

Attachment A

Ordinance No. 2021-21

ORDINANCE NO. 2021-21

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING ZONING CODE AMENDMENT NO. CA2021-003 TO CHANGE THE ZONING CODE DESIGNATION FROM RM 2420/3100 (MULTIPLE RESIDENTIAL) TO PI 0.49 FAR (PRIVATE INSTITUTIONS) FOR THE PROPERTY LOCATED AT 1499 MONROVIA AVENUE (PA2021-068)

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, on March 26, 2021, an application was filed by Pacifica Christian High School (“Applicant”), with respect to the property located at 1499 Monrovia Avenue, and legally described as a portion of Parcel 2 of Lot Line Adjustment No. LA2007-002 (“Property”);

WHEREAS, the Property is designated RM 18 du/ac (Multiple Residential) by the City General Plan (“General Plan”) and is located within the RM 2420/3100 (Multiple Residential) Zoning District under Title 20 (Planning and Zoning) of the Newport Beach Municipal Code (“NBMC”);

WHEREAS, the Applicant requests an amendment to the land use and zoning designation (“Project”) for the Property which requires the following approvals by the City:

- General Plan Amendment No. GP2021-002 to change the land use designation from RM 18 du/ac (Multiple Residential) to PI 0.49 FAR (Private Institutions); and
- Zoning Code Amendment No. CA2021-003 to change the zoning designation from RM 2420/3100 (Multiple Residential) to PI 0.49 FAR (Private Institutions);

WHEREAS, the Property is not located within the coastal zone, therefore, amending the City Coastal Land Use Plan or Title 21 (Local Coastal Program Implementation Plan) of the NBMC is not required;

WHEREAS, the Planning Commission held a public hearing on August 19, 2021 in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the hearing was given in accordance with the California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and Chapter 20.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this hearing; and

WHEREAS, at the hearing, the Planning Commission adopted Resolution No. PC2021-025 by a majority vote (6 ayes, 1 nay) recommending the City Council approve General Plan Amendment No. GP2021-002 and Zoning Code Amendment No. CA2021-003.

NOW THEREFORE, the City Council of the City of Newport Beach ordains as follows:

Section 1: The City Council has considered the recommendation of the Planning Commission and determined that modifications to the Project made by the City Council, if any, are not major changes that require referral back to the Planning Commission for consideration and recommendation.

Section 2: The City Council of the City of Newport Beach hereby approves Zoning Code Amendment No. CA2021-003 to rezone the Property from RM 18 du/ac (Multiple Residential) to PI 0.49 FAR (Private Institutions), as depicted in Exhibit "A," which is attached hereto and incorporated herein by reference.

Section 3: Amendments to Title 20 (Planning and Zoning) of the NBMC are legislative acts. Neither Chapters 20.66 (Amendments) of the NBMC, the Charter of the City of Newport Beach, nor Article 2 (Adoption of Regulations) of Chapter 4 (Zoning Regulations) of Division 1 (Planning and Zoning) of Title 7 (Planning and Land Use) of the California Government Code set forth any required findings for either approval or denial of amendments to the NBMC. Nevertheless, Zoning Code Amendment No. CA2021-003 is consistent with Title 20 (Planning and Zoning) and the General Plan. The Property has historically operated as a non-residential use and is surrounded by other non-residential uses. Although the 2006 General Plan Update process envisioned residential use for this Property, it has continued to operate as a legal non-conforming office use. With the adoption of Resolution No. 2021-94, the General Plan Land Use designation of the Property will change from RM 18 du/ac (Multiple Residential) to PI 0.49 FAR (Private Institutions) such that a revision to the zoning designation from RM 2420/3100 (Multiple Residential) to PI 0.49 FAR (Private Institutions) will ensure consistency between the General Plan and Title 20 (Planning and Zoning) of the NBMC.

Section 4: The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

Section 5: 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 6: The City Council finds the introduction and adoption of this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment); Section 15060(c)(3) (the activity is not a project as defined in Section 15378) because it has no potential for resulting in physical change to the environment, directly or indirectly; and Section 15061(b)(3) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it can be seen with certainty that there is no possibility that this activity will have a significant effect on the environment.

Section 7: Except as expressly modified in this ordinance, all other Sections, Subsections, terms, clauses and phrases set forth in the Newport Beach Municipal Code shall remain unchanged and shall be in full force and effect.

Section 8: 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.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 28th day of September, 2021, and adopted on the 12th day of October, 2021, by the following vote, to-wit:

AYES: _____

NAYS: _____

ABSENT: _____

BRAD AVERY, MAYOR

ATTEST:

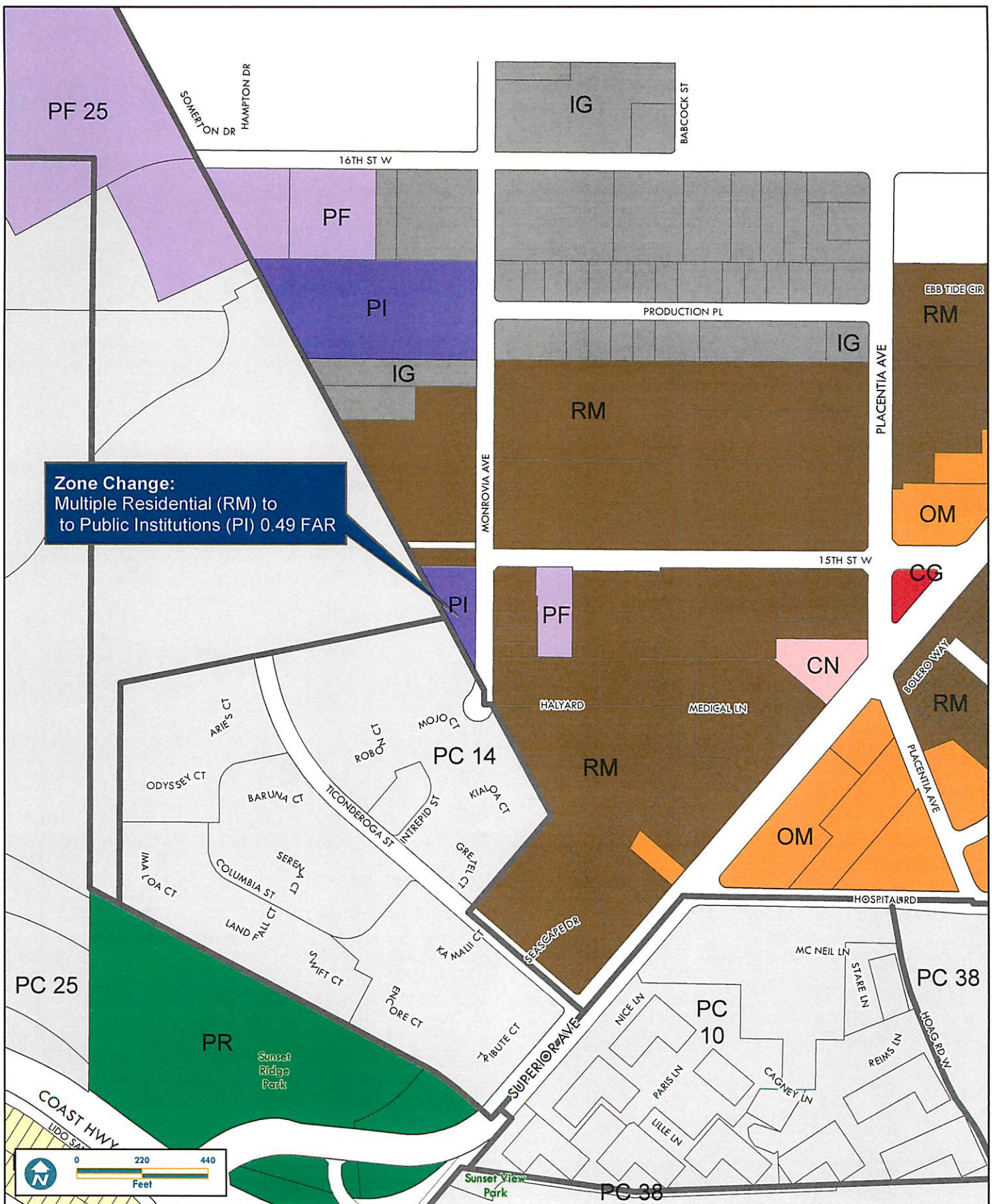
LEILANI I. BROWN, CITY CLERK

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



AARON C. HARP, CITY ATTORNEY

Attachment: Exhibit A - Zoning Map Amendment



CA2021-003 (PA2021-068)
Zoning Code Amendment
1499 Monrovia Ave