

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
301 E. OCEAN BLVD, SUITE 300
LONG BEACH, CA 95060
PHONE: (562) 580-5071
WEB: WWW.COASTAL.CA.GOV



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LCP AMENDMENT NO. LCP-5-NPB-19-0016-1

MAY 12, 2021

EXHIBIT

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**Exhibit 1 – City Ordinance 2021-4 Approving LCPA No. LCP-5-NPB-19-0016-1 with
Suggested Modifications**

ORDINANCE NO. 2021-4

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, ADOPTING LOCAL COASTAL PROGRAM AMENDMENT NO. LC2017-001 AS MODIFIED BY THE CALIFORNIA COASTAL COMMISSION TO AMEND TITLE 21 (LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN) OF THE NEWPORT BEACH MUNICIPAL CODE RELATED TO THE PARKING MANAGEMENT OVERLAY DISTRICT AND PLAN (PA2017-046)

WHEREAS, Section 200 of the City of Newport Beach ("City") Charter vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges or procedures granted or prescribed by any law of the State of California;

WHEREAS, Section 30500 of the Public Resources Code requires each county and city to prepare a local coastal program for that portion of the coastal zone within its jurisdiction;

WHEREAS, in 2005, the City adopted the City of Newport Beach Local Coastal Program Coastal Land Use Plan ("LCP") as amended from time to time including most recently on February 12, 2019 via Resolution No. 2019-16;

WHEREAS, the California Coastal Commission effectively certified the City's Local Coastal Program Implementation Plan with suggested modifications on January 13, 2017, and the City Council adopted Ordinance No. 2016-19 adding Title 21 (Local Coastal Program Implementation Plan) ("Title 21") to the Newport Beach Municipal Code ("NBMC") whereby the City assumed coastal development permit-issuing authority on January 30, 2017;

WHEREAS, LCP Amendment No. LC2017-001 is necessary to incorporate a parking management overlay district and plan, including the Balboa Village Parking Management Overlay District, into Title 21 in order to establish consistency with Title 20 (Planning and Zoning);

WHEREAS, a public hearing was held by the Planning Commission of the City of Newport Beach on February 21, 2019, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act"), Chapter 21.62 (Public Hearings) of the NBMC, and Section 13515 of the California Code of Regulations Title 14, Division 5.5, Chapter 8, Subchapter 2, Article 5 (Public Participation). Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing;

WHEREAS, at the conclusion of the public hearing, the Planning Commission voted (4 ayes, 0 nays, 3 absent) to adopt Planning Commission Resolution No. PC2019-006, recommending City Council approval of LCP Amendment No. LC2017-001;

WHEREAS, a public hearing was held by the City Council of the City of Newport Beach on April 9, 2019, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act, Chapter 21.62 (Public Hearings) of the NBMC, and Section 13515 of the California Code of Regulations. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing;

WHEREAS, pursuant to Section 13515 of the California Code of Regulations, review drafts of LCP Amendment No. LC2017-001 were made available and a notice of the availability was distributed a minimum of six weeks prior to the City Council public hearing;

WHEREAS, on April 9, 2019, the City Council adopted Resolution No. 2019-37 authorizing the submittal of LCP Amendment No. LC2017-001 to the Coastal Commission;

WHEREAS, Resolution No. 2019-37 specified that LCP Amendment No. LC2017-001 shall not become effective until approval by the Coastal Commission and adoption, including any modifications suggested by the Coastal Commission, by resolution(s) and/or ordinance(s) of the City Council;

WHEREAS, at the September 9, 2020, Coastal Commission hearing, the Coastal Commission certified LCP Amendment No. LC2017-001 with modifications (LCP-5-NPB-19-0016-1) as being consistent with the California Coastal Act; and

WHEREAS, a telephonic public hearing was held by the City Council on February 9, 2020, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California, observing restrictions due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act, Chapter 21.62 (Public Hearings) of the NBMC 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 ordains as follows:

Section 1: The City Council hereby accepts the suggested modifications approved by the California Coastal Commission as set forth below.

Section 2: Section 21.14.010 (Coastal Zoning Map) of Chapter 21.14 (Coastal Maps) of the NBMC is hereby amended as attached hereto as Attachment "A" to include "PM-1" overlay district symbol to Balboa Village area with all other provisions of the Coastal Zoning Map remaining unchanged.

Section 3: Section 21.28.030 (Parking Management (PM) Overlay District) of Chapter 21.28 (Overlay Coastal Zoning Districts (MHP, PM, B, C and H)) of the NBMC is repealed and replaced with the following:

21.28.030 Parking Management (PM) Overlay District.

A. Parking Management District Plan Required. Every Coastal Zoning Map LCP amendment reclassifying land to create a new Parking Management (PM) Overlay District shall have a parking management plan reviewed by the Commission and approved by the Council.

B. Establishment of Parking Management Program(s). The parking management district plan shall identify existing and planned parking facilities and establish parking management programs necessary to adequately serve the parking needs of the area and address the following issues:

1. The provision of adequate, convenient parking for residents, guests, business patrons, and visitors of the coastal zone;
2. Optimizing the use of existing parking spaces;
3. Providing for existing and future land uses;

4. Reducing traffic congestion;
5. Limiting adverse parking impacts on user groups;
6. Providing improved parking information and signage;
7. Generating reasonable revenues to cover City costs; and
8. Accommodating public transit and alternative modes of transportation.

C. Exemptions. The parking management district plan shall also include a formula or procedure establishing the extent to which commercial, residential, and mixed-use properties shall be exempted from the requirements of Chapter 21.40 (Off-Street Parking).

D. Local Coastal Program Amendment Required. The creation of any future parking management district plan as a PM Overlay District shall require an amendment to the LCP approved by the Coastal Commission.

E. Coastal Development Permit Required. The parking management district plan required by Section 21.28.030(A), or any successor section, shall not become effective until the approval of a coastal development permit by the Commission. The coastal development permit shall implement the required parking management district plan implementation components contained in Section 21.28.030(B), or any successor section, and as detailed for that overlay district in Section 21.28.030(F). Any change to the parking management district plan shall only be approved in compliance with Section 21.54.070 (Changes to an Approved Coastal Development Permit), or any successor section. These provisions do not amend, supersede or replace the conditions of any previously issued coastal development permit and an amendment to said coastal development permit from the permit issuing authority is required to implement any of these new parking management district plan provisions.

F. Parking Management Overlay Districts and Plans Established. The parking management districts identified in this section and depicted in the referenced map exhibits adopted in Part 8 of Title 21 of the Code are established.

1. Balboa Village Parking Management Overlay District Plan (PM-1). Balboa Village Parking Management Overlay District PM-1 applies to all property located within Balboa Village between the Pacific Ocean, A Street, Newport Bay, and Adams Street, as depicted in the map of PM-1 - Balboa Village Parking Management Overlay District referenced in Section 21.80.035, or any successor section.

- a. Purpose. The purposes of the PM-1 are as follows:

- i. To protect the special community character of Balboa Village and enhance the pedestrian-oriented, traditional storefront character of Balboa Village by reducing requirements for new off-street parking facilities and the need for driveway curb cuts, traffic control devices and other parking-related improvements that are disruptive to this environment or result in a loss of public on-street parking.
 - ii. To establish parking programs to adequately serve the parking needs for Balboa Village residents, visitors and businesses and for recreational visitors to Balboa Pier and adjacent beaches and parks.
 - iii. To modify the requirements of Chapter 21.40 (Off-Street Parking), or any successor chapter, to optimize the use of existing public and private parking spaces reflecting that Balboa Village has a large supply of public parking that is underutilized during the beach off-peak season.
 - iv. To provide improved parking information and signage.
 - v. To provide greater accommodation of public transit and alternative modes of transportation.
- b. Existing Municipal Parking Facilities. PM-1 includes the five (5) public parking lots within the District: 1) A Street lot, 2) Washington Street lot, 3) Palm Street lot, 4) Balboa Metered lot, and 5) Balboa Pier lot. In addition, PM-1 includes public on-street parking spaces along Balboa Boulevard, Palm Street, Adams Street, and Bay Avenue.
- c. Planned Parking Facilities. Due to the high cost of land acquisition and construction and the underutilization of existing parking in the off-peak season, additional off-street parking facilities are not necessary to meet the demand of existing uses; however, parking demand shall be monitored and evaluated by the City every two years to determine whether additional District parking is necessary, economical, appropriate, and desirable. The City may acquire or lease parking facilities to make them available to the public.
- d. Implementation Components.

i. **Parking Supply.** Sufficient public parking spaces shall be provided to meet the parking demand generated by visitors to the commercial district, Balboa Pier and adjacent beaches and parks. The PM-1 shall maintain the availability of spaces in public parking facilities; however, should the need arise, the City may modify, add, or remove parking spaces to ensure safe and efficient operations and to meet parking demand. Any change to the number of spaces shall be processed through an amendment to the coastal development permit.

ii. **Required Off-Street Parking.**

(A) **Non-residential Uses.** No off-street parking shall be required for any new non-residential use or intensification of an existing non-residential use, except for the following uses, as defined by Chapter 21.70 (Definitions), or any successor chapter: Assembly/Meeting Facilities, Commercial Recreation and Entertainment, Cultural Institutions, all Marine Services Uses, Schools, and Visitor Accommodations. Uses that require off-street parking shall provide said spaces in accordance with Chapters 21.40 (Off-Street Parking) and 21.38 (Nonconforming Uses and Structures), or any successor chapters.

(B) **Residential Uses.** Residential uses, including residential uses within a mixed-use structure, shall provide parking in accordance with Chapters 21.40 (Off-Street Parking) and 21.38 (Nonconforming Uses and Structures), or any successor chapters.

(C) **Preservation of Existing Off-street Parking.** Existing off-street parking spaces on a development site shall be preserved unless the elimination of spaces is authorized by the approval of a coastal development permit application.

(D) **Shared Parking for Non-residential Uses.** Notwithstanding the requirement of Title 21 of this Code that off-street parking be reserved for the use it serves, the shared use of parking is allowed and encouraged. Shared parking shall be subject to the following requirements:

(1) Required Off-street Parking. Required parking for non-residential uses may be satisfied by leasing nearby parking spaces at off-site locations within 1,250 feet of the parcel it serves. Development on multiple parcels with reciprocal access agreements is considered one site for parking purposes. If the spaces are required or otherwise leased to other uses, the hours of operation shall not significantly overlap. The distance between the parking facility and the use it serves shall be measured along public walkways from the closest portion of the parking facility to the main entrance of the use. The leasing of off-site parking to satisfy required parking shall be maintained in perpetuity when the use requires it and may only be discontinued if the use is discontinued.

(2) Excess Parking. Parking that is associated with an existing private parking lot which is not necessary to satisfy off-street parking requirements for the current use may be leased to other uses or made available to the general public.

(3) Parking within Mixed-Use Buildings. Parking for different uses within a new, mixed-use building may be shared subject to the review and approval of a coastal development permit application.

(4) Parking Reduction. The reduction of required parking associated with a shared parking arrangement shall be subject to the review and approval of the Director when in compliance with the following conditions:

(a) Shared parking spaces are within 1,250 feet as described in Section 21.28.030(F)(1)(d)(ii)(D)(1), or any successor section.

(b) There is no significant overlap in the hours of operation or peak parking demand of the uses sharing the parking.

(c) The use of the shared parking facility will not create traffic hazards or impacts to surrounding uses.

(d) The property owners involved in the shared parking facilities provide a binding agreement or other legal instrument assuring the joint use of the parking facilities subject to the satisfaction of the Director.

(e) The Director may require the preparation and implementation of a parking management program for the development site to address potential parking conflicts.

(5) Section 21.40.110(A)(2) (Joint Use of Parking Facilities), or any successor section, does not apply to the Balboa Village Parking Management Overlay District.

(E) Private Parking Facilities Available to the General Public. Non-residential, off-street parking facilities are encouraged to be made available to the general public, even if the parking facility is required for existing developments. Subject to City Council review and approval, the City may enter into an agreement with the property owner for the use and/or management of the parking facility. Allowing general public access to private off-street parking facilities shall not affect the property's conformance with its required off-street parking. The agreement should, at a minimum, address the hours of availability for use by the general public, signage, maintenance, duration of agreement, and liability. General public parking fees at said private parking facilities shall reflect municipal parking facility rates.

iii. Suspension of In-lieu Parking. Uses within the Balboa Village Parking Management Overlay District shall not be eligible for in-lieu parking pursuant to Section 21.40.130 (In-Lieu Parking Fee), or any successor section. The requirement that existing uses within the Balboa Village Parking Management Overlay District participate

in the in-lieu parking permit program shall be discontinued as of the effective date of PM-1.

iv. Voluntary Employee Parking. The City shall operate a voluntary Balboa Village Employee Permit Program that will include reduced fees and designated parking locations (excluding beach parking lots during peak summer months and peak use times) for employee parking during specified hours. The City shall encourage employers to provide incentives for transit ridership and other transportation demand measures.

v. User Groups. PM-1 shall provide sufficient parking to meet the needs for Balboa Village and visitors to Balboa Pier and adjacent beaches and parks, while taking into consideration time of use and seasonal demand variations. Parking shall be convenient and easily accessible for all user groups.

vi. Parking Restrictions. Restrictions on time of use and duration of parking shall be implemented to optimize use of both existing off-street and on-street parking spaces.

vii. Wayfinding Program. PM-1 shall include a wayfinding program to direct visitors to parking and bicycle facilities, public transit, pedestrian and bicycle access routes and important destinations. The wayfinding program may include the display of real-time availability data by signage or by mobile phone applications.

viii. Alternative Transportation. PM-1 shall accommodate and encourage the use of alternative transportation, including, but not limited to, the following:

- (A) Non-motorized use of the Balboa Island Ferry;
- (B) The Newport-Balboa Bike Trail;
- (C) Bus parking in the Balboa Pier Main Lot;
- (D) New or additional public bicycle racks at street ends and other locations determined by the Public Works Director; and

(E) The accommodation of the summer trolley/shuttle service hours and stops and of ride-sharing services including appropriate loading zones.

Section 4: Subsection (B) of Section 21.70.020 (Definitions of Specialized Terms and Phrases) of Chapter 21.70 (Definitions) of the NBMC is hereby amended to add the definitions of "Balboa Island Ferry" and "Balboa Pier Main Lot" to read as follows, with all other provisions of 21.70.020(B) remaining unchanged:

"Balboa Island Ferry" means the ferry service connecting Balboa Island with the Balboa Peninsula.

"Balboa Pier Main Lot" means the public park lot adjacent to the Balboa Pier, located between Adams Street and A Street.

Section 5: Subsection (N) of Section 21.70.020 (Definitions of Specialized Terms and Phrases) of Chapter 21.70 (Definitions) of the NBMC is hereby amended to add the definition of "Newport-Balboa Bike Trail" to read as follows, with all other provisions of 21.70.020(N) remaining unchanged:

"Newport-Balboa Bike Trail" means the system of bike lanes and paths from the Santa Ana River to West Jetty Park and generally depicted on the Bikeways and Trails Map of the Coastal Land Use Plan.

Section 6: The table of contents of Chapter 21.80 (Maps) of the NBMC is hereby amended to include Section 21.80.035 (Parking Management Overlay District Maps) to read as follows:

Chapter 21.80 MAPS

Sections:

21.80.010 Area Maps.

21.80.020 Bluff Overlay.

21.80.025 Canyon Overlay.

21.80.030 Height Limit Areas.

21.80.035 Parking Management Overlay District Maps.

21.80.040 Setback Maps.

21.80.055 Planned Community Site Plans.

21.80.065 Planned Community Land Use Maps.

Section 7: Section 21.80.035 (Parking Management Overlay District Maps) of Chapter 21.80 (Maps) of the NBMC is hereby added to read as follows and include the "PM-1 Balboa Village Parking Management Plan Overlay District" map attached hereto as Attachment "B" with all other provisions of Chapter 21.80 remaining unchanged.

21.80.035 Parking Management Overlay District Maps.

PM-1 - Balboa Village Parking Management Overlay District

Section 8: The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

Section 9: The LCP, including LCP Amendment No. LC2017-001, will be carried out fully in conformity with the California Coastal Act of 1976 as set forth in the California Public Resources Section 30000 *et seq.*

Section 10: The City Council hereby authorizes City staff to submit this ordinance for a determination by the Executive Director of the Coastal Commission that this action is legally adequate to satisfy the specific requirements of Coastal Commission's September 9, 2020, action on LCP Amendment Request No. LCP-5-NPB-19-0016-1.

Section 11: This ordinance shall not become effective for thirty days and until the Executive Director of the Coastal Commission certifies that this ordinance complies with the Coastal Commission's September 9, 2020, action on LCP Amendment Request No. LCP-5-NPB-19-0016-1.

Section 12: 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 13: The City Council finds the introduction and adoption of Local Coastal Program Amendment No. LC2017-001 is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. The proposed action is also exempt pursuant to CEQA Guidelines Section 15065(a)(1), which exempts local governments from the requirements of preparing an environmental impact report or otherwise complying with CEQA in connection with the adoption of a Local Coastal Program.

Section 14: Except as expressly modified in this ordinance, all other sections, subsections, terms, clauses and phrases set forth in the NBMC shall remain unchanged and shall be in full force and effect.

Section 15: 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 and the same shall become final and effective as provided in Section 10 of this ordinance.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 9th day of February 2020, and adopted on the 23rd day of February, 2020, by the following vote, to-wit:

AYES: Mayor Avery, Council Member Blom, Council Member Brenner, Council Member Dixon, Council Member Duffield, Council Member O'Neill

NAYS: _____

ABSENT: Mayor Pro Tem Muldoon

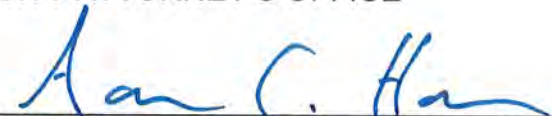

BRAD AVERY, MAYOR

ATTEST:


LEILANI I. BROWN, CITY CLERK



APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE


AARON C. HARP, CITY ATTORNEY

Attachments:

Exhibit A - Coastal Zone Map Amendment

Exhibit B - PM-1 Balboa Village Parking Management Plan Overlay District Map

EXHIBIT B



PM-1 Balboa Village Parking Management Plan Overlay District **DRAFT**



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. 2021-4 was duly introduced on the 9th day of February, 2021, at a regular meeting, and adopted by the City Council at a regular meeting duly held on the 23rd day of February, 2021, and that the same was so passed and adopted by the following vote, to wit:

AYES: Mayor Brad Avery, Council Member Noah Blom, Council Member Joy Brenner,
Council Member Diane Dixon, Council Member Duffy Duffield, Council Member Will
O'Neill

NAYS: None

ABSENT: Mayor Pro Tem Kevin Muldoon

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 24th day of February, 2021.



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

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. 2021-4 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: February 13, 2021

Adopted Ordinance: February 27, 2021

In witness whereof, I have hereunto subscribed my name this _____ day of March, 2021.

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