the level of substantial issue because the extent of the development is relatively minor and replacement of a duplex with a single family home on a single lot will not set a new precedent.

Therefore, staff recommends that the Commission determine that **no substantial issue exists** with respect to the grounds on which appeal number A-5-NPB-19-0197 has been filed for the following reasons: the City's decision that the development is consistent with development standards and allowable uses of the LCP and the provisions for public access of the Coastal Act is adequately supported by documents in the record and the Local CDP's findings.

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APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

Exhibit 1 – Project Location

Exhibit 2 – Appeal

Exhibit 3 – Local CDP No. CD2019-034 City Zoning Administrator Staff Report and Exhibits

Exhibit 4 – City Zoning Administrator Resolution No. ZA2019-058

I. MOTION AND RESOLUTION – NO SUBSTANTIAL ISSUE

Motion: *I move that the Commission determine that Appeal No. A-5-NPB-19-0197 raises NO SUBSTANTIAL ISSUE with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the Commissioners present.

Resolution:

The Commission hereby finds that Appeal No. A-5-NPB-19-0197 presents NO SUBSTANTIAL ISSUE with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan and/or the public Access policies of the Coastal Act.

II. APPELLANTS’ CONTENTIONS

The appellant contends that the City’s approval does not comply with the certified LCP; specifically, raising the following concern:

- 1) Inconsistencies with LUP Policy 2.1.1-1 and LUP Table 2.1.1-1.
 - a. Approval a single-family residence using development standards, such as a higher height limit, that had been intended for multi-family developments is inconsistent with the intent of the City in designating the subject parcel “RM-E” in the LUP, as specified in LUP Policy 2.1.1-1 and LUP Table 2.1.1-1.
 - b. Approval of a single-family residence on a parcel designed as “RM-E” is inconsistent with the density range specified for RM-E in LUP Table 2.1.1-1.

III. LOCAL GOVERNMENT ACTION

On August 29, 2019 the City of Newport Beach Zoning Administrator approved Coastal Development Permit No. CD2019-034 after a public hearing ([Exhibit 3](#)). The Zoning Administrator approved the local CDP with special conditions and adopted Resolution No. ZA-2019-058 ([Exhibit 4](#)) including findings in support and conditions of approval. A CEQA Class 3 (New Construction or Conversion of Small Structures) Categorical Exemption was adopted by the City. The appellant is qualified to file an appeal because he provided public comment at the local government hearing.

Public notice of the Coastal Development Permit application is required by IP Policy 21.62.020. Pursuant to this policy, notice of the application was published in the Daily Pilot, mailed to all owners and residential occupants of the property within 300 feet of the boundaries of the site, and posted on the subject property at least 10 days before the scheduled hearing. Additionally, the item appeared on the agenda for the Zoning Administrator meeting, which was posted at City Hall and on the City website.

The City approved the local CDP with 26 conditions requiring, among other things:

- An agreement between the property owner and the City waiving rights to the construction of future shoreline protection devices and to address the threat of damage or destruction from coastal hazards
- A signed and notarized letter acknowledging all hazards present at the site, assuming risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards
- The submission of additional copies of approved architectural plans for inclusion in the Coastal Development permit file.

The Coastal Commission’s South Coast District Office received a Notice of Final Action (NOFA) on September 16, 2019. The Commission issued a Notification of Appeal Period on September 19, 2019. On September 25, 2019, the fourth day of the ten (10) working day appeal period appeal, an appeal was filed by Charles Klobe ([Exhibit 2](#)). The City was notified of the appeal in a letter dated September 26, 2019.

IV. APPEAL PROCEDURES

After certification of Local Coastal Programs (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Developments approved by cities or counties may be appealed if they are located within appealable areas, such as between the sea and the first public road paralleling the sea or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff [Coastal Act Section 30603(a)]. In addition, an action taken by a local government on a coastal development permit application may be appealed to the Commission if the development constitutes a “major public works project” or a “major energy facility” [Coastal Act Section 30603(a)(5)].

