

Attachment E

Resolution No. 2020-12

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 February 12, 2019, via Resolution No. 2019-16;

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



for 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 750 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 750 square feet, are permitted for a single residential dwelling, duplex, or triplex when they 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).

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. 2020-12, was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 28th day of January, 2020; and the same was so passed and adopted by the following vote, to wit:

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

NAYS: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 29th day of January, 2020.



Leilani I. Brown
City Clerk
Newport Beach, California

