



CITY OF

NEWPORT BEACH

City Council Staff Report

January 11, 2022
Agenda Item No. 18

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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TITLE: Ordinance Nos. 2022-2 and 2022-3: Amending the Newport Beach Municipal Code and the Coastal Land Use Plan Related to Cottage Preservation (PA2019-181)

ABSTRACT:

On February 11, 2020, the City Council adopted amendments to Title 20 (Zoning Code) and Title 15 (Buildings and Construction) of the Newport Beach Municipal Code (NBMC) to incentivize the preservation of cottages.

Similar amendments to Title 21 (Local Coastal Program Implementation Plan) of NBMC and Coastal Land Use Plan (CLUP) of the Local Coastal Program (LCP) were also needed to extend the incentive to properties located within the coastal zone and ensure consistency with the adopted changes to Title 20. On January 28, 2020, the City Council authorized submittal of LCP Amendment No. LC2019-004 to the California Coastal Commission (CCC).

On November 19, 2021, the CCC approved the Title 21 and Coastal Land Use Plan amendments with suggested modifications. For the City Council's consideration are the proposed ordinances and resolution to accept and incorporate the CCC's suggested modifications into the Coastal Land Use Plan and into both Titles 20 and 21 for consistency.

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) Adopt Resolution No. 2022-4, *A Resolution of the City Council of the City of Newport Beach, California, Adopting Local Coastal Program Amendment No. LC2019-004 and Amending Policy 2.9.3-8 of the Newport Beach Coastal Land Use Plan Related to Cottage Preservation (PA2019-181)*;
- d) Waive full reading, direct the City Clerk to read by title only, introduce Ordinance No. 2022-2, *An Ordinance of the City Council of the City of Newport Beach, California, Adopting Revisions to Zoning Code Amendment No. CA2019-006 Amending Title 20 (Planning and Zoning) of the City of Newport Beach Municipal Code Related to Cottage Preservation for Consistency with the California Coastal Commission's Modifications (PA2019-181)*, and pass to second reading on January 25, 2022; and
- e) Waive full reading, direct the City Clerk to read by title only, introduce Ordinance No. 2022-3, *An Ordinance of the City Council of the City of Newport Beach, California, Accepting California Coastal Commission's Suggested Modifications and Adopting Local Coastal Program Amendment No. LC2019-004 to Amend Title 21 (Local Coastal Program Implementation Plan) of the City of Newport Beach Municipal Code Related to Cottage Preservation (PA2019-181)*, and pass to second reading on January 25, 2022.

DISCUSSION:

As a result of growing community concerns related to the loss of small residential cottages in the City, the City Council adopted Code Amendment No. CA2019-006 on February 11, 2020, amending both Title 20 and Title 15 of the NBMC to incentivize the preservation of cottages. Typically, original beach 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 750 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. Eligible projects would also receive relief from a building code valuation threshold requiring building code compliance as new construction. The January 28, 2020, City Council staff report introducing the ordinance and describing the incentive in more detail is included as Attachment D for reference.

Amendments to Title 21 (Local Coastal Program Implementation Plan) of NBMC are also needed to extend the incentive to properties located within the coastal zone and ensure consistency with the adopted changes to Title 20. In addition, an amendment to CLUP Policy 2.3.3-8 of the LCP was needed to establish a policy for which the new Title 21 regulations would implement.

At the January 28, 2020, City Council meeting, the City Council adopted Resolution No. 2020-12 (Attachment E), authorizing submittal of LCP Amendment No. LC2019-004 to the CCC for review and approval. The resolution specified LCP Amendment No. LC2019-004 shall not become effective until approval by the CCC and adoption, including any modifications suggested by the CCC, by resolution(s) and/or ordinance(s) of the City Council.

Coastal Commission Action

The CCC reviewed the LCP Amendment related to cottage preservation at its November 19, 2021, hearing. Overall, the CCC approved the amendments as submitted, with the exception of suggested modifications related to clarifying the eligibility for the incentive, ensuring that coastal resource protections regulations are upheld, and allowing for limited short-term lodging use. The CCC approval letter, including suggested modifications, is included as Attachment F. A summary of the suggested modifications is included below.

Cottage Eligibility

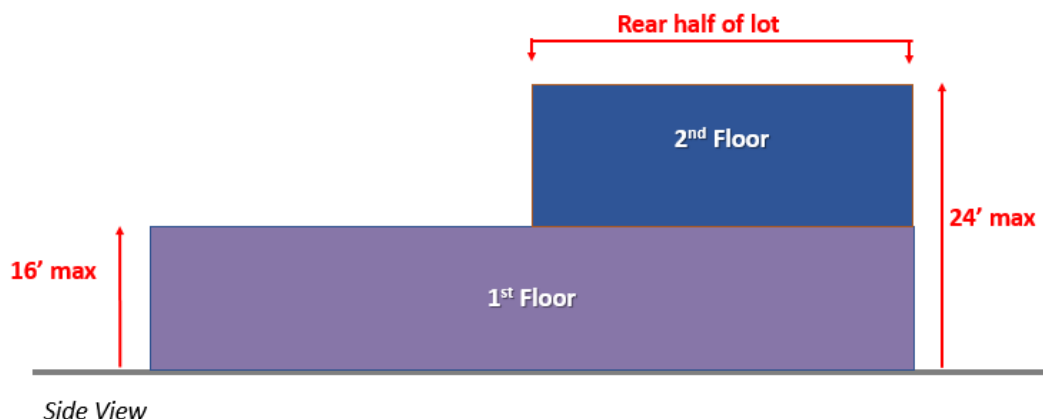
As used by the community, the term cottage refers to the smaller residential dwellings or structures that are representative of the traditional development patterns in the City, particularly in old Corona del Mar, on Balboa Island, and on the Balboa Peninsula. These structures are typically one-story, 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.

The CCC suggested modifications to require that to be eligible for the incentive, both the original development and resulting development must fit within the criteria described above and as illustrated in Figure 1. As originally proposed, only the resulting development was required to comply with the design criteria. The CCC also clarified that an eligible cottage unit shall not exceed 1,500 square feet in area, prior to the allowed addition.

Figure 1. Qualifying Building Envelope for Cottage Preservation



Coastal Resource Protection

The CCC suggested modifications to include the addition of language to both CLUP Policy 2.3.3-8 and Title 21 regulations to clarify that the existing CLUP policies and Title 21 regulations pertaining to coastal views, setbacks, public access, coastal hazards, and sensitive habitat must be applied to developments taking advantage of cottage preservation incentive.

Short-Term Lodging Allowances

There are over 500 cottages that 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 hearings 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. Therefore, the originally proposed amendments included a prohibition of the use of the property for short-term rentals. This prohibition would have been included in the required deed restriction and any existing short-term lodging permit would be revoked.

While the CCC shared concerns that utilizing the cottage preservation incentive to expand occupancy for short-term lodging could negatively increase demand for on-street parking and remove rental units from the housing stock, they were also concerned that the prohibition would place additional limits on short-term lodging in a manner inconsistent with the provisions of the City of Newport Beach's (City's) recently adopted short-term lodging amendments. Therefore, the CCC included suggested modifications as a compromised approach to address the City's concerns without imposing an additional restriction on short-term lodging. Specifically, the modifications would restrict the occupancy limit for short-term permits within a dwelling utilizing the cottage preservation incentive to a maximum of six occupants. If a cottage owner wishes to increase the total occupancy beyond six occupants, then the owner must bring the development's parking into conformity with the current parking standards. This would allow cottages which currently host short-term lodging to be improved consistent with the ordinance but would prevent them from hosting large numbers of guests who might adversely impact the coastal parking supply.

The draft ordinance amending Title 20 will maintain the prohibition of short-term lodging on properties utilizing the cottage preservation incentive located outside the coastal zone, but will refer to Title 21 for the allowance of short-term lodging with a maximum of six occupants for properties utilizing the incentive within the coastal zone. A map of the coastal zone is included as Attachment G for reference.

FISCAL IMPACT:

There is no fiscal impact related to this item.

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.

Notice of this amendment 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 community meetings or that have expressed interest in this item.

ATTACHMENTS:

- Attachment A – Resolution No. 2022-4
- Attachment B – Ordinance No. 2022-2 (Code Amendment No. CA2019-006)
- Attachment C – Ordinance No. 2022-3 (LCP Amendment No. LC2019-004)
- Attachment D – January 28, 2020 Staff Report
- Attachment E – Resolution No. 2020-12
- Attachment F – Coastal Commission Approval Letter and Suggested Modifications
- Attachment G – Coastal Zone Map
- Attachment H – Underline/~~Strikeout~~ Version of Amendments