The City of Newport Beach Local Coastal Program was certified in 2017. The City’s LCP is comprised of the coastal Land Use Plan (LUP) and the Implementation Plan (IP), which is Title 21 of the City’s Municipal Code. The standard of review for this appeal is the City’s certified LCP and the public access and recreation policies of the Coastal Act. Section 30603(a)(1) of the Coastal Act identifies the project site as being in an appealable area by virtue of its location between the sea and the first public road paralleling the sea.

Section 30603 of the Coastal Act states:

- (a) After certification of its Local Coastal Program, an action taken by a local government on a coastal development permit application may be appealed to the Commission for only the following types of developments:
 - (1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.
 - (2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100

feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.

The grounds for appeal of an approved local coastal development permit in the appealable area are stated in Section 30603(b)(1), which states:

(b)(1) The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in this division.

After a final local action on a local coastal development permit application, the Coastal Commission must be noticed within five days of the decision. After receipt of such a notice which contains all the required information, a ten working-day appeal period begins during which any aggrieved person, or any two members of the Commission, may appeal the local decision to the Coastal Commission. [Cal. Pub. Res. Code § 30603.] As provided under section 13318 of Title 14 of the California Code of Regulations, the appellant must conform to the procedures for filing an appeal as required under section 13111 of Title 14 of the California Code of Regulations, including the specific grounds for appeal and a summary of the significant question raised by the appeal.

The action currently before the Commission is to find whether there is a "substantial issue" or "no substantial issue" raised by the appeal of the local approval of the proposed project. Sections 30621 and 30625(b)(2) of the Coastal Act require a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal.

Commission staff recommends a finding of no substantial issue. If the Commission decides that the appellant's contentions raise no substantial issue as to conformity with the standards set forth in the certified Local Coastal Program or the public access policies of the Coastal Act, the action of the local government stands.

Alternatively, if the Commission finds that a substantial issue does exist with respect to the conformity of the action of the local government with the standards set forth in the certified Local Coastal Program or the public access policies of the Coastal Act, the Commission takes jurisdiction over the permit application and typically continues the public hearing to a later date in order to review the coastal development permit as a de novo matter. [Cal. Pub. Res. Code §§ 30621 and 30625.] Section 13321 of the Coastal Commission regulations specifies that de novo actions will be heard according to the procedures outlined in Sections 13114 and 13057-13096 of the Commission's regulations.

If there is no motion from the Commission to find no substantial issue, it will be presumed that the appeal raises a substantial issue and the Commission will schedule the de novo phase of the public hearing on the merits of the application at a subsequent Commission hearing. A de novo public hearing on the merits of the application uses the certified LCP as the standard of review. In addition, for projects located between the first public road and the sea, findings must be made that an approved application is consistent with the public access and recreation policies of the Coastal Act. Sections 13110-13120 of Title 14 of the California Code of Regulations further explain the appeal hearing process.

If the Commission decides to hear arguments and vote on the substantial issue question, those who are qualified to testify at the hearing, as provided by Section 13117 of Title 14 of the California Code of Regulation, will have three minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicants, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. The Commission will then vote on the substantial issue matter. It takes a majority of Commissioners present to find that the grounds for the appeal raise no substantial issue.

V. FINDINGS AND DECLARATIONS – SUBSTANTIAL ISSUE

A. PROJECT DESCRIPTION AND LOCATION

The City-approved project is the demolition of a 1,700 sq. ft. duplex and construction of a 3,477 sq. ft. single-family residence with 626 sq. ft. garage on a single lot. Due to potential impacts from coastal hazards, the finished flood elevation of the first habitable floor of the proposed structure is 14 ft. North American Vertical Datum of 1988 (NAVD88), which exceeds the minimum 9 ft. elevation standard for new structures subject to sea-level rise, as required by IP Section 21.30.015(D)(3). In addition, the City required, through the imposition of Special Conditions 5 and 6, that the property owner execute an agreement waiving rights to the construction of future shoreline protection devices, and assuming risk of injury or damage from hazards and unconditionally waiving any claims against the City.

