

CALIFORNIA COASTAL COMMISSION

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W15b

ADDENDUM

DATE: October 12, 2021
TO: Coastal Commissioners and Interested Parties
FROM: South Coast District Staff
SUBJECT: **ADDENDUM TO ITEM W15B, APPEAL NO. A-5-NPB-21-0058 FOR THE COMMISSION MEETING ON WEDNESDAY, OCTOBER 13, 2021.**

I. CORRESPONDENCE FROM APPLICANTS AND APPELLANTS

On October 7, 2021, the Commission received one letter in support of the proposed development and thirty-six (36) letters in opposition, which are included as correspondence.

The letters in opposition raised substantially the same issues raised by the appellants in their appeal and assert the following: (1) that the bayward views from John Wayne Park will be substantially and adversely impacted by the proposed development; (2) that the proposed development is not compatible with the uses and zoning requirements assigned under the Newport Beach Local Coastal Program (LCP); (3) that the City did not evaluate the project in harmony with the LCP and the Coastal Act, through the prioritization of the Density Bonus Law, Housing Accountability Act, and AB 2797; and (4) that traffic hazards will increase as a result of the 12-foot dedication to the City along a 50-foot segment fronting West Coast Highway.

In response, staff would note that the staff report fully addresses the concerns raised in the correspondence. With regards to visual impacts, appellants argued that the City should have required story poles as part of the views analysis of the proposed project and submitted an independent visual simulation of the structure (see page 46 of the correspondence document). The City has not seen the visual simulation submitted by the appellants on October 4th. Commission staff does not have a way to verify if the simulation is accurate or explain why it differs from the applicant's visual simulation and it is unclear if the simulation was done by a professional contractor. Regardless, The City record supports that no views from designated scenic highways (e.g., West Coast Highway) or trails would be impacted.

Staff reviewed the appellants' contention that John Wayne Park is a "view park" with additional visual resources protection measures under LUP Policy 2.3.2-2, but found that John Wayne Park is not designated as a "view park" per the LCP. In fact, the LCP specifically identifies adjacent blufftop view parks in the immediate vicinity of John Wayne Park, such as Cliff Drive Park, Ensign Park, and Kings Road Park, all of which provide prominent public viewing of the shoreline along Mariner's Mile. Other architectural and aesthetic considerations, such as structure articulation, modulation, character compatibility, and "visual interest" are further discussed in the staff report. Lastly, staff would note that the portion of the site within the appealable area does not include development that implicates building height limits or view impacts.

The appellants also raised issue with the City's determination of the project's consistency with the MU-H designation and MU-MM zoning. Policy 2.1.4-1 states:

2.1.4-1. For properties located on the inland side of Coast Highway in the Mariners' Mile Corridor that are designated as MU-H, (a) the Coast Highway frontages shall be developed for marine-related and highway-oriented general commercial uses in accordance with CM and CG categories; and (b) portions of properties to the rear of the commercial frontage may be developed for free-standing neighborhood-serving retail, multi-family residential units, or mixed-use buildings that integrate residential with retail uses on the ground floor in accordance with the CN, RM, CV, or MU-V categories respectively.

In particular, the appellants assert that LUP Policy 2.1.4-1(a) requires a uniform commercial frontage along West Coast Highway, and that LUP Policy 2.1.4-1(b) necessitates that the multi-family residential component in the rear be "free-standing" and separate from the commercial frontage. However, it should be noted that LUP Policy 2.1.4-1(a) does not require a uniform or complete frontage along West Coast Highway, as this Policy mainly designates developments as marine-related or highway-oriented general commercial uses. Previous City staff reports, and the Zoning Clearance Letter dated June 24, 2021 to Pierce Stemler, verify that the current and proposed commercial uses for this development will be highway-oriented. In addition, LUP Policy 2.1.4-1(b) is permissive, rather than obligatory, and as such the proposed development may be configured as one building with a commercial frontage and rear residential component. Therefore, staff find no substantial issue with the City's determination that the project will be entirely consistent with the MU-H designation and MU-MM zoning.

