

RESOLUTION NO. PC2019-034

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, RECOMMENDING CITY COUNCIL AUTHORIZE SUBMITTAL OF LOCAL COASTAL PROGRAM AMENDMENT NO. LC2019-004 TO THE CALIFORNIA COASTAL COMMISSION TO AMEND TITLE 21 (LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN) OF THE CITY OF NEWPORT BEACH MUNICIPAL CODE AND THE CITY OF NEWPORT BEACH LOCAL COASTAL PROGRAM COASTAL LAND USE PLAN RELATED TO COTTAGE PRESERVATION (PA2019-181)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. Section 30500 of the California Public Resources Code requires each county and city to prepare a local coastal program ("LCP") for that portion of the coastal zone within its jurisdiction.
2. In 2005 the City of Newport Beach ("City") adopted the City of Newport Beach Local Coastal Program Coastal Land Use Plan ("Local Coastal Program") as amended from time to time including most recently on January 22, 2019, via Resolution No. 2019-8.
3. The California Coastal Commission effectively certified the City's Local Coastal Program Implementation Plan on January 13, 2017, and the City added 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 as of January 30, 2017.
4. An amendment to Title 21 and the Local Coastal Program is necessary to incentivize the preservation of cottages ("LCP Amendments").
5. Pursuant to Section 13515 of the California Code of Regulations Title 14, Division 5.5, Chapter 8, drafts of the LCP Amendments were made available and a Notice of Availability was distributed on October 4, 2019 at least six (6) weeks prior to the anticipated final action date.
6. A public hearing was held by the Planning Commission on October 17, 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 and Chapter 21.62 of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing.
7. At the conclusion of the October 17, 2019, hearing, the Planning Commission voted to continue the item to allow staff additional time to revise certain aspects of the

amendments. Requested changes included clarifying the applicability, prohibiting short-term rentals, and reducing the amount of expansion permitted.

8. A public hearing was held by the Planning Commission on November 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 the Ralph M. Brown Act and Chapter 20.62 of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

The action proposed herein is not a project subject to the California Environmental Quality Act ("CEQA") in accordance with Section 21065 of the California Public Resources Code and Sections 15060 (c)(2), 15060 (c)(3), and 15378 of the California Code of Regulations Title 14, Division 6, Chapter 3 ("CEQA Guidelines"). The proposed action is also exempt pursuant to CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Lastly, pursuant to CEQA Guidelines Section 15265(a)(1), local governments are statutorily exempt from the requirements of CEQA in connection with the adoption of a local coastal program. The LCP Amendment itself does not authorize development that would directly result in physical change to the environment.

SECTION 3. FINDINGS.

1. Authorizing the amendment to Title 21 (Local Coastal Program Implementation Plan) of the NBMC and the City's Local Coastal Program would incentivize the preservation of cottages by increasing the percentage of an allowed addition to a nonconforming residential structure, thereby eliminating a design constraint that has resulted in property owners choosing to demolish older cottages and redevelop properties with new, larger, three (3)-level homes that maximize the allowable building envelope.
2. The LCP Amendments shall not become effective until approval by the California Coastal Commission and adoption, including any modifications suggested by the California Coastal Commission, by resolution and/or ordinance of the City Council of the City of Newport Beach.
3. The Local Coastal Program and Title 21, including the proposed LCP Amendments, will be carried out fully in conformity with the California Coastal Act.
4. The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission finds the LCP Amendments are not a project subject to CEQA pursuant to Section 21065 of CEQA and CEQA Guidelines Sections 15060 (c)(2), 15060 (c)(3), and 15378. The proposed action is also exempt pursuant to CEQA Guidelines Section 15061(b)(3) because it has no potential to have a significant effect on the environment. Finally, the adoption of local coastal programs are statutorily exempt according to Section 15265(a)(1) of the CEQA Guidelines.
2. The Planning Commission of the City of Newport Beach hereby recommends submittal of Local Coastal Program Amendment No. LC2019-004 related to cottage preservation, amending Section 21.38.060 (Nonconforming Parking) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code and amending the City of Newport Beach Local Coastal Program Coastal Land Use Plan as set forth in Exhibit "A," which is attached hereto and incorporated herein by reference, to the California Coastal Commission.

