



**CITY OF**

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# **NEWPORT BEACH**

## **City Council Staff Report**

January 28, 2020  
Agenda Item No. 16

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM:** Seimone Jurjis, Community Development Director - 949-644-3232, [sjurjis@newportbeachca.gov](mailto:sjurjis@newportbeachca.gov)

**PREPARED BY:** Jaime Murillo, AICP, Principal Planner, [jmurillo@newportbeachca.gov](mailto:jmurillo@newportbeachca.gov)

**PHONE:** 949-644-3209

**TITLE:** Ordinance No. 2020-4: Introduction of a Cottage Preservation Ordinance (PA2019-181)

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**ABSTRACT:**

The proposed amendments to the Local Coastal Program (Coastal Land Use Plan and Implementation Plan), Newport Beach Municipal Code (NBMC) Title 20 (Planning and Zoning), and Title 15 (Building and Construction) will provide a voluntary option for homeowners seeking to remodel, but preserve traditional beach cottages. Typically, cottages do not provide all the code-required parking and additions are limited to 10 percent of the existing floor area. The amendments would allow larger additions (up to 50 percent of the existing floor area or a maximum of 500 square feet) without providing the minimum code-required parking when the project would result in the preservation of the cottage character and building envelope that is representative of traditional development patterns in the City.

**RECOMMENDATION:**

- a) Conduct a public hearing;
- b) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 21065 of CEQA and State CEQA Guidelines Sections 15060 (c)(2), 15060 (c)(3), and 15378. The proposed action is also exempt pursuant to State CEQA Guidelines Section 15061(b)(3) because it has no potential to have a significant effect on the environment;
- c) Waive reading, read by title only, introduce Ordinance No. 2020-4, *An Ordinance of the City Council of the City of Newport Beach, California, Adopting Code Amendment No. CA2019-006 to Amend Title 15 Entitled "Building and Construction" and Title 20 Entitled "Planning and Zoning" of the City of Newport Beach Code Related to Cottage Preservation (PA2019-181)*, and pass to second reading on February 11, 2020; and
- d) Adopt Resolution No. 2020-12, *A Resolution of the City Council of the City of Newport Beach, California, Authorizing Submittal of Local Coastal Program Amendment No. LC2019-004 to the California Coastal Commission to Amend Title 21 Entitled "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)*.

## **FUNDING REQUIREMENTS:**

There is no fiscal impact related to this item.

## **INTRODUCTION**

### *Study Session*

As a result of growing community concerns related to the loss of small residential cottages and the bulk and mass associated with new single and two-unit dwelling developments in the City, the City Council held a study session on April 23, 2019. At the conclusion of the study session, the City Council directed staff to return with a resolution to initiate code amendments to address these concerns, including incentivizing the preservation of cottages. Study session minutes are included as Attachment C.



### *Initiation of Code Amendment*

City Council Policy K-1 (General Plan and Local Coastal Program) provides that a City-sponsored amendment to the certified Local Coastal Program (LCP) shall be initiated by the City Council. Additionally, NBMC Section 20.66.020 allows amendments to the Zoning Code to be initiated by the City Council. The subject amendment was initiated by the City Council on May 14, 2019 (Attachment D), as one of two proposed amendments under City Council Resolution No. 2019-43 (PA2019-070).

### *Community Meeting and Outreach*

On August 19, 2019, the Community Development Department staff hosted a community meeting to share proposed changes to residential design standards. Notice of the meeting was distributed to affected homeowners' associations, distributed as a *Newsplash* to interested members of community who have requested notice of important planning and land use activities in the City, and distributed to a list of known designers and architects that work in Newport Beach. The meeting was well attended by 64 members of the public, including design professionals.



Included in the discussion were proposed changes to incentivize the preservation of small cottages by allowing increased additions and alterations that provide an option to complete redevelopment of property. The proposed changes related to cottage preservation were supported by meeting attendees. General comments in support included:

- Design professionals explained that it is more difficult to remodel and preserve a cottage than to demolish and reconstruct a new home due to the current restrictive code requirements that are in place. The proposed changes would create a feasible option for preservation by removing these code-related constraints;
- Attendees appreciated the fact that the changes were incentive-based instead of a firm restriction on property owner's rights; and
- The incentive allows a reasonably sized addition for nonconforming structures that do not provide adequate parking, which is appropriate if it discourages property owners from tearing down older cottage structures.

On September 10, 2019, a study session was held with the City Council to share the results of the August 2019 community meeting and proposed code amendments. At the conclusion of the study session, the City Council directed staff to proceed with the cottage preservation amendments as proposed.

Lastly, on November 23, 2019, staff presented the proposed amendments to the Balboa Island Improvement Association with minimal comments received from the community.

#### *Planning Commission Review*

On October 17, 2019, staff presented the proposed amendments to the Planning Commission for review and recommendation. At the conclusion of the meeting, the Commission voted to continue the item to allow staff additional time to revise certain aspects of the amendments. Minutes from the October 17, 2019, meeting are included as Attachment E.

On November 21, 2019, staff presented revisions of the proposed amendments to the Planning Commission addressing concerns raised at the prior hearing, including clarifying the applicability of the program, and prohibiting short-term rentals. At the conclusion of the meeting, the Commission voted 5-1 to recommend approval of the amendments to the City Council (Attachments F and G - Planning Commission Resolutions).

The Planning Commission did request the City Council consider increasing the maximum addition allowed under the program from 500 square feet to 750 square feet. Also, for the City Council to consider a requirement for the payment of an in-lieu parking fee. An analysis of these recommendations is provided later in this report. Minutes from the November 21, 2019, meeting are included as Attachment H.

## **DISCUSSION**

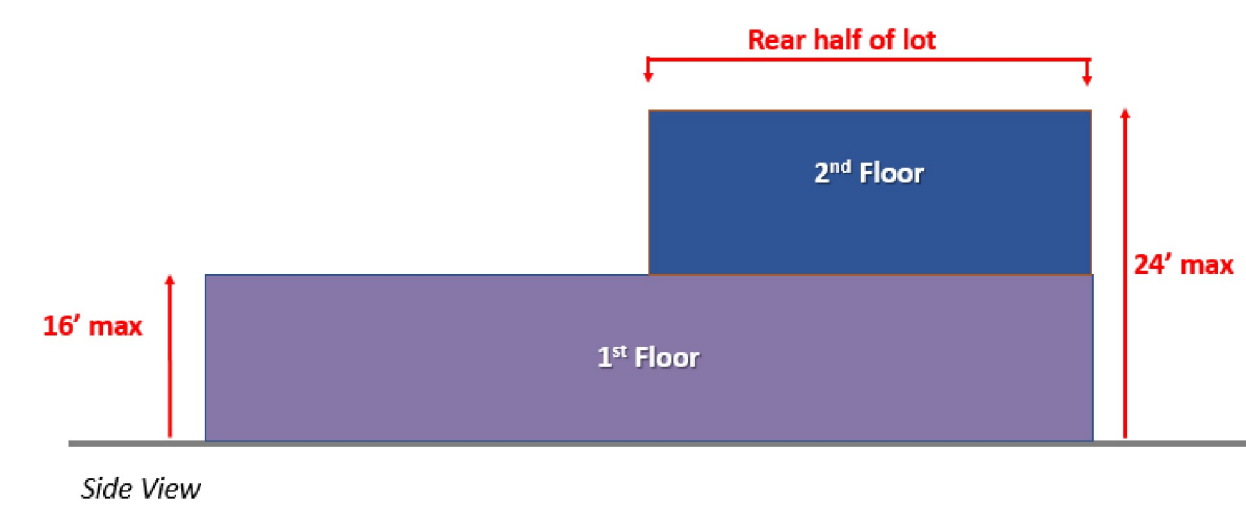
*What constitutes a cottage for the purpose of this ordinance?*

There is no definition that accurately describes what constitutes a cottage. However, as used by the community, the term cottage refers to the smaller residential dwellings or structures that are representative of the traditional development patterns in the City, particularly in old Corona del Mar, Balboa Island, and the Balboa Peninsula. These structures are typically one-story, with the exception of a small second story above parking in the rear of a lot. Many cottages vary in architectural style and year of construction. Therefore, for the purpose of this amendment, the cottage preservation incentive will be granted for those projects that agree to maintain a building envelope representative of traditional cottages.

The building envelope for cottage preservation eligibility would be limited as follows:

- Front half of lot limited to one story and a maximum height of 16 feet;
- Rear half of lot limited to two stories and a maximum height of 24 feet; and
- Third floors or third floor decks would be prohibited.

*Figure 1. Qualifying Building Envelope for Cottage Preservation*



*Why are we losing cottages?*

The primary reason for the loss of cottages is many of these properties were historically used as beach homes or second homes, but are now predominantly used as principal residences. As such, property owners are seeking to maximize the size of their homes to increase the livability and include modern features. Additionally, as property values in the City have significantly increased, property owners are now seeking to construct the maximum allowable floor area and height to ensure they are receiving the highest and best return on their investment.

However, there are property owners who would like to preserve their older cottages, but have run into complications when seeking to remodel to add an extra bedroom or bathroom. Two existing code restrictions lead property owners to demolish the old cottage in favor of developing a new, larger home.

1. Nonconforming Parking Limitations (Title 20 and 21)

As the minimum parking requirements have increased over time, due to changes in zoning requirements, most cottages are nonconforming because they no longer provide the minimum number of parking spaces on-site (e.g., minimum parking requirements for a single-family dwelling increased from zero spaces, to one space, to two spaces per unit). In other cases, the cottages comply with required number of spaces, but no longer comply with current parking size dimensions.

