



## Legislation Details (With Text)

**File #:** 19-1123 **Version:** 2  
**Type:** Public Hearing **Status:** Agenda Ready  
**File created:** 10/30/2019 **In control:** Planning Commission  
**On agenda:** 12/10/2019 **Final action:**  
**Title:** MITIGATED NEGATIVE DECLARATION (MND) NO. 19-004, GENERAL PLAN AMENDMENT (GPA) NO. 19-002, ZONING MAP AMENDMENT (ZMA) NO. 19-002, AND LOCAL COASTAL PROGRAM AMENDMENT (LCPA) NO. 19-001 (PARK AVENUE REZONE)

### REQUEST:

To analyze the potential environmental impacts associated with the proposed project; to amend the General Plan land use designation from Open Space-Water Recreation (OS-W) to Residential Low Density (RL); to amend the zoning designation from Open Space-Water Recreation - Coastal Zone Overlay - Floodplain Overlay (OS-WR-CZ-FP2) to Residential Low Density - Coastal Zone Overlay - Floodplain Overlay (RL-CZ-FP2); and to amend the City's Local Coastal Program pursuant to the GPA and ZMA.

**LOCATION:** 16926 Park Ave., 92649 (terminus of Park Ave. in Huntington Harbour)

**Attachments:** 1. Att #1 - Suggesting Findings for Approval of MND 19-004 ZMA 19-002 LCPA 19-001, 2. Att #2 - Draft City Council Resolution for GPA 19-002, 3. Att #3 - Draft City Council Ordinance for ZMA 19-002, 4. Att #4 - Draft City Council Resolution for LCPA 19-001, 5. Att #5 - Vicinity Map, 6. Att #6 - Project Narrative received and dated Feb 21 2019, 7. Att #7 - Existing and Proposed General Plan Land Use Designation Maps, 8. Att #8 - Existing and Proposed Zoning Maps, 9. Att #9 - Response To Comments MND 19-004

| Date       | Ver. | Action By           | Action | Result |
|------------|------|---------------------|--------|--------|
| 12/10/2019 | 2    | Planning Commission |        |        |

## PLANNING COMMISSION STAFF REPORT

**TO:** Planning Commission  
**FROM:** Ursula Luna-Reynosa, Community Development Director  
**BY:** Ricky Ramos, Senior Planner

**SUBJECT:** MITIGATED NEGATIVE DECLARATION (MND) NO. 19-004, GENERAL PLAN AMENDMENT (GPA) NO. 19-002, ZONING MAP AMENDMENT (ZMA) NO. 19-002, AND LOCAL COASTAL PROGRAM AMENDMENT (LCPA) NO. 19-001 (PARK AVENUE REZONE)

### REQUEST:

To analyze the potential environmental impacts associated with the proposed project; to amend the General Plan land use designation from Open Space-Water Recreation (OS-W) to Residential Low Density (RL); to amend the zoning designation from Open Space-Water Recreation - Coastal Zone Overlay - Floodplain Overlay (OS-WR-CZ-FP2) to Residential Low Density - Coastal Zone Overlay - Floodplain Overlay (RL-CZ-FP2); and to amend the City's Local Coastal Program pursuant to the GPA and ZMA.

**LOCATION:** 16926 Park Ave., 92649 (terminus of Park Ave. in Huntington Harbour)  
**APPLICANT:** Mike Adams, P.O. Box 392, Huntington Beach, CA 92648

**PROPERTY**

**OWNER:** Medhat Rofael, 3922 Sirius Dr., Huntington Beach, CA 92649

**BUSINESS**

**OWNER:** Not applicable

**STATEMENT OF ISSUE:**

1. Is the current Open Space-Water Recreation land use designation for the subject site appropriate? If not, what is?
2. Are the GPA and ZMA proposed designations compatible with the surrounding area?
3. Is the GPA necessary for the changing needs and orderly development of the community and consistent with other elements of the General Plan?
4. Does the project satisfy all the findings required for approving an MND, ZMA, and LCPA?
5. Is the MND adequate and complete in that it has identified all significant effects of the project and any applicable mitigation measures?

**RECOMMENDATION:**

That the Planning Commission take the following actions:

- A) Recommend approval of Mitigated Negative Declaration No. 19-004 with findings (Attachment No. 1) and mitigation measures; and
- B) Recommend approval of General Plan Amendment No. 19-002 by approving draft City Council Resolution (Attachment No. 2), Zoning Map Amendment No. 19-002 with findings (Attachment No. 1) by approving draft City Council Ordinance (Attachment No. 3), and Local Coastal Program Amendment No. 19-001 with findings (Attachment No. 1) by approving draft City Council Resolution (Attachment No. 4).

