

**CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT**

May 4, 2017

Agenda Item No. 2

SUBJECT: Accessory Dwelling Unit Ordinance (PA2017-069)
SITE LOCATION: Citywide Amendment

- Zoning Code Amendment CA2016-003
- Local Coastal Program Amendment LC2017-003

APPLICANT: City of Newport Beach
PLANNER: Jaime Murillo, Senior Planner
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PROJECT SUMMARY

Amendments to the Zoning Code and Local Coastal Program revising the City's regulations pertaining to Accessory Dwelling Units (ADU) to conform with Government Code Section 65852.2, as effective January 1, 2017. Specifically, the amendment would establish regulations permitting the development of ADUs in single-family residential zoning districts.

RECOMMENDATION

- 1) Conduct a public hearing;
- 2) Find this project statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15282(h) of the CEQA Guidelines, which states that "the adoption of an ordinance regarding second units in a single-family or multifamily zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code" relating to "granny" housing and "second unit ordinances" are exempt from the requirements of CEQA;
- 3) Adopt Resolution No. ____ (Attachment No. PC 1) recommending the City Council approve Zoning Code Amendment CA2017-003 modifying regulations pertaining to accessory dwelling units; and
- 4) Adopt Resolution No. ____ (Attachment No. PC 2) recommending the City Council authorize staff to submit Local Coastal Program Amendment No. LC2017-003 to the California Coastal Commission.

INTRODUCTION

In 2016, the State Legislature passed Assembly Bill No. 2299 (Bloom) and Senate Bill No. 1069 (Wieckowski) amending California Government Code Section 65852.2 related to ADUs, which took effect on January 1, 2017 (Attachment No. PC 3). The intent of the bills is to reduce barriers to the development of ADUs, which have been found to be an affordable-by-design type of in-fill housing that can meet the needs of couples, small families, young people, students and seniors by offering new below market rentals in existing neighborhoods. In addition, homeowners who create ADUs benefit from added income, and increased sense of security.

The City regulates ADUs through Section 20.48.200 of the Newport Beach Municipal Code (Attachment No. PC4), which prohibits second units, unless they are age-restricted to persons 55 years or older (Senior Accessory Dwelling Units). These restrictions, as well as other City regulations, do not comply with the new State law and are now considered null and void. Therefore, the City must use the State's more lenient ADU standards until such time the City modifies its regulations appropriately (see *Interim Standards* section).

The State standards require ministerial approval (no discretion or public hearing) of an ADU in single-family and multi-family zones where only a single-family unit is present provided other minimal standards are met. Upon the adoption of a new ordinance regulating ADUs in compliance with new State law, the City will have the ability to regulate additional aspects of ADUs, such as location, lot size, unit size, parking, and aesthetics, depending on circumstances (see *Proposed City Regulations* section).

Background

California Government Code Section 65852.2 (State Law) was first enacted in 1982 and has been amended several times since then to encourage the creation of second-units while maintaining local flexibility for unique circumstances and conditions. The law imposed standards intended to create greater flexibility to encourage construction while also requiring a ministerial process for the approval of such units. However, the law previously included an exemption allowing local agencies to prohibit ADUs upon finding that specific adverse impacts on the public health, safety, and welfare would result. City Council Ordinance No 88-39 (Attachment No. PC 5) adopted such findings and prohibited the creation of second units, which has remained in effect until the recent legislation took effect.

DISCUSSION

Interim Standards

Until the City adopts an ordinance compliant with State law, ADUs must be approved ministerially in all single-family and multi-family zones where only a single-family unit is present. The underlying development standards of the district would continue to apply, with the exception of certain specific exemptions and minimal standards regulating the ADU itself. The standards that apply depend on whether the proposed ADU will be newly constructed or converted from existing living space. The standards applicable to ADUs developed through additions or new construction are summarized in Table 1. The standards applicable to ADUs converted from existing living space are summarized in Table 2 below. In addition, both tables include a comparison of the proposed City modifications to each standard that are explained in more detail in *Proposed Zoning Code Modifications* section of this report.

Table 1- Comparison of State Standards and Proposed City Regulations ADUs Requiring Additions or New Construction		
Standard	State Standards	Modified City Standard
Location	Permitted on lots zoned for both single-family or multi-family residential. ADU must be located on same lot.	Single-family residential zoning districts and similar Planned Community or Specific Plan areas. ADUs would be prohibited two-family and multi-family zoning districts
Minimum Lot Size	No standard	5,000 square feet or greater
Unit Size	Limited as follows: <ul style="list-style-type: none"> o <i>Attached ADU</i>- 50 percent of existing living area, with a maximum of 1200 square feet. o <i>Detached ADU</i>- 1200 square feet. 	750 square feet maximum, or 50 percent of the existing floor area (excluding garage) of the principal unit, whichever is less
Aesthetics	No standard	<i>Height and Design</i> standards added to minimize appearance of two units on the lot.
Passageways	Not required. This is an exemption from Building Code requiring a pathway, clear to the sky, from street to entrance of ADU.	Per State Standard

Setbacks	Setbacks are not required for an existing garage that is converted to an ADU, and a setback of no more than 5 feet from a side or rear lot line is required for an ADU that is constructed above a garage.	Per Zoning Code, except as modified by State standard
Parking	A maximum of one space required per unit or bedroom, whichever is greater. Spaces may be provided as uncovered parking, tandem parking on driveway or mechanical lifts. No parking required if within half-mile of public transit stop or one block of a car-share vehicle program.	Per State standard, except parking in rear alley setback prohibited and additional clarifications added
Fire Sprinklers	ADUs are not required to provide fire sprinklers if they were not required for the principal residence.	Per State standard
Utilities	Connection fees or capacity charges must be proportionate to the impact of the ADU based on either its size or number of plumbing fixtures.	Per State standard

Table 2- Comparison of State Standards and Proposed City Regulations ADUs Contained Entirely within Existing Structures		
Standard	State Standards	Modified City Standards
Location	Within an existing single-family residence or accessory structure on a single-family residential zoned lot.	Same; can't be modified
Unit Size	No limitation.	Same; can't be modified
Parking	No additional parking required.	Same; can't be modified
Utilities	No new or separate utility connections or connections fees.	Same; can't be modified

Proposed Zoning Code Modifications

The law encourages cities to adopt a local ordinance consistent with the law and allows additional regulation of ADUs pertaining to location, lot size, unit size, parking, and aesthetics, provided the additional regulations are not arbitrary, excessive, and burdensome and that unreasonably restrict the creation of ADUs. As such, staff has included the following additional regulations or clarifications to the draft ordinance (Attachment No. PC 6):

Location

The draft ordinance permits ADUs in single-family residential zoning districts and areas designated for single-family residential use as part of a Planned Community or Specific Plan. ADUs would be prohibited two-family and multi-family zoning districts.

Attachment No. PC 7 provides an overview of the eligible single-family residential zoning districts.

With the exception of large apartment complexes, most two-family and multi-family zoned properties are located in coastal neighborhoods of the City with substandard lot sizes and impacted by a lack of on-street parking, such as Corona del Mar, Balboa Peninsula, Balboa Island, and West Newport. Many lots in these neighborhoods are developed with less than the permitted number of units and capacity exists to construct additional density; however, redevelopment should occur in conformance with current parking standards ensuring neighborhood compatibility and preservation of on-street parking for existing residents and visitors to the beaches.

It should be noted that the law does not apply to Homeowner's Associations or preclude prohibition of ADUs by CC&Rs.

Minimum Lot Size for New ADUs

The draft ordinance requires a minimum lot size of 5,000 square feet or greater, excluding submerged land area, in order to construct an ADU. If a property did not meet the minimum lot size, an ADU would not be permitted.

Attachment No. PC 8 provides an overview the eligible single-family zoning districts that also meet the minimum lot size requirements.

The City is unable to restrict the minimum lot size of ADUs converted from existing floor area.

Aesthetics

To preserve the character of single-family neighborhoods, minimize the appearance of multiple units on a lot, and ensure the design of ADUs remain subordinate to that of the principal residence, the draft ordinance regulates height and design as follows:

Height- Detached ADUs would be restricted to one story and 14 feet, unless located above a garage, in which case the structure shall comply with the height limit of the underlying zoning district (typically 24 feet flat roofs/29 feet sloped roofs).