NBMC Sections 20.38.060 (Nonconforming Parking) of the Zoning Code (Title 20) and 21.38.060 (Nonconforming Parking) of the Local Coastal Program Implementation Plan (Title 21) both limit the allowable area of additions for residential dwellings that are nonconforming due to parking to a maximum of 10 percent of the existing floor area of the structure. This 10 percent limitation is typically not sufficient to accommodate the addition of a new master bedroom or justify the cost of a remodel.

Modifying a small cottage to create a two-car garage cannot be done without significantly altering the cottage thus defeating the owner's hope to preserve the small home.

2. Building Code Limitations (Title 15)

Currently, Section 102.7 (Remodel or renovation) of Section 15.02.060 of the NBMC requires a dwelling to be subject to building code regulations as a new structure when the valuation of the permit for a remodel or renovation exceeds 50 percent of the market value of the dwelling. As a result of this 50 percent valuation threshold, many small remodeling and addition projects require substantial improvements beyond the original scope of work in order to comply with building code regulations as if the house is a new construction. Due to this increased scope of work and costs, many property owners decide that it is not financially feasible to maintain their existing residential cottages and instead decide to demolish and rebuild.

*What are the proposed changes/incentives?*

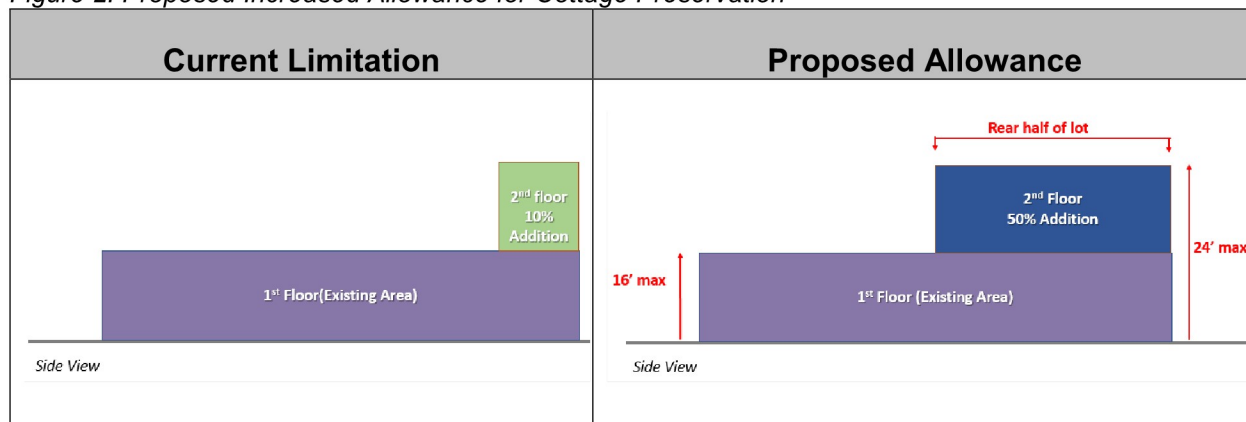
In order to loosen constraints discussed above, the following amendments are proposed in exchange for a property owner's commitment to maintain the required cottage building envelope as previously described. An underline/strikeout version of the proposed amendments are included as Attachment I for reference.

1. Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) Changes:



- a. Increase addition limits from ten (10) to fifty (50) percent, with a maximum cap of 500 square feet - Cottages are typically smaller structures that are built significantly below the allowable floor area limitations of a site. Therefore, staff is recommending to increase the allowable area of additions for residential dwellings that are nonconforming due to parking to a maximum of fifty (50) percent of the existing floor area of the structure. This new standard would allow for a reasonably sized addition as a realistic alternative to demolishing and redeveloping their properties. However, in certain situations this may allow for a large addition beyond the original intent. Therefore, a maximum cap of 500 square feet would be allowed.
- b. Require recordation of a revocable deed restriction - It is important to emphasize that this is a voluntary program that affords property owners increased opportunity to remodel and expand their cottage properties in exchange for preserving the cottage building envelope and overall form of the development of the property (i.e., one-story and 16 feet high within front half of lot and two-story, 24 feet high within rear half of lot). To ensure this building envelope is retained and the property owner does not subsequently add additional floor area that violates the prescribed building envelope, a deed restriction would be required. However, the deed restriction would not require that the cottage be preserved indefinitely. Should a property owner desire to redevelop the property in future, the deed restriction would allow redevelopment of the property in compliance with development standards in affect at the time, including providing code-required parking.

Figure 2. Proposed Increased Allowance for Cottage Preservation



2. Title 15 Change - Remove new construction code requirements for eligible cottage preservation projects - In the event that the construction valuation exceeds fifty (50) percent of the value of the structure, only the components of the structure that are affected by the renovation/addition will have to comply with new building code requirements. For example, in the case of a new bedroom addition over the garage, the addition and portions of the existing garage that are affected by the addition will have to comply with current building code requirements. However, the existing one-story component of the house that would remain would no longer have to be fully retrofitted to comply with building code standards as a new home constructed today.

It should be noted, if a property is located within a special flood hazard area as mapped by the Federal Emergency Management Agency (FEMA), a separate valuation threshold will continue to apply as required by FEMA. The FEMA threshold is more restrictive and may trigger a need to substantially improve the existing structure to avoid the identified flood hazard. Improvements would typically include raising the finish floor of the structure, which typically leads property owners to demolish the structure and construct a new home.

*Figure 3. Example Cottage Preservation Project*



*What types of residential development would this apply to?*

The intent of these code amendments is to incentivize the preservation of cottages that are representative of the historic areas of the City, such as in Corona del Mar, Balboa Island, and the Balboa Peninsula. A majority of the lots in these areas allow two-unit development and include two-unit cottages. In Corona del Mar, the 300 block of Marguerite Avenue is zoned for multi-unit residential and several of the lots are currently developed with three-unit cottages (See Figure 4 below).



Restricting applicability of these amendments to single-unit dwellings only would have the effect of excluding a majority of the cottages in Corona del Mar and Balboa Island from taking advantage of this new incentive.

*Figure 4. Three-unit Cottage Example on Marguerite Avenue*



It is not uncommon for a property owner to live in the front unit of a duplex and rent out the smaller, rear unit for income. Allowing a property owner of a duplex to remodel and expand their front unit would provide a realistic alternative to redeveloping the entire property. Therefore, the proposed amendments would apply the cottage preservation incentives to residential developments consisting of three (3) units or less. By restricting the applicability to single-unit dwellings only, staff believes the ordinance would be ineffective and not achieve the desired goal and intent.

#### *Why is Short-Term Lodging prohibited?*

Several cottages are currently utilized for short-term lodging. However, the intent of the amendments is to provide an alternative to a homeowner seeking to preserve their cottage while allowing for a reasonable size addition to accommodate kitchen or bedroom expansions and enhance the livability of their homes. Concerns were raised during the Planning Commission discussion that the incentives could be used to further expand cottages used for short-term rentals, increasing occupancy and exacerbating existing potential conflicts these units create, including increased demand for on-street parking and removal of rental units from the housing stock. Therefore, the proposed amendments include a prohibition of the use of the property for short-term rentals. This prohibition will be included in the required deed restriction and any existing short-term lodging permit would be revoked.

#### *Why is Coastal Commission review required?*

Properties located in the Coastal Zone (Attachment J) of the City are regulated by the Local Coastal Program (LCP), which is comprised of the Coastal Land Use Plan (CLUP), a policy document, and the Implementation Plan (IP or Title 21), a regulatory document.

Any amendments to the LCP must be reviewed and approved by the City Council, with a recommendation from the Planning Commission, prior to submitting the amendment request to the California Coastal Commission (CCC). The CCC is the final decision-making authority on amendments to the certified LCP.



In addition to the proposed changes to Title 21 as described above, staff is recommending that Coastal Land Use Plan Policy 2.9.3-8 be amended to include a policy to support the proposed Title 21 cottage preservation amendment described above. A change to the policy is important to avoid a determination that the proposed Title 21 code amendment may be inconsistent with the current language of Policy 2.9.3-8. Additionally, regulations in Title 21 require policies in the Coastal Land Use Plan.

**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, but not greater than 500 square feet, of a residential development of three (3) units or less may be allowed without requiring the code-required parking when the project would result in the preservation of the cottage character of the existing development and a building envelope representative of traditional cottage development patterns in the City.*

Should the City Council approve the proposed ordinance adopting the amendments to Title 15 and 20, the cottage preservation incentives would temporarily only be permissible for developments located outside the Coastal Zone. Upon approval of the proposed LCP amendments by the CCC, staff will return to the City Council with an ordinance adopting the LCP Amendments, thereby allowing the cottage preservation incentives citywide.

*Analysis of Planning Commission Recommendation- Increasing Maximum Cap to 750 Square Feet*

At the November 21, 2019, Planning Commission meeting, several Balboa Island residents spoke in support of the proposed amendments but requested that the maximum cap on allowable additions be increased from 500 square feet to 750 square feet. The Planning Commission did not make the change to the resolution of approval; however, they requested that staff present the idea to the City Council for further consideration.

After further research and consideration, staff believes retaining a maximum cap of 500 square feet is appropriate and more in line with the original intent of creating these incentives for the following reasons:

- 500 square feet allows for significantly larger additions than what has been permitted in past utilizing the 10 percent addition allowance.
- A typical ancillary bedroom measures approximately 150 to 250 square feet in area. Master bedrooms vary in size, but can generously be accommodated within the 500 square-foot cap.
- For perspective, 750 square feet is the size of a typical one-bedroom apartment unit and could potentially allow the addition of up to three smaller bedrooms to a cottage that may be deficient to parking.

*Analysis of Planning Commission Recommendation - Consider Requiring An In-lieu Parking Fee*

The Planning Commission also requested that staff present the idea of requiring the payment of an in-lieu parking fee in exchange for use of these incentives when a cottage was nonconforming due to the number of spaces provided. After further consideration, staff believes it would not be appropriate to include an in-lieu fee payment at this time for the following reasons:

- The intent of the amendments is to provide an alternative to redeveloping cottage properties by providing a voluntary option or incentive for preservation. The more restrictions that are imposed for project eligibility reduces the attractiveness of this program and may drive a property owner to redevelop their property (elimination of the cottage). For example, the proposed Building Code exemption that requires the entire structure be brought up to Code was intended to reduce the scope and costs of cottage preservation project. The payment of an in-lieu parking fee would serve as a disincentive to use the proposed cottage preservation incentives.
- The City does not currently have an in-lieu parking fee program in effect. Therefore, to implement and develop an in-lieu parking fee, a comprehensive fee study would need to be completed in accordance to state law requirements (Mitigation Fee Act). This would result in a significant delay in the approval of these amendments.
- Although the hope is that several property owners take advantage of these incentives, it is not expected that there would be a sufficient number of projects for an in-lieu fee program based on cottage preservation projects to have an impact.

**ENVIRONMENTAL REVIEW:**

The action proposed herein is not a project subject to the California Environmental Quality Act (CEQA) in accordance with Section 21065 of CEQA and State CEQA Guidelines Sections 15060 (c)(2), 15060 (c)(3), and 15378. The proposed action is also exempt from the CEQA pursuant to State 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 exempt from the requirements of CEQA in connection with the adoption of a Local Coastal Program. The Amendment itself does not authorize any development and therefore would not directly result in physical change to the environment.

**NOTICING:**

Pursuant to Section 13515 of the California Code of Regulations, a review draft of the LCP Amendment was made available and a Notice of Availability was distributed on October 4, 2019, to all persons and agencies on the Notice of Availability mailing list and posted online. Revisions to the draft LCP Amendment have also been posted online.

In addition, notice of these amendments was published in the *Daily Pilot* as an eighth-page advertisement, consistent with the provisions of the NBMC. The item also appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Lastly, notice of this amendment was emailed to interested parties that attended the community meeting or that have expressed interest in this item.

**ATTACHMENTS:**

Attachment A – Ordinance No. 2020-4

Attachment B – Resolution No. 2020-12

Attachment C – April 23, 2019 City Council Study Session Minutes

Attachment D – Initiation of amendments; City Council Resolution No. 2019-43

Attachment E – October 17, 2019 Planning Commission Minutes

Attachment F – Planning Commission Resolution No. PC2019-033

Attachment G – Planning Commission Resolution No. PC2019-034

Attachment H – November 21, 2019 Planning Commission Minutes

Attachment I – Underline/strikeout Version of Amendments

Attachment J – Coastal Zone Map



## ATTACHMENT A

### ORDINANCE NO. 2020- 4

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, ADOPTING CODE AMENDMENT NO. CA2019-006 TO AMEND TITLE 15 ENTITLED "BUILDING AND CONSTRUCTION" AND TITLE 20 ENTITLED "PLANNING AND ZONING" OF THE CITY OF NEWPORT BEACH MUNICIPAL CODE RELATED TO COTTAGE PRESERVATION (PA2019-181)**

**WHEREAS**, amendment to Title 15 ("Building and Construction") and Title 20 ("Planning and Zoning") (collectively Title 15 and Title 20 "Code Amendment") of the City of Newport Beach Municipal Code ("NBMC") is necessary to incentivize the preservation of cottages;

**WHEREAS**, Section 102.7 (Remodel or renovation) of Section 15.02.060 of the NBMC currently requires a dwelling to be subject to building code regulations as a new structure when the valuation of the permit for a remodel or renovation exceeds fifty (50) percent of the market value of the dwelling. As a result of this fifty (50) percent valuation threshold, many small remodel and residential addition projects require substantial improvements to comply with building code regulations as new construction. Due to this increased scope of work and costs, many property owners decide that it is not financially feasible to maintain their existing residential cottages and decide to demolish these cottages. The current redevelopment trend is to reconstruct new single- or two-family dwellings that maximize the building envelope, including three-level development, to realize the maximum return on investment;

**WHEREAS**, authorizing the amendment to Title 15 of the NBMC would incentive the preservation of cottages by removing the valuation threshold requiring building code compliance as new construction and allowing reasonable size additions to existing residential developments that preserve their cottage character and building envelope;

**WHEREAS**, authoring the amendment to Title 20 of the NBMC 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 the site with new, larger, three-level homes that maximize the allowable building envelope;

**WHEREAS**, 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 California Government Code Section 54950 *et seq.* 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;

**WHEREAS**, 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;

**WHEREAS**, 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;

**WHEREAS**, on November 21, 2019, the Planning Commission adopted Resolution No. PC2019-034 by a majority vote (5 ayes, 1 nay), recommending to the City Council approval of Code Amendment No. CA2019-006; and

**WHEREAS**, a public hearing was held by the City Council on January 28, 2020, 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 City Council at this public hearing.

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

**Section 1:** Section 102.7 (Remodel or renovation) of Section 15.02.060 (added to Section 102.7) of Title 15 (Administrative Code) of the Newport Beach Municipal Code is hereby amended to read as follows:

**15.02.060 Amendment to Section 102.7.**

Section 102.7 is amended to read as follows:

**Section 102.7 Remodel or renovation.** If the valuation of the permit for the remodel or renovation of a building is equal to or exceeds 50 percent of the market value of such building, then the entire building shall comply with the Code provisions for new construction.

**Exceptions:**

1. This provision does not apply for permit valuations less than \$220,700;
2. This provision does not apply to projects that meet the criteria set forth in Section 20.38.060(A)(3) and are not located in a Special Flood Hazard Area per the latest revision of the Federal Insurance Rate Map.
3. The Chief Building Official is authorized to accept less than the requirements for new construction if substantial conformance to the requirements is found and the protection of life and property are maintained.

**Section 2:** Subsection A of Section 20.38.060 (Nonconforming Parking) of Title 20 (Planning and Zoning) of the NBMC is hereby amended to read as follows:

**20.38.060 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 Zoning Code, only the following alterations may be allowed:

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 20.38.040(A) through (F); and
  - b. Additions up to a maximum of ten (10) percent of the existing floor area of the structure within a ten (10) year period as provided in Section 20.38.040(G).
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 Zoning Code 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; or
  - b. Additions larger than those allowed under subsection (A)(1) of this section may be allowed subject to the approval of a modification permit in compliance with Section 20.52.050 (Modification Permits).



3. 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, but no more than 500 square feet, are permitted for 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 zoning district where the property is located;
- b. The addition shall comply with all applicable development standards and use regulations of this Zoning Code;
- c. The square footage of residential parking area additions identified below shall be excluded from the allowed expansion under subsection (A)(3), but shall be included as gross floor area;

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

- d. The height of the residential structure shall not exceed the following, regardless of roof pitch:
  - i. Front half of lot: single story with a maximum height of sixteen (16) feet; and
  - ii. Rear half of lot: two story with a maximum height of twenty four (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. **Deed Restriction and Recordation Required.** Prior to the issuance of a building permit for a cottage preservation project, the property owner shall record a deed restriction with the Orange County Recorder's Office, the form and content of which is satisfactory to the City Attorney, agreeing to maintain the property consistent with the limitations specified above for cottage preservation and the restrictions on short-term lodging. The deed restriction document shall notify future owners of the restriction. This deed restriction shall remain in effect so long as the cottage preservation project exists on the property.

**Section 3:** An amendment to the Local Coastal Program ("LCP") is also underway. LCP Amendment No. LC2019-004 amending Section 21.38.060 (Nonconforming Parking) of Title 21 of the Newport Beach Municipal Code shall not become effective for projects located in the coastal zone for which the LCP is applicable until approval of the subject LCP amendment 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.

**Section 4:** The recitals provided in this ordinance are true and correct and are incorporated into the operative part 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 this action is exempt from environmental review under California Environmental Quality Act ("CEQA") pursuant to 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"). This 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 exempt from the requirements of CEQA in connection with the adoption of a Local Coastal Program. The Amendment itself does not authorize development that would directly result in physical change to the environment.

**Section 7:** Except as expressly modified in this ordinance, all other sections, subsections, terms, clauses and phrases set forth in the NBMC 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 reintroduced at a regular meeting of the City Council of the City of Newport Beach held on the 28th day of January, 2020, and adopted on the 11th day of February, 2020, by the following vote, to-wit:

AYES: \_\_\_\_\_  
\_\_\_\_\_

NAYS: \_\_\_\_\_  
\_\_\_\_\_

ABSENT: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
WILL O'NEILL, MAYOR

**ATTEST:**

\_\_\_\_\_  
LEILANI I. BROWN, CITY CLERK

**APPROVED AS TO FORM:**  
CITY ATTORNEY'S OFFICE

  
\_\_\_\_\_  
AARON C. HARP, CITY ATTORNEY

## ATTACHMENT B

### RESOLUTION NO. 2020- 12

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AUTHORIZING SUBMITTAL OF LOCAL COASTAL PROGRAM AMENDMENT NO. LC2019-004 TO THE CALIFORNIA COASTAL COMMISSION TO AMEND TITLE 21 ENTITLED "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)**

**WHEREAS**, 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;

**WHEREAS**, 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;

**WHEREAS**, the California Coastal Commission effectively certified the City's Local Coastal Implementation Plan on January 13, 2017, and the City added Title 21 ("Local Coastal Program Implementation Plan") ("Title 21") to the City of Newport Beach Municipal Code ("NBMC") whereby the City assumed coastal development permit-issuing authority on January 30, 2017;

**WHEREAS**, amendment to Title 21 and the Local Coastal Program is necessary to incentivize the preservation of cottages ("LCP Amendments");

**WHEREAS**, authorizing the amendment to Title 21 of the NBMC and the City's Local Coastal Program incentivizes 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-level homes that maximize the allowable building envelope;

**WHEREAS**, 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 California Government Code Section 54950 *et seq.* 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;

**WHEREAS**, 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;

**WHEREAS**, 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 21.62 of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing;

**WHEREAS**, on November 21, 2019, the Planning Commission adopted Resolution No. PC2019-034 by a majority vote (5 ayes, 1 nay), recommending to the City Council approval of Local Coastal Program Amendment No. LC2019-004;

**WHEREAS**, a public hearing was held by the City Council on January 28, 2020, 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 City Council at this public hearing; and

**WHEREAS**, pursuant to Section 13515 of the California Code of Regulations Title 14, Division 5.5, Chapter 8, Subchapter 2, Article 5 ("Public Participation"), 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 City Council public hearing.

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



**Section 1:** The City Council does hereby authorize City staff to submit LCP Amendment No. LC2019-004 to the California Coast Commission for review and approval, 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.

**Section 2:** LCP Amendment No. LC2019-004 shall not become effective until approved and adopted by the California Coastal Commission, including any modifications suggested by the California Coastal Commission, by resolution(s) and/or ordinance(s) of the City Council of the City of Newport Beach.

**Section 3:** The Local Coastal Program including the proposed LCP Amendment No. LC2019-004 will be carried out in full conformity with the California Coastal Act, codified in Public Resources Code Section 30000 *et seq.*

**Section 4:** The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

**Section 5:** If any section, subsection, sentence, clause or phrase of this resolution 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 resolution. The City Council hereby declares that it would have passed this resolution, 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:** This action is exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to 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"). This action is also exempt under CEQA Guidelines Section 15061(b)(3), which states 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 exempt from the requirements of CEQA in connection with the adoption of a Local Coastal Program. LCP Amendment No. LC2019-004 itself does not authorize development that would directly result in physical change to the environment.

**Section 7:** This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

**ADOPTED** this 28th day of January, 2020.

\_\_\_\_\_  
Will O'Neil  
Mayor

**ATTEST:**

\_\_\_\_\_  
Leilani I. Brown  
City Clerk

**APPROVED AS TO FORM:**  
CITY ATTORNEY'S OFFICE

  
\_\_\_\_\_  
Aaron C. Harp  
City Attorney

Attachment: Exhibit A - Proposed Amendment to the City of Newport Beach Local Coastal Program Related to Cottage Preservation (LC2019-004)

## EXHIBIT "A"

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

**Section 1:** Amend Policy 2.9.3-8 of Chapter 2.0 (Land Use and Development) of the Local Coastal Program as follows, with all other provisions of the Local Coastal Program 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, but not greater than 500 square feet, of a residential development of three (3) units or less may be allowed without requiring the code-required parking when the project would result in the preservation of the cottage character of the existing 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; or
- 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, but no greater than 500 square feet, are permitted for 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 where the property is located;
- 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
One-car garage	200 square feet
Two-car garage	400 square feet
Three-car garage	600 square feet

- d. The height of the residential structure shall not exceed the following, regardless of roof pitch:
  - i. Front half of lot: single story with a maximum height of sixteen (16) feet; and
  - ii. Rear half of lot: two story with a maximum height of twenty-four (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;
- g. Deed Restriction and Recordation Required. Prior to the issuance of a building permit for a cottage preservation project, the property owner shall record a deed restriction with the Orange County Recorder's Office, the form and content of which is satisfactory to the City Attorney, agreeing to maintain the property consistent with the limitations specified above for cottage preservation and the restrictions on short-term lodging. The deed restriction document shall notify future owners of the restriction. This deed restriction shall remain in effect so long as the cottage preservation project exists on the property; and
- h. The addition complies with the limitations of Section 21.38.040(G)(1).



## **Attachment C**

April 23, 2019, City Council Study Session Minutes

# CITY OF NEWPORT BEACH

## City Council Minutes Study Session and Regular Meeting April 23, 2019

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### I. ROLL CALL - 4:00 p.m.

Present: Council Member Brad Avery, Council Member Joy Brenner, Council Member Duffy Duffield, Council Member Jeff Herdman, Council Member Kevin Muldoon, Mayor Pro Tem Will O'Neill, Mayor Diane Dixon

### II. CURRENT BUSINESS

#### SS1. Clarification of Items on the Consent Calendar

Mayor Dixon announced she will be requesting that the minutes (Item 1) be continued to the May 14, 2019 City Council meeting.

In response to Council Member Muldoon's questions, Public Works Director Webb indicated the contract for Item 7 would need to be modified if organics were to be used and there would be no pesticide usage related to Item 8.

Prior to responding to Council Member Brenner's question regarding Item 5, ***Council Member Muldoon recused himself due to property interest conflicts.*** City Manager Leung and Public Works Director Webb noted Item 5 is for playground equipment replacement and only new equipment requests need to be discussed at a Parks, Beaches and Recreation Commission meeting.

#### SS2. *Poppy Month Proclamation*

Carolyn Whitlinger and Debbie Schubert, American Legion Auxiliary, provided the background on *Poppy Month* and received the proclamation from Mayor Dixon. Council Member Brenner expressed the importance of *Poppy Month*.

#### SS3. *CASA of Orange County Day Proclamation*

Stefanie Gillett provided Court Appointed Special Advocate's (CASA's) background, gave pinwheels to each of the Council Members, discussed *Foster Care Awareness Month* and the CASA Pinwheel Project (CASAoc.org/events), and received the proclamation from Mayor Dixon.

#### SS4. Recognition of Ford W. Fairon

Chief Lewis, on behalf of the Police and Fire Departments, commended Ford Fairon for his bravery and heroic actions on January 21, 2019. Ford Fairon thanked the Police and Fire Departments for being our everyday heroes, and received the proclamation from Mayor Dixon.

#### SS5. Potential Changes to Residential Development Standard to Preserve Cottages and Address 3rd Story Massing

Community Development Director Jurjis and Principal Planner Ramirez utilized a PowerPoint presentation to display the location map and discuss reasons the City is losing beach cottages, cottage sizes, the number of cottages in the City, standards for Council to study, and the amendment process.

Discussion ensued relative to increasing buildable square footage for cottage owners if they maintain a single story, finding incentives to keep the cottages, conducting extensive outreach before any code amendment occurs, streamlining the process, considering amending parking requirements for cottages, and discussed how many cottages have been replaced with larger homes.

Ron Yeo provided a handout, indicated he inventoried the current cottages in Corona del Mar, believed parking is the biggest issue, and expressed hope the City could assist with keeping the cottages in the City.

Jerry Jansen, past President of the Balboa Island Improvement Association, expressed support for retaining cottages and allowing them to rebuild in the same or similar footprint without requiring parking.

Tanya, cottage owner, indicated she would like to expand a little but cannot due to the parking restrictions.

Nancy Arrache expressed concern with setbacks and amending parking standards in high density areas.

Mark Becker expressed support for preserving Balboa Island's uniqueness.

David Tanner believed parking exceptions should be made to preserve the cottages.

Gary Cruz requested and received clarification that redevelopment does not have to be done by the original cottage owner and there is no restriction to the number of people living in a home.

Andrew Goetz believed an owner should be able to fix other parts of the home without triggering a complete teardown.

Karen Tringali expressed support for the cottage community.

Denys Oberman believed parking problems are created by the larger buildings and that this issue should be considered with the City's total housing stock.

Regarding residential height and massing, Senior Planner Ramirez utilized a PowerPoint presentation to display a map of high density neighborhoods and discuss the goals of the 2010 code amendments, R-1 and R-2 height and bulk standards, third story covered decks, issues in the RM Zoning District, changes for Council to consider, and the amendment process.

Discussion ensued relative to how staircases and vaulted ceilings are counted toward the total square footage, setbacks, third story decks, height and floor area standards in RM Zoning Districts, and design articulation.

Ron Yeo discussed third stories and suggested counting covered deck areas as square footage.

Mark Becker believed the large envelopes are destroying the intimacy in neighborhoods and provided his recommendations.

Vicky Swanson indicated she cannot enjoy her home because the houses next to her are too large and she loses light.

Andrew Goetz expressed concern with the wall heights relative to the roof and suggested minimizing the wall area around cabanas or minimizing the amount of ridge area that sits on the lot.

Denys Oberman took issue with the 2010 code changes and highlighted confusing terminology.

