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Sent: Wednesday, May 03, 2017 11:24 AM
To: Alford, Patrick
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Subject: Agenda Item 3, Planning Commission Meeting of 5-4-17
Attachments: SPON comments re LCPA 5-3-17.pdf

Good morning, Mr. Alford -

Attached, please find comments submitted by SPON in connection with the Newport Beach Planning Commission's consideration of the Local Coastal Program Amendments (Implementation Plan Clean-up and Balboa Village Parking Management Overlay District) at Thursday's meeting.

Thank you,

Michelle N. Black



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May 3, 2017

Via Email palford@newportbeachca.gov

Planning Commission
City of Newport Beach

Patrick Alford, Planning Program Manager
City of Newport Beach
100 Civic Center Drive
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Re: Local Coastal Program Amendments, PA2017-047, PA2017-046, and
PA2013-057; Implementation Plan Clean-up (LC2017-002); Balboa
Village Parking Management Overlay District (LC2017-001);
Agenda Item 3

Dear Mr. Alford and Honorable Commissioners:

These comments are submitted on behalf of Stop Polluting Our Newport (SPON) regarding the Local Coastal Program (LCP) Amendments, which include the Implementation Plan Clean-up and the Balboa Village Parking Management Overlay District. Founded in 1974, SPON is a non-profit public education organization dedicated to protecting and preserving the residential and environmental qualities of Newport Beach.

Although the proposed LCP amendments are billed as a mere “clean-up” of the LCP, they authorize significant policy changes. In particular, the LCP amendments weaken the Shoreline Height Limits that have preserved the character of coastal Newport Beach since the 1970s by permitting hotel meeting facilities, government facilities, and all “Planned Community” development districts to evade otherwise applicable 35-foot height limits. SPON supports comprehensive planning processes, such as development of the Local Coastal Program, which was certified just this March. Given the recent certification date, SPON wonders why the City now seeks amendments to the Land Use Plan (LUP) and Implementation Plan (IP) that extend beyond those required by the Commission. Additionally, SPON is concerned that these proposed amendments will result in impermissible spot-zoning inconsistent with the comprehensive planning goals

of the Coastal Act and LCP.

A. The Amendments Encourage Development Exempt from the 35-Foot Height Limit.

The staff report correctly notes that CLUP Policy 4.4.2-1 “calls for the City to maintain the 35-foot height limitation in the Shoreline Height Limitation Zone” (Staff Report p. 2), but incorrectly presents the proposed amendments as merely expressing the existing exceptions to the height limitations at the time of LCP certification. The City promised the public that any changes to the LCP would enact development requirements that were at least as restrictive as the Zoning Code limits in existence at the time of LUP adoption. Instead, however, the redlined amendments appear to codify staff preferences to exempt certain types of development from the Shoreline Height Limitation’s 35-foot height limit. SPON acknowledges that the Shoreline Height Limitation has always contained some exceptions, such as the 5-foot allowance for sloped roofs, but many of the exceptions contained in the proposed amendments are new.

New exceptions to the Shoreline Height Limitation include one for “government facilities” and one for “meeting facilities,” which from the policy statement could extend to such things as meeting facilities associated with hotel complexes. These developments have not been wholesale exempted from the 35-foot height limit in the past. Thus, these new exceptions have the potential to significantly impact Newport Beach in ways that have not been previously studied by the City or the Coastal Commission.

The proposed amendments introduce a complete exemption from the 35-foot height limit for “Planned Communities.” Under the City’s proposal, Section 4.4.2-1 would read, “In addition, height limits in excess of 35 feet may be established as part of an adopted planned community incorporated into the certified Local Coastal Program Implementation Plan.” As discussed in the letter submitted by Mr. Jim Mosher to the City Council for the April 11, 2017 City Council hearing on this issue (herein incorporated), this policy is inconsistent with the City’s zoning restrictions in effect at the time of certification. This change is new, and has not been thoroughly analyzed by the City, the Coastal Commission, or the public for its potential impacts on Newport Beach, its skyline, or its impacts on quality of life.

Furthermore, SPON is concerned about City proposals to encourage Planned Community Development Districts (PCDs) in light of its increasing willingness to waive zoning requirements and height limits for PCDs citywide. City Code purports to limit PCDs to a minimum of 10 acres in size, which, in theory, would limit the magnitude of the impact of this change to the LCP. However, the administrative process for the 150 Newport Center project demonstrated the City’s readiness to waive zoning requirements

for Planned Community Developments as small as 1.3 acres in size.

If the City wishes to exempt new categories of development from the Shoreline Height Limits, that were not included in the Coastal Commission's review of the LCP during certification, it cannot now sneak these changes into an LCP "clean-up." Instead, these changes must be acknowledged and thoroughly analyzed through the appropriate City and public processes.

B. The Balboa Village Parking Management Plan Overlay District is Inconsistent with Coastal Act Development Priorities and with Policies Concerning Recreational Boating.

The Balboa Village Parking Management Plan Overlay District removes parking requirements for "most commercial uses" but not for "marine services." (Staff Report p. 3.) The Plan would place additional burdens and costs on "marine services uses" and discourage their development while encouraging the development of "most commercial uses." The Plan conflicts with the California Coastal Act's prioritization of Coastal-dependent and visitor-serving uses over general commercial uses. (Coastal Act §§ 30220, 30221, 30222, 30224.) The Act provides:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development. (Coastal Act § 30222.)

The Act's protections for marine services are explicit:

Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.

(Coastal Act § 30224, emphasis added.) While the Act authorizes the City to increase the provision of marine services and to limit non-water-dependent land uses in areas such as Balboa Village, the proposed overlay does the opposite. Additionally, in other projects, the Coastal Commission has found the limitation of parking inconsistent with Coastal Act policies facilitating visitor access to the coast. SPON urges the Planning Commission to carefully consider the plan's consistency with the Coastal Act.

City of Newport Beach **Local Coastal Program Amendments (PA2017-047, PA2017-046 & PA2013-057)**
May 3, 2017
Page 4 of 4

Conclusion

Thank you for your consideration of these comments. We look forward to the Planning Commission's discussion of these issues at the hearing on May 4, 2017.

Sincerely,



Michelle N. Black, on behalf of
Stop Polluting Our Newport

cc:

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