Design- ADUs shall be designed similar to the principal dwelling on the lots with respect to architectural style, roof pitch, color, and materials.

Unit Size

The draft ordinance limits unit size for the construction of new ADUs to a maximum of 750 square feet, or 50 percent of the existing floor area (excluding garage) of the principal

unit, whichever is less. The intent is to restrict the unit size to ensure it remains subordinate to the principal dwelling and to retain the character of the single-family neighborhood. The proposed unit size limitation is 110 square feet larger than the unit size previously allowed for Senior Accessory Dwelling Units by the City and which proved large enough to accommodate a one-bedroom unit.

The City is unable to restrict the unit size of ADUs created from existing floor area.

Parking

The draft ordinance establishes flexible parking regulations in compliance with State law, with additional clarifications as follows:

- One parking space required for one-bedroom or efficiency (small studio) unit; two parking spaces required for a unit with two or more bedrooms.
- Parking may be provided as tandem parking and/or may be located on an existing driveway; however, in no case shall parking be allowed in a rear setback abutting an alley.
- No parking shall be required for:
 - ADU converted as part of the existing principal residence or existing accessory structure.
 - ADU located within one-half mile of a public transit. “Public transit” will be defined to mean a bus stop with fixed route bus service that provides transit service at 15-minute intervals or better during peak commute periods. See Attachment No. PC 8 for map eligible bus routes.
 - ADU is located within an architecturally and historically significant historic district. Currently, no such district exists in City.
 - When on-street parking permits are required but not offered to the occupant of the ADU.
 - When there is a car-share vehicle located within one block of the accessory dwelling unit. In order to prevent car-sharing applications that allow individuals to rent personal vehicles to qualify, “Car-share vehicle” will be defined to mean part of an established program intended to stay in a fixed location for at least 10 years and available to the public.
- If an accessory dwelling unit replaces an existing garage, replacement spaces must be provided. When a garage, carport, or covered parking structure is

demolished in conjunction with the construction of an accessory dwelling unit, any required replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.

Conversion of Space- Applicability

The intent of the law's minimal standards relating to ADUs converted from within an existing single-family residence or accessory structure is to streamline and expand the potential for ADUs where the visual impact is minimal and the existing footprint is not increased. However, to ensure that homeowner's are not intentionally avoiding the standards applicable to ADUs involving new construction, such as lot size, unit size, or parking, the draft ordinance requires that the portion of the dwelling or structure to be converted must have been legally permitted and existing for a minimum of three years. This would prevent a homeowner from securing building permits for a large pool house or similar structure, and then immediately converting the space into an ADU.

Short-Term Lodging

The draft ordinance would prohibit the rental of ADUs for a period of less than 30 days, consistent with the City's prohibition of short-term lodging in single-family residential zones.

Owner-Occupancy

The draft ordinance would require that either the principal dwelling or the ADU be occupied by at least one person having an ownership interest in the lot. This would ensure that the property is being used consistent with the purpose and intent of the law and does not effectively become a duplex for rental purposes.

Deed Restriction

The draft ordinance would require that prior to the issuance of permit for an ADU, a deed restriction be recorded to notify future owners of the owner occupancy requirements and the restrictions on short-term lodging. The deed restriction would remain in effect as long as the ADU exists on the property.

General Plan Consistency

The law states that ADUs shall be deemed an accessory use and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed a residential use that is consistent with the existing general plan and zoning district for the lot. Therefore, no amendments to the General Plan are required.

Local Coastal Plan

Similar to the Zoning Code, the Implementation Plan of the Local Coastal Program (LCP), currently regulates ADUs inconsistent with State law. Therefore, subsequent to City Council adoption of this Zoning Code Amendment, staff will submit corresponding amendments (Attachment No. PC2) to the LCP for review and approval of the California Coastal Commission. In the interim, any eligible projects located in the Coastal Zone will be reviewed in accordance with State Law. If a Coastal Development Permit (CDP) were required; however, State law would preclude the City from holding a public hearing.

Alternatives

The Planning Commission may recommend revisions to the draft ordinance, such as changing where ADUs are allowed, minimum lot size, maximum unit sizes, design standards, etc., provided the revisions are consistent with State law limitations and are not arbitrary, excessive, and burdensome unreasonably restricting the creation of ADUs.

Environmental Review

The project is exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h), "the adoption of an ordinance regarding second units in a single-family or multifamily zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code" relating to "granny" housing and "second unit ordinances" are exempt from the requirements of CEQA. Similarly, the ministerial approval of ADUs would not be a "project" for CEQA purposes, and environmental review would not be required prior to approving individual applications.

Public Notice

Notice of this amendment was published in the Daily Pilot as an eighth page advertisement, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:

Submitted by:



Jaime Murillo
Senior Planner



Brenda Wisneski, AICP, Deputy Director

ATTACHMENTS

- PC 1 Draft Resolution Recommending City Council Approval of CA2017-003, including Code Revisions
- PC 2 Draft Resolution Recommending City Council Authorize Submittal of LC2017-003 to the California Coastal Commission
- PC 3 Government Code Section 65852.2 (State Law Related to ADUs)
- PC 4 Current NBMC Section 20.48.200 (Senior Accessory Dwelling Units)
- PC 5 City Council Ordinance No. 88-39 (City Prohibition of Second Units)
- PC 6 Proposed NBMC Section 20.40.200 (Accessory Dwelling Units)
- PC 7 Map of Eligible Single-Family Residential Zoned Lots
- PC 8 Map of Eligible Single-Family Residential Zoned Lots with Conforming Lot Sizes and Bus Routes

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Attachment No. PC 1

Draft Resolution Recommending City
Council Approval of CA2017-003,
including Code Revisions

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RESOLUTION NO. #####

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH RECOMMENDING CITY COUNCIL ADOPTION OF ZONING CODE AMENDMENT NO. CA2017-003 TO IMPLEMENT NEW STATE LAW REQUIREMENTS RELATING TO ACCESSORY DWELLING UNITS (PA2017-069)

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

SECTION 1. STATEMENT OF FACTS.

1. State law (Senate Bill 1069 and Assembly Bill 2299, Statutes of 2016) requires jurisdictions to amend their local zoning ordinances to conform to Government Code Section 65852.2.
2. Senate Bill 1069 and Assembly Bill 2299 are intended to address the State housing crisis by easing regulatory barriers for homeowners who choose to construct accessory dwelling units.
3. Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods. In addition, homeowners who construct accessory dwelling units benefit from added income and increased sense of security.
4. Allowing accessory dwelling units in single-family residential zones provides additional rental housing stock.
5. Accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character.
6. A public hearing was held on May 4, 2017, in the Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the public hearing was given in accordance with the Newport Beach Municipal Code (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.

This action is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h), "the adoption of an ordinance regarding second units in a single-family or multifamily zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code" relating to "granny" housing and "second unit ordinances" are exempt from the requirements of CEQA. Similarly, the ministerial approval of accessory dwelling units is not a "project" for CEQA purposes, and environmental review is not required prior to approving individual applications.

SECTION 3. FINDINGS.

1. Adopting an ordinance consistent with Government Code Section 65852.2 ensures that the character of the City of Newport Beach (City) is preserved to the maximum extent possible and that the City's regulation regarding accessory dwelling units continues to promote the health, safety, and welfare of the community.
2. The City has designated areas where accessory dwelling units may be located, where permitted by Government Code Section 65852.2, based in part upon adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.
3. An amendment to the Local Coastal Program (LCP) is also underway to comply with State law. The subject Zoning Code Amendment shall not become effective for projects located in the coastal zone 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. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

The Planning Commission of the City of Newport Beach hereby recommends approval of Code Amendment No. CA2017-003 as set forth in Exhibit "A," which is attached hereto and incorporated herein by reference.

PASSED, APPROVED, AND ADOPTED THIS 4TH DAY OF MAY, 2017.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Kory Kramer, Chairman

BY: _____
Peter Zak, Secretary

EXHIBIT “A”
Zoning Code Amendment No. CA2017-003

Section 1: Newport Beach Municipal Code (NBMC) Subsection 20.18.010(A) and (B) are amended to read as follows:

- A. R-A (Residential-Agricultural) Zoning District. The R-A zoning district is intended to provide for areas appropriate for detached single-family residential dwelling units, accessory dwelling units, and light farming uses, each located on a single legal lot;
- B. R-1 (Single-Unit Residential) Zoning District. The R-1 zoning district is intended to provide for areas appropriate for a range of detached single-family residential dwelling units and accessory dwelling units; each located on a single legal lot, and does not include condominiums or cooperative housing.

Section 2: Table 2-1 in NBMC Section 20.18.020(C) (Allowed Uses and Permit Requirements) is amended, in part to the Accessory Dwelling Units” row as follows:

Accessory Dwelling Units	MUP <u>P</u>	MUP <u>P</u>	---	---	<u>Section 20.48.200</u>
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Section 3: Table 2-2 in NBMC Section 20.18.030 (Development Standards for Single-Unit Residential Zoning Districts) is amended, in part, as to the “Density/Intensity” row as follows:

Density/Intensity	<i>Each legal lot shall be allowed one single-unit detached dwelling. <u>In addition, one accessory dwelling unit may be allowed pursuant to Section 20.48.200.</u></i>
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Section 4: NBMC Subsection 20.30.110(D) (Allowed Encroachments into Setback Areas) is amended to add subpart 16 to read as follows:

16. Accessory Dwelling Units. Accessory dwelling units may be established within required setback areas in compliance with the requirements of Section 20.48.200 (Accessory Dwelling Units).

Section 5: Table 3-10 in NBMC Section 20.40.040 (Off-Street Parking Requirements) is amended, in part, as to the “Accessory Dwelling Units” row as follows:

Accessory Dwelling Units	1 per unit; a minimum of 2 covered per site. <u>As required per Section 20.48.200</u>
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Section 6: NBMC Section 20.48.200 (Senior Accessory Dwelling Units) is amended in its entirety to read as follows:

20.48.200 Accessory Dwelling Units

- A. Purpose. The purpose of this Section is to establish the procedures for the creation of accessory dwelling units as defined in Part 7 (Definitions) and in the California Government Code Section 65852.2, or any successor statute, in single-unit residential zoning districts or areas designated for single-family residential use as part of a Planned Community Development Plan or Specific Plan, and to provide development standards to ensure the orderly development of these units in appropriate areas of the City.
- B. Review Authority. Accessory dwelling units shall be approved in all single-unit residential zoning districts subject to the approval of the Director upon finding that the following conditions have been met:
1. The dwelling conforms to the development standards and requirements for accessory dwelling units established in the subsections below.
 2. Public and utility services including emergency access are adequate to serve both dwellings.
- C. Development standards. Except as modified by this subsection, an accessory dwelling unit shall conform to all requirements of the underlying residential zoning district, any applicable overlay district, and all other applicable provisions of this Code, including but not limited to height, setback, site coverage, floor area limit, and residential development standards and design criteria; unless the unit is contained within a legal, nonconforming structure and does not expand the nonconformity.
1. Minimum lot area. A minimum lot area of five thousand (5,000) square feet, excluding submerged land area, shall be required in order to establish an accessory dwelling unit.
 2. Setback requirements. Accessory dwelling units shall comply with the setback requirements applicable to the zoning district in which they are located, except in cases where the minimum required garage setbacks differ from principal building setbacks, in which case the following applies:
 - a. No additional setback shall be required for an existing garage that is converted to an accessory dwelling unit, provided that the side and rear setbacks comply with required Building Codes.
 - b. A setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit constructed above the garage.
 3. Building height. Detached accessory dwelling units shall not exceed one story and a height of 14 feet, unless the accessory dwelling unit is constructed above a garage.

in which case the structure shall comply with the height limits of the underlying zoning district.