**ALTERNATIVE ACTION(S):**

- A) Recommend denial of Mitigated Negative Declaration No. 19-004, General Plan Amendment No. 19-002, Zoning Map Amendment No. 19-002, and Local Coastal Program Amendment No. 19-001.
- B) Continue Mitigated Negative Declaration No. 19-004, General Plan Amendment No. 19-002, Zoning Map Amendment No. 19-002, and Local Coastal Program Amendment No. 19-001 and direct staff accordingly.

**PROJECT PROPOSAL:**

The proposed project (Attachment No. 6) includes the following requests:

- Mitigated Negative Declaration to analyze the potential environmental impacts associated with

the proposed project;

- General Plan Amendment to amend the General Plan land use designation from Open Space-Water Recreation (OS-W) to Residential Low Density (RL);
- Zoning Map Amendment to amend the zoning designation from Open Space-Water Recreation - Coastal Zone Overlay - Floodplain Overlay (OS-WR-CZ-FP2) to Residential Low Density - Coastal Zone Overlay - Floodplain Overlay (RL-CZ-FP2); and
- Local Coastal Program (LCP) Amendment to amend the City's certified LCP pursuant to the GPA and ZMA subject to California Coast Commission certification (approval).

### **Background:**

The subject site is a vacant 6,179 square foot property located at the terminus of Park Avenue in Huntington Harbour. In July 2017, the Planning Commission denied a request from the property owner to construct a boat marina with a community dock, a two-story building with a 508 sq. ft. marina office and public restroom on the first floor, a one-bedroom 565 sq. ft. caretaker's unit on the second floor, and a detached 441 sq. ft. two-car garage on the subject site. The applicant appealed the Planning Commission's action but subsequently requested multiple continuances of the City Council public hearing. The 2017 appeal is still pending before the City Council. It should be noted that a previous project, including a marina and a much larger caretaker's unit, was also denied by the City Council many years ago.

In 2018 the property owner and the City entered into a Settlement Agreement whereby the City agreed to process the proposed requests for a rezone identified above at a reduced fee. In exchange, the property owner agreed to withdraw the marina project that is on appeal to the City Council upon final approval of the proposed rezone. The request would change the permitted land uses on the site from water recreation (i.e. marina) to residential. No development is proposed with this application.

### **Study Session:**

The Planning Commission held a study session on the project on Nov. 12, 2019 and requested the following information:

1. Were there any findings for denial relative to residential in the Planning Commission's previous action on the marina and caretaker's unit request in 2017?

The Planning Commission's findings for denial of Conditional Use Permit No. 13-022 and Coastal Development Permit No. 13-014 in July 2017 pertained primarily to lack of adequate vehicular and pedestrian access to the site and that the caretaker's unit was not needed based on the scope, size, and operational characteristics of the proposed marina project.

2. Would AB 68 allow an accessory dwelling unit (ADU) and junior ADU by right on the subject site?

An ADU and a junior ADU would be permitted. New construction would require a coastal development permit but a public hearing is not required pursuant to Government Code Section 65852.2 which states:

Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

3. Are there any density bonus impacts on the subject site?

No, because density bonus laws pertain to property which is zoned and general planned to allow five or more dwelling units that propose to provide affordable housing or senior citizen housing.

4. What are the sea level rise (SLR) requirements on the subject site?

General Plan Goal HAZ-2 addresses coastal hazards. The policies below relate to SLR:

HAZ-2A - Promote appropriate land uses and development patterns within potential sea level rise areas identified in the Sea Level Rise Hazard Area established in Figure HAZ-6.

HAZ-2B - Implement priority measures to reduce and mitigate sea level rise impacts to property and infrastructure outlined in the Coastal Resiliency Program.

Figure HAZ-6 shows that Huntington Harbour, among others, is subject to potential SLR. However, the City currently does not have an ordinance that identifies SLR development requirements to implement the General Plan SLR goals and policies. When the City embarks on an update to its Local Coastal Program, it is possible that the Coastal Commission will require the City to establish development requirements that address SLR.

Additionally, Coastal Commission staff commented on the MND and stated that the site will likely become at risk from SLR and that new development on the site cannot be protected by a shoreline protective device. It is anticipated that the Coastal Commission will address this issue when they review the LCPA.

## **ISSUES AND ANALYSIS:**

### **Subject Property And Surrounding General Plan Designations, Zoning And Land Uses:**

| LOCATION          | GENERAL PLAN                       | ZONING   | LAND USE |
|-------------------|------------------------------------|--|----------|
| Subject Property: | Open Space-Water Recreation (OS-W) | Open Space-Water Recreation-Coastal Zone Overlay-Floodplain Overlay (OS-WR-CZ-FP2) | Vacant   |

|                                     |   |   |   |
|-------------------------------------|---|---|---|
| North and East of Subject Property: | OS-W  | OS-WR-CZ-FP2  | Midway Channel  |
| South of Subject Property:          | Residential High Density (RH) (uncertified) | Sunset Beach Specific Plan - Residential (SBSP) (uncertified) | Single and Multi-Family Dwellings                         |
| West of Subject Property:           | OS-W, RH                                    | OS-WR-CZ-FP2, SBSP  | Vacant, Midway Channel, Single and Multi-Family Dwellings |

### **General Plan Conformance:**

The General Plan states that the OS-W designation provides for water bodies used for recreational purposes, such as boating, swimming, and water sports. Given the previous denials by the City of variations of a proposed marina with caretaker's unit and concerns with compatibility with the surrounding residential area, the applicant is now proposing an RL designation on the subject property. The RL designation provides primarily for traditional detached single-family housing. The RL designation is found on other single family residential properties in Huntington Harbour just across the channel from the subject site and is compatible with the surrounding residential area. The current OS-W designation is not only less compatible with the surrounding residential area, it also does not fit the subject property because it is not a body of water.

State law does not require precise conformity of a proposed project with the General Plan. Instead, a proposed project is required to be in agreement or in harmony with the terms of the General Plan but not in rigid conformity with its every detail. The requested RL land use and zoning designations are consistent with the goals, objectives, and policies of the General Plan as follows:

#### **A. Land Use Element**

Policy LU-2D - Maintain and protect residential neighborhoods by avoiding encroachment of incompatible land uses.

Goal LU-4 - A range of housing types is available to meet the diverse economic, physical, and social needs of future and existing residents, while neighborhood character and residences are well maintained and protected.

#### **B. Housing Element**

Policy 2.1 - Provide site opportunities for development of housing that responds to diverse community needs in terms of housing types, cost and location, emphasizing locations near services and transit that promote walkability.

Policy 3.1 - Encourage the production of housing that meets all economic segments of the community, including lower, moderate, and upper income households, to maintain a balanced community.

The proposed GPA and ZMA will give the subject site a residential land use and zoning designation that is less intense and more compatible with the surrounding residential area compared to the existing designation. It will potentially allow for the construction of a single family

dwelling unit with channel access subject to approval by the City of a coastal development permit. The vacant subject site currently does not provide a formal opportunity for public coastal access and will continue to lack public coastal access while undeveloped. Future residential development on the subject site that will be more compatible with the surrounding residential area could only occur if the GPA and ZMA were certified. Public access requirements on site can be reviewed and addressed upon submittal of a proposed residential development. Without the GPA and ZMA, the subject site could remain vacant and without formal public access indefinitely due to ongoing public concerns with prior development proposals under the existing land use and zoning designations.

### **Zoning Compliance:**

#### **Zoning Map Amendment**

The applicant is proposing to amend the zoning designation from OS-WR-CZ-FP2 to RL-CZ-FP2 in conformance with the proposed GPA. The OS-WR zoning district provides for marinas, minor utilities, and accessory uses/structures (Attachment No. 12). The RL zoning district is compatible with the surrounding residential area and provides for primarily residential uses (Attachment No. 11). If the rezone were approved, based on the size of the subject site and the existing 10 foot wide access easement from Park Ave. to the property, the applicant could propose a single family residence subject to approval by the City of a coastal development permit. Other uses that are considered single family residential and permitted include, among others, residential alcohol recovery limited and residential care limited. Other non-residential uses commonly found in residential areas such as parks, public safety facilities, and schools, among others are also permitted in RL primarily with a conditional use permit from the Planning Commission. However, the subject site's existing 10-foot wide access easement would not provide adequate access by the zoning code for non-residential uses. The subject site complies with the RL minimum building site requirement of 6,000 square feet and 60 ft. lot width.

A community need is demonstrated for the change proposed because the RL-CZ-FP2 designation is more compatible with the surrounding residential area than the existing OS-WR-CZ-FP2 designation. Its adoption will be in conformity with public convenience, general welfare and good zoning practice because the RL-CZ-FP2 designation provides for the continuation of the residential character of the surrounding area and reduces the potential encroachment of incompatible land uses into an established residential area.

#### **Local Coastal Program Amendment**

The proposed LCPA to reflect the land use and zoning changes proposed by the GPA and ZMA is consistent with the General Plan designations in that they provide for the continuation of residential land use and zoning consistent with the existing residential area surrounding the subject site.

The proposed change to the Local Coastal Program is in accordance with the policies, standards and provisions of the California Coastal Act that encourage promotion of public access and mitigating adverse impacts associated with development. The proposed GPA and ZMA will give the subject site a residential zoning designation that is more compatible with the surrounding residential area compared to the existing designation. It will potentially allow for the construction of a single family dwelling unit with channel access subject to approval by the City of a coastal development permit.

No existing coastal access will be impacted by the LCPA. The vacant subject site currently does not provide a formal opportunity for public coastal access and will continue to lack public coastal access while undeveloped. Future residential development on the subject site that will be more compatible with the surrounding residential area could only occur if the LCPA were certified. At such time, public access requirements on site can be reviewed and addressed. Without the LCPA, the subject site could remain vacant and without formal public access indefinitely due to ongoing public concerns with prior development proposals under the existing zoning.

The Coastal Act states in Section 30214 that: It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. The proposed LCPA balances the public access policies of the Coastal Act with the subject site's land use compatibility with the surrounding residential area. The MND identifies mitigation measures to render any associated environmental impacts to less than significant.

**Urban Design Guidelines Conformance:**

Future development proposals on the subject site will be reviewed for compliance with the citywide Urban Design Guidelines.

**Environmental Status:**

Staff has prepared an environmental assessment and determined that no significant impacts are anticipated as a result of the proposed project that could not be mitigated to a level of insignificance. Subsequently, draft MND No. 19-004 was prepared with mitigation measures in the area of biological resources pursuant to the provisions of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) and the California Environmental Quality Act (CEQA). Draft MND No. 19-004 was available for a 30-day public review period from July 18 to August 16, 2019 (available at <https://huntingtonbeachca.gov/government/departments/planning/environmental-reports/environmental-report-view.cfm?ID=55>). Comments were received from the Coastal Commission and a response has been included (Attachment No. 9).

**Environmental Board Comments:**

The Environmental Board was notified of the MND. However, the Environmental Board did not have a meeting during the MND public review period due to a lack of members.

Prior to any action on the GPA, ZMA, and LCPA, it is necessary for the Planning Commission to review and act on the MND. Staff, in its initial study of the project, is recommending that the MND be approved with findings and mitigation measures.

**Coastal Status:**

If approved by the City Council, the LCPA will be forwarded to the Coastal Commission for review and certification.

**Design Review Board:**

Not applicable

**Subdivision Committee:**

Not applicable

**Other Departments Concerns and Requirements:**

Not applicable

**Public Notification:**

Legal notice was published in the Huntington Beach Wave on Thursday, November 28, 2019 and notices were sent to property owners of record within a 500 ft. radius of the subject property, individuals/organizations requesting notification (Community Development Department's Notification Matrix), applicant, and interested parties.

**Application Processing Dates:**

|                               |   |
|-------------------------------|---|
| DATE OF COMPLETE APPLICATION: | MANDATORY PROCESSING DATE(S):               |
| March 26, 2019                | Not applicable for legislative applications |

**SUMMARY:**

Staff recommends approval of MND No. 19-004, GPA No. 19-002, ZMA No. 19-002, and LCPA No. 19-001 based on the following:

- The MND is adequate, complete, and has identified all significant effects of the project and any applicable mitigation measures.
- The GPA and ZMA proposed designations provide for the continuation of the residential character of the surrounding residential area and reduces the potential encroachment of incompatible land uses.
- The GPA and ZMA are consistent with the General Plan and Local Coastal Program and its goals, objectives, and policies.
- The LCPA conforms to the Coastal Act policies that encourage promotion of public access and mitigating adverse impacts from development.

**ATTACHMENTS:**

1. Suggested Findings for Approval of MND No. 19-004, ZMA No. 19-002, and LCPA No. 19-001
2. Draft City Council Resolution for GPA No. 19-002
3. Draft City Council Ordinance for ZMA No. 19-002
4. Draft City Council Resolution for LCPA No. 19-001
5. Vicinity Map
6. Project Narrative received and dated Feb. 21, 2019
7. Existing and Proposed General Plan Land Use Designation Maps
8. Existing and Proposed Zoning Maps
9. Response To Comments Draft MND No. 19-004
10. Draft MND No. 19-004 (not attached but available at <https://huntingtonbeachca.gov/government/departments/planning/environmental->
11. Chapter 210 (Residential Districts) (not attached but available at [http://www.qcode.us/codes/huntingtonbeach/view.php?topic=zoning\\_code-21-210&showAll=1](http://www.qcode.us/codes/huntingtonbeach/view.php?topic=zoning_code-21-210&showAll=1)>
12. Chapter 213 (Open Space District) (not attached but available at [http://www.qcode.us/codes/huntingtonbeach/view.php?topic=zoning\\_code-21-213&showAll=1](http://www.qcode.us/codes/huntingtonbeach/view.php?topic=zoning_code-21-213&showAll=1)>