One additional aspect of the MU-MM zoning requirements that the appellants contest is the Density Bonus Law. As discussed on Page 19 of the staff report, the LCP directly references Government Code Sections 65915 through 65917 ("Density Bonus Law"), and clearly states that all housing development shall be consistent and "most protective" of coastal resources. Given that the City calculated the density bonus for this proposed development utilizing constraints pursuant to IP Section 12.30.060(C), the City correctly determined that the height of the new structure may reach a maximum of 35 feet. Given that the visual impacts of the increased height have been found to be insubstantial, it can be concluded that the City acted in accordance with all legal requirements, including the LCP.

Lastly, the appellants claim that the proposed development will exacerbate traffic congestion and hazards, which are issues related to public access. Staff would like to clarify that the proposed City and Caltrans project to further widen West Coast Highway is not within the purview of Commission action under this appeal. While it may be argued that the applicant's dedication of the 12' x 50' strip along the West Coast Highway frontage

may be linked to infrastructure projects or improvements in the future, these potential projects will be evaluated separately for their consistency with the LCP and Chapter 3 policies of the Coastal Act. The assertion that the 12-foot-wide dedication will increase traffic hazards also remains unsubstantiated. The City has repeatedly informed Commission staff that the applicant will be responsible for funding the future sidewalk and bike lane improvements within the dedicated strip, and the construction of said improvements will be per City requirements (Condition of Approval No. 71). Likewise, there is no evidence that parking at the rear of the property near the bottom of the John Wayne Park promontory and along Avon Alley will be removed, and the widening of Avon Street is estimated to improve traffic circulation in the immediate area and alleviate traffic along West Coast Highway, therefore ensuring fulfillment of LUP Policy 2.1.4-5.

The additional comments provided by the opposition do not raise a significant issue and the proposed development is visually compatible with the surrounding area, is consistent with LCP site designation and zoning, will not directly impact coastal public access, and is otherwise consistent with all LCP policies.

II. REVISIONS TO THE STAFF REPORT

Commission staff recommend changes to the staff report dated September 23, 2021, to make the following modifications and corrections. Language to be added is shown in underlined text, and language to be deleted is identified by ~~strikethrough~~.

- a) B. LOCAL COASTAL PROGRAM CERTIFICATION. In January 2017, the City of Newport Beach LCP was effectively certified. The City's LCP is comprised of a Land Use Plan (LUP) and an Implementation Plan (IP). ~~There is one area of deferred certification in the City (Banning Ranch).~~ The standard of review for development within the City's permit jurisdiction is the City's certified LCP.
- b) Modify the last sentence of the first paragraph of the Summary of Staff Recommendation on page 2 as follows:

The City of Newport Beach approved a local coastal development permit (CDP), site development permit, tentative parcel map, and affordable housing implementation plan for a mixed-use project located on an inland site near the intersection of Tustin Avenue and West Coast Highway in Newport Beach. The proposed development will demolish two existing vehicle sales office buildings, storage sheds, a 66-space surface private parking lot, hardscape, and concrete pedestrian walks. In its place on five parcels, a three-story, 35-foot-tall, 39,842 sq. ft. mixed-use development consisting of 36 residential units and a 5,096 sq. ft. office is proposed. The project will also dedicate to the City a 12-foot strip along the frontage of the property facing West Coast Highway, as well as a 20-foot strip and parking spaces in the rear of the lot for roadway and sidewalk expansion. The dedication of the strip for public sidewalk construction and landscaping improvements is the only development proposed within the appealable area and thus subject to Commission review during the substantial issue phase of the hearing, ~~is the~~; the area where the building is proposed is more than 300 feet inland of the coast and is therefore outside of the appealable area.

- c) Modify the second complete paragraph of the Appellants' Contentions on page 5 as follows:

On August 18, 2021, an appeal was filed by the Coalition to Preserve Mariners Mile1 (**Exhibit No. 5**). Furthermore, David J. Tanner of Environmental & Regulatory Specialists, Inc., as authorized representative of the appellants, has submitted an additional memorandum in support of the Coalition appeal (**Exhibit No. 5**). Altogether, the appellants contend that the City's approval does not comply with the City's certified LCP. More specifically, the appellants raise the following concerns with the City-approved development: