

Attachment A

Resolution No. 2022-4
Amending CLUP

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)

WHEREAS, Section 200 of the Charter of the City of Newport Beach ("City") vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to the municipal affairs subject only to the restrictions and limitations contained in the Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges or procedures granted or prescribed by any law of the State of California;

WHEREAS, Section 30500 of the Public Resources Code requires each county and city to prepare a local coastal program for that portion of the coastal zone within its jurisdiction;

WHEREAS, in 2005, the City adopted the City of Newport Beach Local Coastal Program Coastal Land Use Plan ("Local Coastal Program"), which has been amended from time to time;

WHEREAS, the California Coastal Commission effectively certified the City's LCP on January 13, 2017, and the City assumed coastal development permit-issuing authority on January 30, 2017;

WHEREAS, amendments to the LCP and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code ("NBMC") are necessary to incentivize the preservation of cottages ("LCP Amendment No. LC2019-004");

WHEREAS, pursuant to Title 14 of the California Code of Regulations ("CCR") Section 13515, (Public Participation), drafts of the LCP Amendment No. LC2019-004 were made available and a Notice of Availability was distributed on October 4, 2019, at least six weeks prior to the final action date;

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.* ("Ralph M. Brown Act"), Chapters 20.62 and 21.62 (Public Hearings) of the NBMC, and 14 CCR Section 13515. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing;

WHEREAS, at the conclusion of the public hearing, the Planning Commission voted to continue the item to allow staff additional time to revise certain aspects of LCP Amendment No. LC2019-004;

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, Chapters 20.62 and 21.62 (Public Hearings) of the NBMC, and 14 CCR Section 13515. 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 Nos. PC2019-033 and PC2019-034 by a majority vote (5 ayes, 1 nay, 1 absent), recommending to the City Council approval of Zoning Code Amendment No. CA2019-006 and 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, Chapter 21.62 (Public Hearings) of the NBMC, and 14 CCR Section 13515. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing;

WHEREAS, on January 28, 2020, the City Council introduced Ordinance No. 2020-4 revising Title 20 (Planning and Zoning) related to the preservation of cottages ("Zoning Code Amendment No. CA2019-006") and adopted Resolution No. 2020-12 authorizing submittal of LCP Amendment No. LC2019-004 to the Coastal Commission by a unanimous vote (7 ayes, 0 nays);

WHEREAS, at its November 19, 2021 hearing, the Coastal Commission approved and certified LCP Amendment No. LC2019-004 with modifications (LCP-5- NPB-20-0025-1 Part A) as being consistent with the California Coastal Act; and

WHEREAS, a public hearing was held by the City Council on January 11, 2022, 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 Chapters 20.62 and 21.62 (Public Hearings) 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 resolves as follows:

Section 1: The City Council hereby accepts the suggested modifications approved by the Coastal Commission.

Section 2: Policy 2.9.3-8 of Chapter 2.0 (Land Use and Development) of the Local Coastal Program Coastal Land Use Plan shall be amended as follows, with all other provisions of the Local Coastal Program 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, 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 development patterns in the City. The LCP policies pertaining to hazards, setbacks, public access, habitat protection, and visual resource protection shall apply to such properties with additions.

Section 3: The LCP, including LCP Amendment No. LC2019-004, shall be carried out in full conformance with the California Coastal Act.

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

Section 5: This resolution shall not become until the Executive Director of the Coastal Commission certifies that this resolution complies with the Coastal Commission's November 19, 2021, action on LCP Amendment Request No. LCP-5-NPB-20-0025-1 Part A (Cottage Preservation).

Section 6: 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 ordinance. 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 7: The City Council finds 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.

ADOPTED this 11th day of January, 2022.

Kevin Muldoon
Mayor

ATTEST:

Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney