

CITY OF NEWPORT BEACH CITY COUNCIL STAFF REPORT

Agenda Item _____
November 13, 2007

TO: Honorable Mayor and City Council

FROM: Planning Department
James Campbell, Senior Planner
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SUBJECT: Coastal Land Use Plan Amendment No. 2007-003 (PA 2007-196)

ISSUE

Should Certain policies of the Coastal Land Use Plan be amended as they relate to development on coastal bluffs on Pacific Drive, Carnation Avenue and Ocean Boulevard?

RECOMMENDATION

Adopt the attached resolution approving Coastal Land Use Plan Amendment No. 2007-003.

DISCUSSION

The Coastal Land Use Plan (CLUP) contains policies that regulate development on coastal bluffs. Development on the face of coastal bluffs is prohibited except within Corona del Mar on Pacific Drive, Carnation Avenue and Ocean Boulevard. The recent consideration of the AERIE project (PA 2005-196) highlighted shortcomings in existing policy language and, pursuant to City Council direction, staff prepared the subject amendment. The Planning Commission considered the proposed amendment on October 18, 2007 and recommended approval.

Existing CLUP policy are as follows:

- 4.4.1-1. *Protect and, where feasible, enhance the scenic and visual qualities of the coastal zone, including public views to and along the ocean, bay, and harbor and to coastal bluffs and other scenic coastal areas.*
- 4.4.1-2. *Design and site new development, including landscaping, so as to minimize impacts to public coastal views.*

- 4.4.1-3 *Design and site new development to minimize alterations to significant natural landforms, including bluffs, cliffs and canyons.*
- 4.4.3-8. *Prohibit development on bluff faces, except private development on coastal bluff faces along Ocean Boulevard, Carnation Avenue and Pacific Drive in Corona del Mar determined to be consistent with the predominant line of existing development or public improvements providing public access, protecting coastal resources, or providing for public safety. Permit such improvements only when no feasible alternative exists and when designed and constructed to minimize alteration of the bluff face, to not contribute to further erosion of the bluff face, and to be visually compatible with the surrounding area to the maximum extent feasible.*
- 4.4.3-9. *Where principal structures exist on coastal bluff faces along Ocean Boulevard, Carnation Avenue and Pacific Drive in Corona del Mar, require all new development to be sited in accordance with the predominant line of existing development in order to protect public coastal views. Establish a predominant line of development for both principle structures and accessory improvements. The setback shall be increased where necessary to ensure safety and stability of the development.*
- 4.4.3-12. *Employ site design and construction techniques to minimize alteration of coastal bluffs to the maximum extent feasible, such as:*
- A. *Siting new development on the flattest area of the site, except when an alternative location is more protective of coastal resources.*
 - B. *Utilizing existing driveways and building pads to the maximum extent feasible.*
 - C. *Clustering building sites.*
 - D. *Shared use of driveways.*
 - E. *Designing buildings to conform to the natural contours of the site, and arranging driveways and patio areas to be compatible with the slopes and building design.*
 - F. *Utilizing special foundations, such as stepped, split level, or cantilever designs.*
 - G. *Detaching parts of the development, such as a garage from a dwelling unit.*
 - H. *Requiring any altered slopes to blend into the natural contours of the site.*

The issue with the policies is in one possible interpretation that Policies 4.4.3-8 and 4.4.3-9 establish the predominant line of existing development as a “build to” line that, once identified, preempts application of other resource protection policies such as the need to minimize alteration of the bluff. The draft amendment would modify Policy 4.4.3-8 and Policy 4.4.3-9 to clarify the relative roles of each of the policies. In conjunction with these changes, a new policy is recommended to indicate that the predominant line of existing development is not the only factor in determining the extent of possible development on coastal bluffs. All resource protection policies would be considered in determining the extent of development. Lastly, the proposed amendment includes a minor change to the definition of “predominant line of development” by simply renaming it the “predominant line of existing development.” The proposed amendment, as recommended for approval by the Planning Commission, is as follows:

- “4.4.3-8. *Prohibit development on bluff faces, except private development on coastal bluff faces along Ocean Boulevard, Carnation Avenue and Pacific Drive in Corona del Mar determined to be consistent with the predominant line of existing development. Establish a predominant line of existing development for both principal structures and accessory improvements.*
- 4.4.3-9. *Permit public improvements providing public access, protecting coastal resources, or providing for public safety on coastal bluff faces only when no feasible alternative exists and when designed and constructed to minimize alteration of the bluff face, to not contribute to further erosion of the bluff face, and to be visually compatible with the surrounding area to the maximum extent feasible.*
- 4.4.3-19. *In all cases where the predominant line of existing development is used to establish a development limit along Ocean Boulevard, Carnation Avenue and Pacific Drive in Corona del Mar, it shall not be the only criteria used for this purpose. All coastal land use and development policies shall be considered in determining the appropriate extent of new development and size of new structures on bluff faces along Ocean Boulevard, Carnation Avenue and Pacific Drive.”*

Predominant Line of Existing Development: The most common or representative distance from a specified group of structures to a specified point or line (e.g. topographic line or geographic feature). For example, the predominant line of existing development for a block of homes on a coastal bluff (a specified group of structures) could be determined by calculating the median distance (a representative distance) these structures are from the bluff edge (a specified line).”

The Planning Commission modified the proposed language of Policy 4.4.3-19 limiting its geography to that covered by Policies 4.4.3-8 & 4.4.3-9 (Ocean Boulevard, Carnation Avenue and Pacific Drive). Staff suggests that this change be eliminated as the predominant line of existing development applies to other properties (coastal bluffs and coastal canyons) as well. One additional change to Policy 4.4.3-8 is recommended by staff, which was identified after the Planning Commission considered the amendment. The second sentence of the policy requires the establishment of “a predominant line of existing development for both principal structures and accessory improvements.” This provision is presently in Policy 4.4.3-9, but staff recommends that it be changed to read as follows:

“Establish a predominant lines of existing development for both principal structures and accessory improvements.”

The provision was originally written with the idea that there would be 2 or more lines; one for principal structures and one or more for accessory improvements. The current policy refers to a single predominant line of existing development for both categories of development. The recommended change supports the original intent where similar structures would be regulated together and avoids the possibility that accessory structures could influence the location of principal structures.

The two suggested changes are incorporated within the draft resolution for adoption (Attachment A).

The purpose of the resource protection policies contained within the CLUP are to implement Section 30251 of the Coastal Act, which states:

“The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.”

Staff believes that the proposed amendment is consistent with this provision of the Coastal Act and that the amendment is necessary to avoid unintended results inconsistent with this provision of law.

Environmental Review

The proposed action is not defined as a project under the California Environmental Quality Act (CEQA) because it involves general policy and procedure-making activities not associated with a project or a physical change in the environment (Section 15378 of the CEQA Guidelines).

Public Notice

A notice of availability of this proposed amendment was provided pursuant to Section 13515(c) of the California Code of Regulations. The notice was mailed to interested parties, agencies and property owners who own property on Pacific Drive, Carnation Avenue and Ocean Boulevard. A notice of this public hearing was also mailed to these parties and it was published in the *Daily Pilot* a minimum of 10 days in advance of this hearing consistent with the Municipal Code. Additionally, the item appeared upon the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:

Submitted by:

James Campbell, Senior Planner

David Lepo, Planning Director

ATTACHMENTS

1. Draft City Council resolution
2. Planning Commission Resolution No. 1734 recommending approval
3. Except of Minutes from the October 18, 2007 Planning Commission meeting
4. Notice of Availability

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RESOLUTION NO. 2007-_____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWPORT BEACH ADOPTING COASTAL LAND USE PLAN
AMENDMENT NO. 2007-003 REGARDING COASTAL BLUFF
DEVELOPMENT IN CORONA DEL MAR (PA 2007-196)**

**THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH HEREBY FINDS, RESOLVED
AND ORDERS AS FOLLOWS:**

WHEREAS, pursuant to the California Coastal Act, the City prepared a Coastal Land Use Plan (CLUP) for property lying within the Coastal Zone of the City of Newport Beach. In October of 2005, the California Coastal Commission certified the CLUP and the City Council subsequently adopted it in December of 2005; and

WHEREAS, the CLUP contains policies for the preservation of significant coastal resources, including coastal bluffs, and the application of these policies to proposed development applications highlighted unintended results that can only be eliminated through an amendment of the policies; and

WHEREAS, on October 1, 2007, a notice of the availability of a draft amendment of the City Coastal Land Use Plan was provided in accordance with Section 13515(c) of the California Code of Regulations. This notice was mailed to approximately 135 affected property owners, interested parties and public agencies in order to provide public participation and comments; and

WHEREAS, a public hearing was held on October 18, 2007, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting; and

WHEREAS, the attached amendment provides more clear policy direction and eliminates the possibility that the predominant line of existing development might be considered the only factor in the siting of new development on a coastal bluff; and

WHEREAS, the attached amendment is necessary to ensure that the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance and that development shall be designed and sited to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas consistent with Section 30251 of the Public Resources Code.

WHEREAS, this Amendment of the Local Coastal Program Coastal Land Use Plan is intended to be carried out in a manner fully in conformity with the California Coastal Act.

Additionally, the Amendment meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200) of the California Coastal Act.

NOW, THEREFORE, BE IT RESOLVED, based on the aforementioned findings, the City Council hereby approves the Local Coastal Plan Amendment No. 2007-003 (PA 2007-196) to update the Local Coastal Program Coastal Land Use Plan as provided in Exhibit A.

BE IT FURTHER RESOLVED, the City Council of the City of Newport Beach hereby authorizes submittal of the Coastal Land Use Plan to the Coastal Commission for formal review and approval; and

BE IT FURTHER RESOLVED, Local Coastal Plan Amendment No. 2007-003 will not become effective until after California Coastal Commission approved it and subsequent action to adopt the amendment by the City Council.

This resolution was adopted at a regular meeting of the City Council of the City of Newport Beach held on November 13, 2007, by the following vote, to wit:

AYES, COUNCILMEMBERS _____

NOES, COUNCILMEMBERS _____

ABSENT COUNCILMEMBERS _____

MAYOR _____

ATTEST:

CITY CLERK

Exhibit A

Added text is underlined, removed text shown by ~~strikethrough~~

The following policies of the Coastal Land Use Plan should be amended as follows:

4.4.3-8. Prohibit development on bluff faces, except private development on coastal bluff faces along Ocean Boulevard, Carnation Avenue and Pacific Drive in Corona del Mar determined to be consistent with the predominant line of existing development. Establish predominant lines of existing development for both principal structures and accessory improvements. ~~or public improvements providing public access, protecting coastal resources, or providing for public safety. Permit such improvements only when no feasible alternative exists and when designed and constructed to minimize alteration of the bluff face, to not contribute to further erosion of the bluff face, and to be visually compatible with the surrounding area to the maximum extent feasible.~~

4.4.3-9. Permit public improvements providing public access, protecting coastal resources, or providing for public safety on coastal bluff faces only when no feasible alternative exists and when designed and constructed to minimize alteration of the bluff face, to not contribute to further erosion of the bluff face, and to be visually compatible with the surrounding area to the maximum extent feasible.

~~Where principal structures exist on coastal bluff faces along Ocean Boulevard, Carnation Avenue and Pacific Drive in Corona del Mar, require all new development to be sited in accordance with the predominant line of existing development in order to protect public coastal views. Establish a predominant line of development for both principle structures and accessory improvements. The setback shall be increased where necessary to ensure safety and stability of the development.~~

The following policy should be added to the Coastal Land Use Plan:

4.4.3-19. In all cases where the predominant line of existing development is used to establish a development limit, it shall not be the only criteria used for this purpose. All coastal land use policies shall be considered in determining the appropriate extent of new development and size of new structures.

The following change to the Glossary definition of the Coastal Land Use Plan should be made:

Predominant Line of Existing Development: The most common or representative distance from a specified group of structures to a specified point or line (e.g. topographic line or geographic feature). For example, the predominant line of existing development for a block of homes on a coastal bluff (a specified group of structures) could be determined by calculating the median distance (a representative distance) these structures are from the bluff edge (a specified line).



CITY OF NEWPORT BEACH

Notice of Availability

Local Coastal Program

Coastal Land Use Plan Amendment No. 2007-003

The City of Newport Beach is considering an amendment of Coastal Land Use Plan policies that presently allow limited development on coastal bluffs located on Pacific Drive, Carnation Avenue and Ocean Boulevard. Specifically, the draft amendment would modify Policy 4.4.3-8 and Policy 4.4.3-9 to clarify the maximum extent of possible development allowable on the bluff face. Currently, development is limited to be within the predominant line of existing development and this limitation is not proposed to be eliminated. The proposed language changes would eliminate possible conflicting interpretations and application of the policies that could lead to conflicts with other resource protection policies. In addition to these policy changes, the amendment includes a new policy that provides that the predominant line of existing development is not the only factor in determining the extent of possible development on the bluff face. Lastly, the proposed amendment includes a minor change to the definition of “predominant line of development” by simply renaming it the “predominant line of existing development.”

The City of Newport Beach will be holding public hearings on the proposed amendment of the Coastal Land Use Plan in the coming weeks and a notice of the time and place will be issued no later than 10 days in advance of the hearing.

Pursuant to the Coastal Act, the City of Newport Beach seeks to provide maximum opportunities for the participation of the public and all affected governmental agencies in the preparation of this amendment of the Coastal Land Use Plan. Copies of the draft amendment are available at the Planning Department office located in City Hall, 3300 Newport Boulevard, Newport Beach, CA 92663. The draft amendment is also available in PDF format at the City of Newport Beach website site at <http://www.city.newport-beach.ca.us/Pln/LCP/LCP.htm>.

If you have any questions, please call James Campbell, Senior Planner at (949) 644-3210 or e-mail to JCcampbell@city.newport-beach.ca.us.

Date: October 1, 2007