David Tanner requested that any change to the code not make areas worse, questioned how height limits will account for sea level rise, and believed single family homes are being rented as duplexes.

Linda Watkins questioned how a large home was built in a gated community and requested the City tighten the zoning codes.

Jim Mosher noted that the code contains a section about ministerial design criteria that applies to all areas of the City and asked how they are being applied.

Karen Tringali indicated the City may adjust the code to preserve the nature and qualities of certain neighborhoods.

Council indicated that potential considerations moving forward include counting two-story vaulted ceilings, all levels of staircases and anything with a roof as square footage; maintaining the setback that was allowed between multiple lots; ensuring property rights are maintained; revisiting how third story decks are handled with preference of having all sides open; and expediting the simpler issues.

With Mayor Pro Tem O'Neill dissenting, the majority of Council requested the City Attorney look into implementing a moratorium on RM Zoning District conversions to single-family homes, believing a standard height limit should be set for all single-family homes.

#### **SS6. On-Street Parking Impacts Due to Construction Activities**

Community Development Director Jurjis and Deputy Community Development Director Ghosn utilized a PowerPoint presentation to provide the background and discuss the public outreach meetings, feedback received, and staff suggestions.

Discussion ensued relative to implementing rules only in areas that are most impacted by this issue, not allowing Saturday construction, the importance of code enforcement, determining if all parts of the City would want to utilize the signage, and looking at short term lodging impacts separately.

Council Member Herdman expressed his gratitude to staff for the attempt, but felt it best not to move forward with this effort.

Nancy Orazi expressed concerns with the number of short term lodging on the Peninsula and Balboa Island, and noted that parking issues are also due to other sources, not just contractors.

Jeff Stolrow discussed parking impacts and safety concerns due to construction on Lido Isle.

Gary Cruz expressed concerns regarding parking impacts and disturbances due to construction on Newport Island, and requested notification about meetings regarding this issue.

Vicky Swanson believed the City should require construction management plans.

David Tanner believed short term lodging adds to the parking issues and the City should identify how the code is being gamed.

Mayor Dixon indicated short term lodging issues will be coming before Council at a later date.

Council unanimously concurred to bring back an item to add a parking enforcement person through AmeriPark for seasonal parking enforcement; Mayor Dixon and Council Members Duffield, Herdman and Brenner concurred that no construction should occur on Saturdays; and all Council Members, except for Council Member Avery, concurred that the restrictions should only apply in high density areas.

#### **SS7. City Emergency Council Update**

The item was continued to a future meeting.

## **Attachment D**

Initiation of Amendments; City Council Resolution No. 2019-43



## **RESOLUTION NO. 2019-43**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, INITIATING AMENDMENTS TO TITLE 20 ENTITLED "PLANNING AND ZONING" AND TITLE 21 ENTITLED "LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN" OF THE CITY OF NEWPORT BEACH MUNICIPAL CODE RELATED TO MASSING OF THREE STORY RESIDENTIAL STRUCTURES AND DEVELOPMENT STANDARDS FOR SMALL BEACH COTTAGES (PA2019-070)**

**WHEREAS**, Newport Beach Municipal Code ("NBMC") Section 20.66.020 provides that the City Council of the City of Newport Beach ("City Council") may initiate an amendment to NBMC Title 20 with or without a recommendation from the Planning Commission;

**WHEREAS**, City Council Policy K-1 entitled "General Plan and Local Coastal Program" requires amendments to the City of Newport Beach certified Local Coastal Program codified in NBMC Title 21 to be initiated by the City Council;

**WHEREAS**, the City Council desires to modify regulations related to third story residential building massing and provide flexibility in certain development standards that may allow more improvements to smaller beach cottages; and

**WHEREAS**, in order to implement the aforementioned modifications, amendments to Title 15, Title 20 and Title 21 are required.

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

**Section 1:** The City Council hereby initiates amendments to NBMC Title 20 "Planning and Zoning" and Title 21 "Local Coastal Program Implementation Plan" to modify regulations relating to nonconforming structures, nonconforming parking, off-street parking spaces required, residential development standards and design criteria and associated definitions of specialized terms and phrases. Modifications to Title 15 may be implemented as authorized by the NBMC.

**Section 2:** If any section, subsection, sentence, clause or phrase of this resolution 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 resolution. The City Council hereby declares that it would have passed this resolution 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 3:** The recitals provided in this resolution are true and correct and are incorporated into the substantive portion of this resolution.

**Section 4:** The City Council finds the adoption of this resolution is categorically exempt pursuant to Title 14, Division 6, Chapter 3, of the California Code of Regulations, Section 15262 (Feasibility and Planning Studies) Guidelines for Implementation of the California Environmental Quality Act ("CEQA"). Section 15262 exempts projects involving feasibility or planning studies for possible future actions which the agency, board, or commission has not approved or adopted.

**Section 5:** This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting this resolution.

**ADOPTED** this 14<sup>TH</sup> day of May, 2019.

Diane B. Dixon  
Mayor

ATTEST:

Leilani I. Brown  
City Clerk



**APPROVED AS TO FORM:**  
CITY ATTORNEY'S OFFICE

Aaron C. Harp  
City Attorney

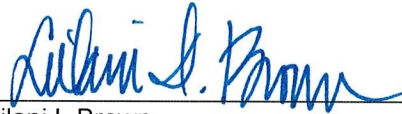
STATE OF CALIFORNIA                    }  
COUNTY OF ORANGE                    }  
CITY OF NEWPORT BEACH                }       ss.

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; the foregoing resolution, being Resolution No. 2019-43 was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 14<sup>th</sup> day of May, 2019; and the same was so passed and adopted by the following vote, to wit:

AYES: Council Member Brad Avery, Council Member Joy Brenner, Council Member Duffy Duffield, Council Member Jeff Herdman, Council Member Kevin Muldoon, Mayor Pro Tem Will O'Neill, Mayor Diane Dixon

NAYS: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 15<sup>th</sup> day of May, 2019.



\_\_\_\_\_  
Leilani I. Brown  
City Clerk  
Newport Beach, California



## **Attachment E**

October 17, 2019, Planning Commission Minutes



**ITEM NO. 4 COTTAGE PRESERVATION CODE AND LCP AMENDMENTS (PA2019-181)**  
**Site Location: Citywide**

**Summary:**

The City is proposing amendments to the Local Coastal Program (Coastal Land Use Plan and Implementation Plan), Newport Beach Municipal Code (NBMC) Title 20 (Planning and Zoning), and Title 15 (Building and Construction) to provide an option to preserve traditional beach cottages. Typically, cottages do not provide all the code-required parking and additions are limited to 10 percent of the existing floor area. The amendments would allow larger additions of up to 50 percent or 500 square feet, whichever is greater, of the existing floor area without providing the minimum code-required parking when the project would result in the preservation of the cottage character and building envelope that is representative of traditional development patterns in the City. Eligible projects would also receive relief from a building code valuation threshold requiring building code compliance as new construction.

**Recommended Action:**

1. Conduct a public hearing;
2. Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 21065 of CEQA and State CEQA Guidelines Sections 15060 (c)(2), 15060 (c)(3), and 15378. The proposed action is also exempt pursuant to State CEQA Guidelines Section 15061(b)(3) because it has no potential to have a significant effect on the environment;
3. Adopt Resolution No. PC2019-033 recommending the City Council approve Code Amendment No. CA2019-006; and
4. Adopt Resolution No. PC2019-034 recommending the City Council authorize staff to submit Local Coastal Program Amendment No. LC2019-004 to the California Coastal Commission.

Principal Planner Jaime Murillo reported in May 2019, the City Council directed staff to prepare Code amendments in response to community concerns about the loss of cottages and developments replacing cottages. The Code amendments pertain to reducing third floor massing; reducing the height and bulk of single- and two-family development projects within the Multiple Unit Residential (RM) Zoning District; and incentives to preserve cottages.

Principal Planner Murillo further reported that staff conducted a community meeting on August 19, 2019, to share proposed amendments. Public comments at the meeting indicated demolishing and building a new home is easier than remodeling a cottage because of existing Code requirements. The community preferred incentives rather than restrictions of property rights to achieve cottage preservation. The community seemed to support allowing increased floor area for nonconforming structures if it resulted in preservation of cottages.

Principal Planner Murillo went on to state that the draft amendment defines cottages as existing smaller residential structures that tend to be one or two units and that are representative of traditional development patterns common in Corona del Mar, the Balboa Peninsula, and Balboa Island. Cottages are typically one story but may have a second story at the rear of the structure. The use of cottages has changed from a second home to a primary residence. Cottages typically are nonconforming because they have zero or one parking space, when two parking spaces are currently required. The Zoning Code limits an addition to an existing structure that is nonconforming due to parking requirements to 10 percent of existing floor area, which precludes many remodel projects. The Building Code requires a homeowner to bring the entire structure into compliance with the current Building Code if the cost of a project is more than 50 percent of the replacement value of the structure excluding the land value. Often, demolishing and building a new structure is less expensive than remodeling.

Principal Planner Murillo indicated that staff proposes incentives to increase the 10-percent limit to 50 percent for existing nonconforming structures and to exempt cottages from the 50-percent replacement value threshold. The exemption would not apply to structures located in special flood hazard areas. In exchange for the incentives, the front half of the lot would be restricted to a one-story structure no more than 16 feet in height, and the back half of the lot would be restricted to a two-story structure no more than 24 feet in height. Third floors and third-floor decks would not be allowed. A deed restriction would be required for current and

subsequent property owners to maintain the cottage; however, if the property owner decided to redevelop the property in the future consistent with the Zoning Code standards in effect at that time, they would be permitted to demolish the cottage and redevelop the property.