The property is designated for Multiple-Unit Residential (RM-E) in the certified coastal Land Use Plan (LUP). Pursuant to Table 21.14-1 of the Implementation Plan (IP), the Multiple-Unit Residential land use designations (e.g. RM-A through RM-F) are implemented by the “Multi-Unit Residential” coastal zoning district, symbolized by either “RM” or “RM-6000”. Consequently, the subject property is zoned “Multi-unit Residential (RM) in the IP. LUP Table 2.1.1-1 defines RM-E as a density of 30.0 – 39.9 du/ac, which is the second highest-density designation. The area zoned RM (essentially the entire block) is currently developed with single-family residences, duplexes, and triplexes.

The subject site is located on West Oceanfront, between 18th and 19th Streets on Balboa Peninsula ([Exhibit 1](#)). The project is located between the first public road and the sea; therefore findings must be made that an approved application is consistent with the public access and recreation policies of the Coastal Act.

B. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS

Section 30625(b)(2) of the Coastal Act requires a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal has been filed pursuant to Section 30603(a) of the Coastal Act. The term “substantial issue” is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission’s regulations simply indicates that the Commission will hear an appeal unless it “finds that the appeal raises no significant question.” In previous decisions on appeals, the Commission has considered the following factors.

1. The degree of factual and legal support for the local government’s decision that the development is consistent or inconsistent with the relevant provisions of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government’s decision for future interpretations of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

Staff is recommending that the Commission find that no substantial issue exists with respect to the grounds on which the appeal has been filed pursuant to Section 30603(a) of the Coastal Act.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government’s coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

C. SUBSTANTIAL ISSUE ANALYSIS

As stated in Section IV of this report, the grounds for an appeal of a CDP issued by the local government is the development’s conformity with the policies of the certified LCP and with the public access and recreation policies of the Coastal Act. The appellant contends that the local government’s action is inconsistent with the certified LCP for reasons discussed in further detail below (and included in full in Exhibit 2).

Appellant’s Argument: Inconsistencies with LUP Policy 2.1.1-1 and LUP Table 2.1.1-1

LUP Policy 2.1.1-1 states:

“The land use categories in Table 2.1.1-1 establish the type, density and intensity of land uses within the coastal zone. If there is a conflict between the development limits of the Land Use Element and the Coastal Land Use Plan, the provision that is most protective of coastal resources shall take precedence. However, in no case, shall the policies of the Coastal Land Use Plan be interpreted to allow a development to exceed a development limit established by the General Plan or its implementing ordinances.”

Table 2.1.1-1 states, in relevant part:

Table 2.1.1-1 Land Use Plan Categories		
<i>Land Use Category</i>	<i>Uses</i>	<i>Density/Intensity</i>
Multiple Unit Residential – RM	The RM category is intended to provide primarily for multi-family residential development containing attached or detached	
RM-A		0.0 – 5.9 DU/AC
RM-B		6.0 – 9.9 DU/AC

RM-C	dwelling units.	10.0 – 19.9 DU/AC
RM-D		20.0 – 29.9 DU/AC
RM-E		30.0 – 39.9 DU/AC
RM-F		40.0 – 52.0 DU/AC

The appellant contends that the City’s approval of the demolition of a duplex and construction of a single-family residence is inconsistent with Policy 2.1.1-1 and Table 2.1.1-1 because it is inconsistency with the density range specified in the LUP, and constitutes an inappropriate application of development standards meant for multi-unit residential development. Specifically, the appellant contends that the City’s approval of a single-family residence on this site is inconsistent with the Multiple Unit-E (RM-E) land use designation of the LUP because it is inconsistent with the intent of the City to encourage higher density development in these areas, as evidenced by the City’s designation of the site as RM-E. The appellant contends that the RM-E designation confers more generous development standards (with respect to height in particular) than the single-family land use designation would, and that the proposed single-family residence inappropriately benefits from these more permissive development standards. The block is currently developed with a mix of single-family residences, duplex, and triplexes. The applicant has provided photos showing that due to the height of the neighboring houses, that the proposed height of the single-family residence would be consistent, included as part of ([Exhibit 1](#)). The applicant also noted that both neighbors have expressed support for the proposed project.

An important point of clarification is that RM-E is a land use designation in the LUP, and does not enumerate a project’s development standards. Instead, development standards are defined by a parcel’s zoning, which is adopted through the IP. In this case, the subject property is zoned “Multi-unit Residential (RM) [emphasis added] in the IP. Zoning districts enumerate specific development standards, and thereby implement the land use designations of the LUP. Table 21.14-1 of the City’s IP states that the land use designations for Multiple-Unit Residential (e.g. RM-A through RM-F) are implemented by the “Multi-Unit Residential” coastal zoning district, symbolized by either “RM” or “RM-6000”. Because the subject property is in the RM zone, the City’s land use designation of RM-E is implemented by the development standards of the RM zone. The Commission certified the development standards as part of the City’s IP on September 8, 2016.

The proposed project is consistent with the development standards and all applicable policies of the IP. The appellant is correct that single-family residences proposed in the RM zone are subject to less restrictive development standards than single-family residences proposed in the R-1 zone. However, this is not true across the board for all development standards. For example, the height limit in the R-1 zone is 24 for a flat roof and 29 ft. for a pitched roof, whereas in the RM zone, the height limit is 28 ft. for a flat roof and 33 ft. for a pitched roof. However, the maximum FAR in the RM zone is 1.75 while in the R-1 zone it is 2.0. Another difference that in the R-1 zone, third floors are limited to 15% of the total buildable area, whereas they are not limited in the RM zone. The proposed 444 sq. ft. third floor would have exceeded the 15% limit of the R-1 zone, if the development standards of the R-1 zone had been applicable to the project, but the RM development standards are applied to all allowable uses in the zone. There are legitimate reasons for the City to apply these standards consistently across the RM zone, irrespective of the type of development being approved such as preservation of community character, improving the visual quality of the neighborhood through consistent form, mass, and setbacks of development.

The appellant's contentions are essentially that the City should not have approved this single-family residence because it is too tall and should have been held to a different standard, but single-family residences are an allowable use in the RM zone according to Table 21.18-1 of the IP. Single-unit Dwellings (Detached) are an allowable (i.e. ministerial) use, so it is unlikely that the City would have been able to deny the applicant's applicant on this basis alone. By extension, Mr. Klobe's contention that the City only intended for multi-unit projects to be allowable in the RM zone is not supported by the evidence.

Lastly, the appellant contends that the City's approval of the demolition of a duplex and construction of a single-family residence is inconsistent with LUP Table 2.1.1-1, which defines RM-E with a density of 30.0 – 39.9 du/ac, the second highest-density designation. The area designated as RM-E in the LUP is essentially the block bounded by 18th Street, 19th Street, W. Oceanfront, and the beach. The block is approximately 1.06 acres, which means that if it were developed at an intensity of 30.0 – 39.9 du/ac, it would have 31-42 units. The block currently contains 26 units, and the proposed project would result in the net loss of one unit.

The subject property is located between the first public road and the sea and must be consistent with the coastal access and recreation policies of the LCP pursuant to Section 21.30A.040 of the IP. The project does not impact private lands suitable for visitor-serving commercial recreational facilities because it is designated for residential use. It would impact the public's ability to access the beach and would not impact any visual resources or public coastal views. As conditioned, it would not impact shoreline processes. Accordingly, the project is consistent with all public access and recreation policies of the LCP.

SUBSTANTIAL ISSUE FACTORS:

Applying the five factors typically relied upon by the Commission in making a determination whether an appeal raises a substantial issue or not confirms that the appeal does raise a "substantial issue" per Section 30625(b)(2).

1. The degree of factual and legal support for the local government's decision that the development is consistent with the relevant provisions of the Coastal Act.

The City had sufficient factual and legal support for its decision to approve the local coastal development permit. The City made findings showing that the proposed project complies with the applicable development standards of the applicable zone, as enumerated in the certified IP. The City also imposed special conditions, such as those requiring the property owner to waive any future rights to shoreline protection, as required by applicable sections of the IP.

2. The extent and scope of the development as approved or denied by the local government.

The scope of development in this appeal is limited. It entails the demolition of a duplex and construction of a single-family residence on a single lot, resulting in a net loss of one unit, and no net loss of lots. The extent of the development when considered in the broader context of development on the coast is relatively minor; the proposed development is theoretically the minimal reduction in density possible. Other projects in the same jurisdiction have been approved by the City and by the Commission with reductions of one or two housing units. Larger projects which would result in greater loss of density (more than one or two units) have generally not been proposed or approved in areas designated for high density by the Land Use Plan. In this case, the City's decision

does not rise to the level of substantial issue because the extent of the development is relatively minor.

3. The significance of the coastal resources affected by the decision.

As conditioned, the project approved by the City would not adversely impact coastal resources. The appellant's main contention concerns a loss of housing density. This is a valid concern given the current housing crisis across the State. However, the Coastal Act does not explicitly identify housing as a coastal resource, and residential uses are not considered coastal dependent or priority uses in the coastal zone. Nonetheless, the Coastal Act contains provisions to ensure that new development is located in existing developed areas, and is designed to reduced energy consumption and vehicle miles travelled, not to impact access and recreation, visual resources, and be consistent with the character of the area. Together, these sections of the Coastal Act support the co-location of housing in existing developed areas such as the project site, so long as the development does not impact coastal resources.

4. The precedential value of the local government's decision for future interpretations of its LCP.

The City's decision to approve this subject coastal development permit has little precedential value insofar as the City correctly interpreted the development standards of its IP, which would remain consistent for future decisions. However, the appellant's contentions that it is inappropriate for an applicant to construct a larger single-family residence in the RM zone also has precedential value because it may encourage applicants intending to construct single-family residences to seek out high-density zones, displacing additional multi-unit structures on larger lots or multiple lots, which could cumulatively impact the overall ability of the City to implement the Multiple Unit Residential land use designation. The appellant's contention thus highlights a potential inconsistency in the structuring of the City's coastal zoning districts with regard to implementing the land use designation. Essentially, the Land Use Plan suggests the area should support higher density residential development, and the Implementation Plan contains standards to encourage denser development, but the Implementation Plan also includes single family homes as an allowable use. In light of this potential inconsistency, and the potential precedential value of approving low-density development in high-density zones, the City should be judicious in approving further coastal development permit applications involving significant losses of housing density, which may be inconsistent with the standards of the Land Use Plan.

5. Whether the appeal raises local issues, or those of regional or statewide significance.

As stated above, the primary topic of concern raised by the appellant is the interpretation of the City's development standards (particularly the height limit), which is a local issue. However, the loss of housing density is a statewide concern. The appeal highlights a potential inconsistency in the certified LCP – the project is consistent with applicable development standards of its application zone (IP), but it may not effectively implement the underlying land use designation for higher density (the LUP). This inconsistency may be heightened in future decisions the City is presented with, where a net reduction of more than one housing unit, or more than one lot, is proposed. Planning policies and processes have recently come under increased scrutiny for their role the housing crisis across the State. The appellant's concerns are related to this statewide issue. Regionally, the consolidation of several lots or conversion of higher-density lots into single-family homes is a significant issue.

Conclusion

The appeal raises issues of precedent and inconsistent LCP standards, which could lead to a cumulative

reduction in housing density, which is a statewide concern. The application of the LCP is an ongoing concern which the City and the Commission may resolve through iterative review of future applications, or through an LCP Amendment. Larger projects which would result in greater loss of density, or change the character of the community inconsistent with the Land Use Plan, have generally not been proposed or approved. The City will be required to allow for increased housing development through the pending Regional Housing Needs Assessment, and changes to State Law (e.g. SB 330 “Housing Accountability Act” and AB 68 “Accessory Dwelling Unit Deregulation).

In this case, there is factual and legal support for the local government’s decision, the extent and scope of the development is relatively small, and the development will not adversely impact coastal resources. Thus, only two of the five factors for finding substantial issue are met. Thus, considering all of the factors and the standard of review, there is no substantial issue with respect to whether the local government action conforms to the policies of the City’s certified LCP and the public access and recreation policies of the Coastal Act.

Appendix A – Substantive File Documents

1. City of Newport Beach certified Local Coastal Program