PASSED, APPROVED, AND ADOPTED THIS 21ST DAY OF NOVEMBER, 2019.

AYES: Klaustermeier, Koetting, Lowrey, Rosene, and Weigand

NOES: Kleiman

ABSTAIN: None

ABSENT: Ellmore

BY: _____

Peter Koetting, Chairman

BY: _____

Lee Lowrey, Secretary

EXHIBIT “A”

**Proposed Amendment to the City of Newport Beach Local Coastal Program
Related to Cottage Preservation (LC2019-004)**

Section 1: Amending Policy 2.9.3-8 of Chapter 2.0 (Land Use and Development) of the Coastal Land Use Plan as follows, with all other provisions of the Coastal Land Use Plan remaining unchanged:

2.9.3-8 Continue to require properties with nonconforming parking to provide code-required off-street parking when new uses, alterations, or additions result in increased parking demand. However, additions of up to fifty (50) percent of the existing floor area of a residential development may be allowed without requiring the code-required parking when the project would result in the preservation of the cottage character of the development and a building envelope representative of traditional cottage development patterns in the City.

Section 2: Amend Section 21.38.060 (Nonconforming Parking) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code to read as follows:

21.38.060 Nonconforming Parking.

A. Residential. Where a residential structure or use is nonconforming only because it does not conform to the off-street parking requirements of this Implementation Plan, the following provisions shall apply:

1. Number of Spaces. A residential development having less than the required number of parking spaces per dwelling unit shall be allowed the following repairs, alterations, and additions:
 - a. Repair and maintenance, interior alterations, and structural alterations, as provided for in Section 21.38.040(A) through (F);
 - b. Additions up to a maximum of ten (10) percent of the existing floor area of the structure as provided in Section 21.38.040(G);
 - c. Any repair, maintenance, or additions shall not result in loss of existing parking spaces; and
 - d. Required parking shall be provided where feasible.
2. Dimensions or Type of Parking Spaces. Residential developments that are nonconforming because they do not have the required type of covered or enclosed parking spaces or because amendments to this Implementation Plan

have changed the dimensions of required parking spaces subsequent to the original construction of the structure may be altered or expanded as follows:

- a. All improvements and expansions allowed under subsection (A)(1) of this section;
 - b. Additions larger than those allowed under subsection (A)(1) of this section may be allowed subject to the approval of a coastal development permit.
3. **Alley Access.** Where applicable, residential development involving repairs, alterations, and additions to residential development having less than the required number of parking spaces per dwelling unit shall provide alley access to parking area if it would result in additional public street parking.
4. **Exception for Cottage Preservation.** Notwithstanding the provisions of subsections (A)(1)(b) and (A)(2)(b) of this section, additions of up to fifty (50) percent of the existing floor area of the structure are permitted for projects that remodel and expand a residential dwelling, duplex, or triplex that comply with the following criteria:
- a. The floor area of any addition, together with the floor area of the existing structure, shall not exceed the allowed maximum floor area for the coastal zoning district;
 - b. The addition shall comply with all applicable development standards and use regulations of this Implementation Plan;
 - c. The square footage of residential parking area additions identified below shall be excluded from the allowed expansion under subsection (A)(4), but shall be included as gross floor area;

Required Parking	Maximum Excluded Area
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One-car garage	200 square feet, maximum
Two-car garage	400 square feet, maximum
Three-car garage	600 square feet, maximum

- d. The height of the resulting structure shall not exceed the following, regardless of roof pitch:
- i. Front half of lot: one story and 16 feet; and
 - ii. Rear half of lot: two stories and 24 feet.
- e. The residential structure shall not include a third floor deck;
- f. Dwellings within the residential development shall not be rented for periods of less than thirty (30) days; and
- g. The addition complies with the limitations of Section 21.38.040(G)(1).