Principal Planner Murillo indicates that staff has received comments expressing concerns about allowing expansions for nonconforming structures when the availability of on-street parking is already limited. The remodel project will have to fit within the form-based building envelope proposed, which will constrain the property owner from over-building a site. A great deal of flexibility is needed to achieve preservation of cottages; however, the 50-percent allowance could be reduced. Alternatively, the 50-percent allowance could be maintained, but an addition could be capped at 750 square feet. The total floor area could also be limited to no more than 75 percent of the maximum allowed. As proposed, the amendment could apply to a 10-unit building. Therefore, staff recommends the amendment apply only to single-family duplexes, duplexes, or triplexes. In addition, staff recommends the amendment prohibit short-term rentals through the required deed restriction. Second-floor decks are common amenities throughout Corona del Mar and Balboa Island and should be allowed. Next steps include City Council review of proposed amendments, submission of proposed amendments to the California Coastal Commission for review and approval, and City Council adoption.

Vice Chair Weigand expressed concern that cottages in each area of the City are slightly different such that a one-size-fits-all approach to preservation may not be appropriate. He suggested continuing the item so that additional outreach can be conducted with stakeholders and the community.

Commissioner Kleiman could not envision a scenario where a property owner would deed restrict his property such that the resale value would be limited. She did not support the amendment as drafted. Presenting the amendment to the Coastal Commission would be a waste of time.

In response to Chair Koetting's inquiry, Principal Planner Murillo advised that the architectural style of existing cottages varies. The form is more important than the style of the cottage. The property owner could employ a Mid-Century Modern style as long as the structure complies with the required form and height limit.

Principal Planner Murillo explained that compliance with the preservation ordinance would be voluntary. If the property owner wants to redevelop the property compliant with the Code, staff would remove the deed restriction. The deed restriction is intended to prevent a property owner from utilizing the incentives and subsequently proposing a second-story addition at the front of the structure. The deed restriction would run for the duration of the structure. Condominiums are prohibited on Balboa Island. The current Code requires compliance with parking requirements in order to convert existing units to condominiums. Cottages typically do not conform to parking requirements.

Chair Koetting opened the public hearing.

Charles Klobe believed there is a market for preserved cottages. The community has made no negative comments about the proposed amendment at community meetings.

Carmen Rawson expressed concern that the amendments would allow a property owner to add two or three bedrooms to a rental cottage such that there would be multiple tenants and no parking. She wanted the amendments to apply to single-family units only.

Ken Rawson related that the primary concern is parking. The proposed amendment will only increase parking congestion. The 50-percent threshold is too much. Parking requirements should be maintained for all but single-family homes.

Jim Mosher expressed confusion about the calculation of the limit on floor area. The third exception in the Building Code amendment should be the second exception. He questioned the waiver of Subsections (A)(1) and (A)(2) in the Local Coastal Program amendment. The City is not complying with Section 13515 of the California Code of Regulations as stated in Section 1.5 of the Statement of Facts.

Chair Koetting closed the public hearing.

In answer to Commissioner Kleiman's question, Principal Planner Murillo indicated approximately half of the target areas on Balboa Island and portions of the Peninsula are located in special flood hazard areas.

**Motion** made by Vice Chair Weigand and seconded by Commissioner Ellmore to continue the item to a later date.

Chair Koetting felt the 50-percent limit is too high.

**Amended Motion** made by Vice Chair Weigand and seconded by Commissioner Ellmore to continue the item so that staff can draft language applicable to specific areas and reconsider waiving parking requirements for duplexes and triplexes.

Vice Chair Weigand recommended staff hold community meetings in each area.

Community Development Director Jurjis clarified that staff held a community meeting and presented the issue as a study session before the City Council. The Council directed staff to carve out requirements for cottages and to proceed.

AYES: Koetting, Weigand, Ellmore, Klaustermeier, Rosene  
NOES: Lowrey, Kleiman  
RECUSED:  
ABSENT:

## **VIII. DISCUSSION ITEMS**

### **ITEM NO. 5 REGIONAL HOUSING NEEDS ASSESSMENT (RHNA)**

**Summary:**

Staff will provide a presentation providing an update regarding the Regional Housing Needs Assessment (RHNA) process. The presentation will include the regional determination made by the State Department of Housing and Community Development and current draft allocation methodology recommended by the Southern California Association of Governments (SCAG).

Chair Koetting announced the item is continued due to the late hour.

## **IX. STAFF AND COMMISSIONER ITEMS**

### **ITEM NO. 6 MOTION FOR RECONSIDERATION**

None

### **ITEM NO. 7 REPORT BY THE COMMUNITY DEVELOPMENT DIRECTOR OR REQUEST FOR MATTERS WHICH A PLANNING COMMISSION MEMBER WOULD LIKE PLACED ON A FUTURE AGENDA.**

Community Development Director Jurjis reported the community fair on October 26 will launch the General Plan Update. The new website for the General Plan Update is now available at [newporttogether.com](http://newporttogether.com).

Deputy Community Development Director Campbell noted one item, review of the Newport Auto Center, is scheduled for the November 7 meeting. He suggested scheduling the item to November 21 and canceling the November 7 meeting. The RHNA presentation and the cottage preservation amendments, if ready, can be scheduled for November 21.

Community Development Director Jurjis indicated the November 7 meeting will be canceled.

Chair Koetting requested a future agenda item to discuss deadlines for submission of documents.

# **Attachment F**

Planning Commission Resolution No. PC2019-033

## RESOLUTION NO. PC2019-033

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, RECOMMENDING CITY COUNCIL ADOPTION OF CODE AMENDMENT NO. CA2019-006 TO AMEND TITLE 15 (BUILDING AND CONSTRUCTION) AND TITLE 20 (PLANNING AND ZONING) OF THE CITY OF NEWPORT BEACH MUNICIPAL CODE 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. An amendment to Title 15 (Building and Construction) and Title 20 (Planning and Zoning) ("Code Amendment") of the City of Newport Beach Municipal Code ("NBMC") is necessary to incentivize the preservation of cottages.
2. 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 California Government Code Section 54950 *et seq.* ("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.
3. 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.
4. 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. The Amendment itself does not authorize development that would directly result in physical change to the environment.



### SECTION 3. FINDINGS.

1. Currently, Section 102.7 (Remodel or renovation) of Section 15.02.060 of the NBMC requires a dwelling to be subject to building code regulations as a new structure when the valuation of the permit for a remodel or renovation exceeds fifty (50) percent of the market value of the dwelling. As a result of this fifty (50) percent valuation threshold, many small remodel and residential addition projects require substantial improvements to comply with building code regulations as new construction. Due to this increased scope of work and costs, many property owners decide that it is not financially feasible to maintain their existing residential cottages and decide to demolish these cottages. The current redevelopment trend is to reconstruct new single- or two-family dwellings that maximize the building envelope, including three-level development, to realize the maximum return on investment.
2. Authorizing the amendment to Title 15 (Building and Construction) of the NBMC would incentive the preservation of cottages by removing the valuation threshold requiring building code compliance as new construction and allowing reasonable size additions to existing residential developments that preserve their cottage character and building envelope.
3. Authorizing the amendment to Title 20 (Planning and Zoning) of the NBMC 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 the site with new, larger, three-level homes that maximize the allowable building envelope.
4. An amendment to Title 21 and the Local Coastal Program ("LCP") to incentivize the preservation of cottages ("LCP Amendments") is also proposed for properties located in the coastal zone. The Code Amendment shall not become effective for projects located in the coastal zone until approval of the LCP Amendments 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.

### SECTION 4. DECISION.

#### **NOW, THEREFORE, BE IT RESOLVED:**

1. The Planning Commission finds the proposed code amendments are not a projects subject to CEQA pursuant to Section 21065 of Public Resources Code and the CEQA Guidelines Sections 15060(c)(2), 15060(c)(3), and 15378. The proposed action is also statutorily exempt pursuant to CEQA Guidelines Section 15061(b)(3) because it has no potential to have a significant effect on the environment.
2. The Planning Commission of the City of Newport Beach hereby recommends approval of Code Amendment No. CA2019-006 as set forth in Exhibit "A," which is attached hereto and incorporated herein by reference.

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

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

NOES: Kleiman

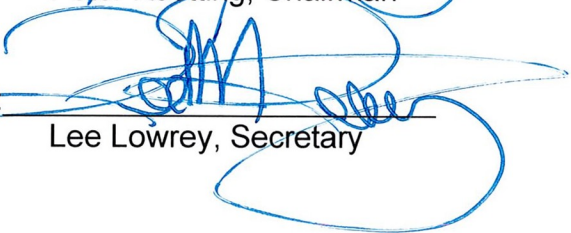
ABSTAIN: None

ABSENT: Ellmore

BY: \_\_\_\_\_

  
Peter Koetting, Chairman

BY: \_\_\_\_\_

  
Lee Lowrey, Secretary

**EXHIBIT “A”**

**Proposed Code Amendment No. CA2019-006 Related to Cottage Preservation**

**Section 1:** Amend Section 102.7 (Remodel or renovation) of Section 15.02.060 of the Newport Beach Municipal Code as follows:

**15.02.060 Added to Section 102.7.**

Section 102.7 is added to read as follows:

**Section 102.7 Remodel or renovation.** If the valuation of the permit for the remodel or renovation of a building is equal to or exceeds 50 percent of the market value of such building, then the entire building shall comply with the Code provisions for new construction.

**Exceptions:**

1. This provision does not apply for permit valuations less than \$220,700;
2. This provision does not apply to projects meeting the criteria for cottage preservation pursuant to Section 20.38.060(A)(3) and not located in a Special Flood Hazard Area per the latest revision of the Federal Insurance Rate Map.
3. The Chief Building Official is authorized to accept less than the requirements for new construction if substantial conformance to the requirements is found and the protection of life and property are maintained.

**Section 2:** Amend Section 20.38.060 (Nonconforming Parking) of Title 2 (Planning and Zoning) of the Newport Beach Municipal to read as follows:

**20.38.060 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 Zoning Code, only the following alterations may be allowed:

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 20.38.040(A) through (F); and
  - b. Additions up to a maximum of ten (10) percent of the existing floor area of the structure within a ten (10) year period as provided in Section 20.38.040(G).
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 Zoning Code 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 modification permit in compliance with Section 20.52.050 (Modification Permits).
3. 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, but no more than 500 square feet, 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 zoning district;
  - b. The addition shall comply with all applicable development standards and use regulations of this Zoning Code;
  - c. The square footage of residential parking area additions identified below shall be excluded from the allowed expansion under subsection (A)(3), but shall be included as gross floor area;

Required Parking	Maximum Excluded Area
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. Deed Restriction and Recordation Required. Prior to the issuance of a building permit for a cottage preservation project, the property owner shall record a deed restriction with the County Recorder's Office, the form and content of which is satisfactory to the City Attorney, agreeing to maintain the property consistent with the limitations specified above for cottage preservation and the restrictions on short-term lodging. The deed restriction document shall notify future owners of the restriction. This deed restriction shall remain in effect so long as the cottage preservation project exists on the property.



# **Attachment G**

Planning Commission Resolution No. PC2019-034

## **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).

## **Attachment H**

November 21, 2019, Planning Commission Minutes

determined that the project complies with the Local Coastal Program (LCP) and the goals of alleviating coastal hazards and allowing public coastal access. The design will open some public views of the Bay. The proposed home will be massed and situated similar to the existing home. Staff has received written confirmation that the applicant and appellant have reached an agreement that includes lowering certain rooflines, reducing the chimney height and using a transparent material for the top 15 inches of the driveway guardrail.

In reply to Chair Koetting's questions, Planning Consultant Schuller reiterated that she received written confirmation of an agreement from the appellant's representative.

In answer to Commissioner Rosene's query, Principal Planner Jaime Murillo recalled Mr. Mosher's suggestion of an open design for the driveway gate to enhance the public view from the roadway. That suggestion is not a component of the proposal.

Chair Koetting opened the public hearing.

Chris Brandon, applicant representative, reported the parties have reached an agreement.

In response to Commissioners' inquiries, Mr. Brandon advised that the proposed home will have four bedrooms. The driveway gate will be located below the level of the curb. Mr. Brandon indicated he would have to consult with his clients about using a transparent material or an openwork design for the gate.

Mr. Mosher believed the Planning Commission had to require a transparent material or an open design for the gate in order to enhance the view from a designated viewpoint. The Coastal Commission would likely require glass that minimizes bird strikes for the proposed home and the guardrail.

Chair Koetting closed the public hearing.

**Motion** made by Vice Chair Weigand and seconded by Secretary Lowrey to adopt Resolution No. PC2019-032, overturning the Zoning Administrator's approval of Coastal Development Permit No. CD2017-076.

Commissioner Rosene requested an amendment to include conditions of approval requiring an open design for the driveway gate and the architect to explore special glass to minimize bird strikes.

Mr. Brandon explained that an open-work gate would not improve the view as the driveway would be the only view through a gate with an open design. The Coastal Commission considers special materials for glazing on railings and other elements of the exterior of the home but not for glazing on the house. He would have to investigate whether special materials are available for curved glazing.

Commissioner Rosene expressed certainty that an open design for the gate would be beneficial.

Chair Koetting did not believe a solid gate would obstruct the view but would provide privacy.

AYES:	Koetting, Weigand, Lowrey, Klaustermeier, Kleiman
NOES:	Rosene
RECUSED:	
ABSENT:	Ellmore

**ITEM NO. 4 COTTAGE PRESERVATION CODE AND LCP AMENDMENTS (PA2019-181)**  
**Site Location: Citywide**

**Summary:**

Amendments to the Local Coastal Program (Coastal Land Use Plan and Implementation Plan), Newport Beach Municipal Code Title 20 (Planning and Zoning), and Title 15 (Building and Construction) to incentivize the preservation of cottages. Specifically, the amendments would allow larger additions of up to fifty (50) percent of the existing floor area of a residential development that is nonconforming due to parking when the project would result in the preservation of the cottage character of the development and a building envelope representative of traditional development patterns in the City. Eligible projects would

also receive relief from a building code valuation threshold, which requires building code compliance as new construction.

**Recommended Action:**

1. Conduct a public hearing;
2. Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 21065 of CEQA and State CEQA Guidelines Sections 15060(c)(2), 15060(c)(3), and 15378. The proposed action is also exempt pursuant to State CEQA Guidelines Section 15061(b)(3) because it has no potential to have a significant effect on the environment;
3. Adopt Resolution No. PC2019-033 recommending the City Council approve Code Amendment No. CA2019-006; and
4. Adopt Resolution No. PC2019-034 recommending the City Council authorize staff to submit Local Coastal Program Amendment No. LC2019-004 to the California Coastal Commission.

Principal Planner Jaime Murillo reported the Planning Commission raised a number of concerns and directed staff to refine the amendments on October 17. In response to community concerns regarding the massing of new residential development, the City Council directed staff to explore Code amendments that could reduce the massing of new residential development, particularly for three-story developments. The Council also directed staff to explore incentives that encourage homeowners to retain the historic look of cottages when remodeling them.

Principal Planner Murillo described that defining a cottage is difficult because cottages do not have a specific architectural style and were not built in a specific timeframe. Cottages typically have one story, but some may have a second-story component above parking at the rear of the lot. Cottages have been characterized as second homes or beach cottages, but they are now being used as primary residences. Property owners are redeveloping cottages to include modern amenities and improve livability. Because of high property values, property owners maximize the height and square footage of development to obtain the maximum return on investment. Two Code sections contribute to property owners' decisions to demolish cottages. Many cottages are nonconforming because they do not have the Code-required number of parking spaces or the existing parking spaces do not meet current size requirements. The Code limits additions to no more than 10 percent of the existing floor area for nonconforming structures. With the small size of cottages, a 10-percent addition does not benefit the property owner. A standard in the Building Code states that if the cost of improvements exceeds 50 percent of the replacement value of the home, excluding the value of the land, the structure must comply with the current Building Code standards. The cost of retrofitting deters homeowners from improving cottages.

Principal Planner Murillo stated that staff proposes an incentive program that allows additions of up to 50 percent of the existing floor area for nonconforming structures and provides an exception to the Building Code limitation. In exchange for the incentives, the remodel or addition would comply with a specific building envelope, and the homeowner would agree to a deed restriction. The specific building envelope is a one-story elevation at a maximum height of 16 feet on the front half of the lot and a two-story elevation at a maximum height of 24 feet on the rear half of the lot. Third floors and third-floor decks would not be allowed. The incentive program would be voluntary. At some future time, the homeowner could choose to redevelop the property, and the City would remove the deed restriction and require the homeowner to redevelop the property consistent with current Code requirements.

Principal Planner Murillo reported that previously, the Planning Commission raised concerns regarding applicability, parking impacts, the size of additions, and short-term rentals. Staff revised the amendments to limit incentives to projects of three units or less; to limit additions to 50 percent of floor area up to a maximum of 500 square feet; and to prohibit the use of cottage projects for short-term lodging. Limiting the incentive program to single-family projects would render the program ineffective. The specific building envelope restrictions may further help to limit the size of cottage additions. Staff has received public comments regarding nonconformance of cottages. With respect to Mr. Mosher's proposed revisions, staff concurs with correcting the valuation number, striking subjective language, and correcting the typographical errors.

In reply to Commissioners' questions, Principal Planner Murillo explained that the previously suggested cap of 750 square feet on additions was thought to be too high. The case study analyzed additions of 500 square



feet. Staff consulted with architects, and they generally supported a cap of 500 square feet. The 500-square-foot limit applies to the total structure. He also clarified that the program would allow second-floor decks.

Chair Koetting suggested a requirement to recess second-floor decks and development of an in-lieu parking fee program.

Community Development Director Seimone Jurjis advised that the City does not require in-lieu parking fees. A nexus study would have to be conducted if there is a recommendation for some type of in-lieu fee program.

Commissioners disclosed no ex parte communications for Item No. 2. Vice Chair Weigand disclosed ex parte communications with Chris Brandon and the Vallejos for Item No. 3. The remaining Commissioners disclosed no ex parte communications for Item No. 3. For Item No. 4, Secretary Lowrey disclosed communications with residents of Balboa Island, and Vice Chair Weigand disclosed communications with staff. The remaining Commissioners disclosed no ex parte communications for Item No. 4.

Commissioner Kleiman remarked that absent of a complete revision of development standards, the program will be ineffective. The program is limited to a small number of units and will not address residents' concerns. Removing a deed restriction from title is extremely difficult.

Chair Koetting opened the public hearing.

Julie Luckey noted the difficulties of installing appliances in cottages and supported the incentive program.

Jim Moloney explained that cottages have no attics or basements. Therefore, the garage is used for storage. With two- and three-story homes adjacent to his cottage, he cannot view a sunrise or sunset. He supported an addition of 750 square feet. Cottages represent the history of Newport Beach.

Tom Houston supported and appreciated the program.

Lee Pearl, Balboa Island Improvement Association, felt the program would be important to preserving cottages on Balboa Island. A limit of 750 square feet for additions would be better than 500 square feet. Staff has not considered filling in breezeways. Balboa Island residents support the program.

Charles Klobe emphasized that few residents opposed the program. He encouraged the Planning Commission to support the program.

Mr. Mosher noted the requirement for the City to revise the Local Coastal Program (LCP) available to the public. He inquired whether the program would apply to cottages that do not conform to modern setbacks and whether a homeowner could utilize the program more than once. The addition could be greater than 500 square feet if the homeowner provides parking. The word "smaller" should be replaced with "single-family."

Chair Koetting closed the public hearing.

Commissioner Kleiman advised that she supported the spirit of the program, but the program may not apply to many cottages. At some point, a cottage owner will want a two- or three-story home to escape the shadow of surrounding two- and three-story homes.

Vice Chair Weigand felt increasing the cap to 750 square feet and developing an in-lieu fee program warranted further discussion. Making the preservation of cottages attractive is important.

In reply to Chair Koetting's inquiry, Principal Planner Murillo indicated the City has designated a couple of properties as historic. A property owner typically initiates the process.

Secretary Lowrey appreciated staff preparing incentives rather than additional regulations. The program provides the opportunity for owners to improve their cottages and for people to purchase cottages with the idea of improving them. Commissioner Kleiman made some good points, but the program will benefit some owners. He could support increasing the limit to 750 square feet.

Chair Koetting requested staff suggest in-lieu parking fees to the City Council. The variety of existing cottages is surprising.

Assistant City Attorney Summerhill advised that the recommendations to the Council do not have to include a finite number for the limit.

**Motion** made by Secretary Lowrey and seconded by Commissioner Klaustermeier to approve staff's recommendation with revisions to consider increasing the square footage minimums and to include the changes Principal Planner Murillo proposed.

AYES: Koetting, Weigand, Lowrey, Klaustermeier, Rosene

NOES: Kleiman

RECUSED:

ABSENT: Ellmore

## VIII. **DISCUSSION ITEMS**

### **ITEM NO. 5 REGIONAL HOUSING NEEDS ASSESSMENT (RHNA)**

**Summary:**

Staff will provide a presentation regarding the Regional Housing Needs Assessment (RHNA) process. The presentation will include the regional determination made by the State Department of Housing and Community Development and current draft allocation for the City recently identified by the Southern California Association of Governments (SCAG).

Principal Planner Murillo reported the California Department of Housing and Community Development (HCD) is tasked with determining regional housing needs. HCD has determined 1.3 million housing units are needed for the region. Southern California Association of Governments (SCAG) will develop a methodology to allocate the regional housing need to each jurisdiction. The City is required to identify sites and to zone the sites for the potential development of housing units. The planning period is October 2021 to October 2029. In August 2019, SCAG released three draft methodologies for public review. Under those methodologies, the City would be responsible for planning for 2,300 to 5,200 units. City staff is participating in SCAG outreach meetings. In October 2019, SCAG released a hybrid methodology, which allocated approximately 2,700 units to Newport Beach. In November 2019, the regional council changed the methodology to focus housing growth on jurisdictions close to jobs and transit. That change increased the number of housing units allocated to Newport Beach to approximately 4,800 units. SCAG has submitted the draft methodology to HCD, who will review and comment on the methodology. SCAG will develop a final methodology, which may be released in February 2020.

Principal Planner Murillo stated that there is an appeal process for jurisdictions to appeal the number of units allocated to them. The methodology has two components, projected need and existing need. Orange County received approximately 171,000 units. Irvine's projected need is approximately 22,000 units, 13,000 units for Huntington Beach, 11,000 units for Costa Mesa, and 390 units for Laguna Beach. The next step is to distribute the local allocation to different income levels. The allocation for Newport Beach is composed of 1,452 units for very low income, 928 units for low income, 1,048 for moderate income, and 1,405 units for above moderate income.

Principal Planner Murillo reported that the City must update its General Plan, specifically the Housing Element. HCD reviews and approves Housing Elements. The City's updated Housing Element is due in October 2021. The City will identify sites for potential housing development and develop an inventory of sites. If the City misses the October 2021 deadline, its cycle will change from eight years to four years. If the City fails to zone adequate sites, it will have to adopt a program for by-right project approval. If the City fails to adopt a compliant Housing Element, any unaccommodated need will roll into the next cycle. A court may impose additional requirements. AB 101 allows the State to fine local jurisdictions for noncompliance. The City is seeking community feedback through the General Plan Update Listen and Learn workshops and the website [newporttogether.com](http://newporttogether.com).

# **Attachment I**

Underline~~strikeout~~ version of amendments

**Cottage Preservation (PA2019-181) Underline/ ~~Strikeout~~ Revisions**  
**Proposed Zoning Code Amendment**

**20.38.060 Nonconforming Parking.**

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A. Residential. Where a residential structure or use is nonconforming only because it does not conform to the off-street parking requirements of this Zoning Code, only the following alterations may be allowed:

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 [20.38.040](#)(A) through (F); and

b. Additions up to a maximum of ten (10) percent of the existing floor area of the structure within a ten (10) year period as provided in Section [20.38.040](#)(G).

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 Zoning Code 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 modification permit in compliance with Section [20.52.050](#) (Modification Permits).

3. 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, but no more than 500 square feet, are permitted for 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 zoning district where the property is located;

b. The addition shall comply with all applicable development standards and use regulations of this Zoning Code;

c. The square footage of residential parking area additions identified below shall be excluded from the allowed expansion under subsection (A)(3), but shall be included as gross floor area;

<u>Required Parking</u>	<u>Maximum Excluded Area</u>
<u>One-car garage</u>	<u>200 square</u>
<u>Two-car garage</u>	<u>400 square feet</u>
<u>Three-car garage</u>	<u>600 square feet</u>

d. The height of the residential structure shall not exceed the following, regardless of roof pitch:

i. Front half of lot: single story with a maximum height of sixteen (16) feet; and

ii. Rear half of lot: two story with a maximum height of twenty-four (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. Deed Restriction and Recordation Required. Prior to the issuance of a building permit for a cottage preservation project, the property owner shall record a deed restriction with the Orange County Recorder's Office, the form and content of which is satisfactory to the City Attorney, agreeing to maintain the property consistent with the limitations specified above for cottage preservation and restrictions on short-term lodging. The deed restriction document shall notify future owners of the restriction. This deed restriction shall remain in effect so long as the cottage preservation project exists on the property.

## **Proposed Building Code Amendment**

### **15.02.060 Amendment to Section 102.7.**

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Section 102.7 is amended to read as follows:

**Section 102.7 Remodel or renovation.** If the valuation of the permit for the remodel or renovation of a building is equal to or exceeds 50 percent of the market value of such building, then the entire building shall comply with the Code provisions for new construction.

**Exceptions:**

1. This provision does not apply for permit valuations less than \$220,700;

2. This provision does not apply to projects that meet the criteria set forth in Section 20.38.060(A)(3) and are not located in a Special Flood Hazard Area per the latest revision of the Federal Insurance Rate Map.

~~23.~~ The Chief Building Official is authorized to accept less than the requirements for new construction if substantial conformance to the requirements is found and the protection of life and property are maintained.



## **Proposed Local Coastal Program Amendment**

### **Coastal Land Use Plan – Amendment to Policy 2.9.3-8**

**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, but not greater than 500 square feet, of a residential development of three (3) units or less may be allowed without requiring the code-required parking when the project would result in the preservation of the cottage character of the existing development and a building envelope representative of traditional development patterns in the City.

### **Implementation Plan – Amendment to Section 21.38.60**

#### **21.38.060 Nonconforming Parking.**

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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, but no greater than 500 square feet, are permitted for 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 where the property is located;

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;

<u>Required Parking</u>	<u>Maximum Excluded Area</u>
<u>One-car garage</u>	<u>200 square feet</u>
<u>Two-car garage</u>	<u>400 square feet</u>
<u>Three-car garage</u>	<u>600 square feet</u>

d. The height of the residential structure shall not exceed the following, regardless of roof pitch:

i. Front half of lot: single story with a maximum height of sixteen (16) feet; and

ii. Rear half of lot: two story with a maximum height of twenty-four (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;

g. Deed Restriction and Recordation Required. Prior to the issuance of a building permit for a cottage preservation project, the property owner shall record a deed restriction with the Orange County Recorder's Office, the form and content of which is satisfactory to the City Attorney, agreeing to maintain the property consistent with the limitations specified above for cottage preservation and the restrictions on short-term lodging. The deed restriction document shall notify future owners of the restriction. This deed restriction shall remain in effect so long as the cottage preservation project exists on the property; and

h. The addition complies with the limitations of Section 21.38.040(G)(1).

# **Attachment J**

Coastal Zone Map





- Legend**
- Local Coastal Plan Boundary
  - City Boundary
  - Coastal Zone Area

**Coastal Zone**  
City of Newport Beach, California