4. Unit size. The maximum size of an accessory dwelling unit shall not exceed a 750 square feet of floor area, or 50 percent of the existing floor area (excluding garage) of the principal unit, whichever is less.
5. Design. An accessory dwelling unit shall be similar to the principal dwelling with respect to architectural style, roof pitch, color, and materials.
6. Conversion of space within existing structure. Notwithstanding the provisions of subsections C(1), C(2), C(3), C(4) and C(5) above, an accessory dwelling unit shall be permitted if the unit is contained within the existing space of a single-unit dwelling or existing accessory structure, has independent exterior access from the existing dwelling, and the side and rear setbacks comply with required Building Codes, and if the accessory dwelling unit conforms with the following:
 - a. For the purposes of this section, the portion of the single-unit dwelling or accessory structure must have been legally permitted and existing for a minimum of three years prior to the issuance of a permit to convert the space into an accessory dwelling unit.
 - b. No new or separate utility connection may be required between the accessory dwelling unit and the utility service, such as water, sewer, and power.
7. Fire sprinklers. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the principal residence.
8. Passageway. No passageway shall be required in conjunction with the construction of an accessory dwelling unit. For the purposes of this section, "passageway" means a pathway that is unobstructed clear to the sky and extends from the street to one entrance of the accessory dwelling unit.
9. Parking. Parking shall comply with requirements of Chapter 20.40 (Off-Street Parking), except as modified below:
 - a. One parking space required for one-bedroom or efficiency unit; two parking spaces required for unit with two or more bedrooms.
 - b. Such parking may be provided as tandem parking and/or may be located on an existing driveway; however, in no case shall parking be allowed in a rear setback abutting an alley.
 - c. No parking shall be required for:

- i. Accessory dwelling unit converted as part of the existing principal residence or existing accessory structure as described in subsection (C)5.
 - ii. Accessory dwelling units located within one-half mile of a public transit. For the purposes of this section “public transit” shall include a bus stop with fixed route bus service that provides transit service at 15-minute intervals or better during peak commute periods.
 - iii. Accessory dwelling unit is located within an architecturally and historically significant historic district.
 - iv. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - v. When there is a car-share vehicle located within one block of the accessory dwelling unit. For the purposes of this section, “car-share vehicle” shall mean part of an established program intended to stay in a fixed location for at least 10 years and available to the public.
- d. If an accessory dwelling unit replaces an existing garage, replacement spaces must be provided. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, any required replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including but not limited to, as

covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.

D. Additional requirements for all accessory dwelling units.

1. Sale of units. The accessory dwelling unit shall not be sold separately from the principal dwelling.
2. Short-term lodging. The accessory dwelling unit shall not be rented for periods of less than 30 days.
3. Number of units allowed. Only one accessory dwelling unit may be located on the lot.
4. Existing development. A single-unit dwelling must exist on the lot or shall be constructed on the lot in conjunction with the construction of the accessory dwelling unit.
5. Occupancy. The principal dwelling unit or the accessory dwelling unit shall be continuously occupied by at least one person having an ownership interest in the lot.

E. Deed restriction and recordation required. Prior to the issuance of a Building and/or Grading Permit for an accessory dwelling unit, 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. The deed restriction document shall notify future owners of the owner occupancy requirements and restrictions on short-term rentals. This deed restriction shall remain in effect so long as the accessory dwelling unit exists on the property.

Section 7: The definition of "Accessory Dwelling Unit (Land Use) in NBMC Section 20.70.020 (Definition of Specialized Terms and Phrases) is amended to read as follows:

Accessory Dwelling Unit (Land Use). See "Dwelling Unit, ~~Senior~~ Accessory."

Section 8: The definition of "Dwelling Unit, Senior Accessory (Land Use) in NBMC Section 20.70.020 (Definition of Specialized Terms and Phrases) is amended to read as follows

~~Dwelling Unit, Senior Accessory (Land Use). A dwelling unit accessory to and attached to, detached from, or contained within, the principal dwelling unit on a site zoned for a single-family dwelling. The unit is intended for the sole occupancy of 1 or 2 adult persons who are 55 years of age or older. The floor area of the unit does not exceed 640 square feet.~~

Dwelling Unit, Accessory (Land Use). A dwelling unit accessory to and attached to, detached from, or contained within, the principal dwelling unit on a site zoned for a single-family dwelling. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code, or any successor statute.
2. A manufactured home, as defined in Section 18007 of the Health and Safety Code, or any successor statute.

Section 9: Subpart 8 in NBMC Subsection 20.90.060(D) (Accessory Uses Permitted) is amended to read as follows:

~~8. Granny unit, attached or detached, in conformance with Section 20.48.200, subject to the approval of a minor use permit per Part 5 of this title.~~

8. Accessory dwelling unit in conformance with Section 20.48.200.

Section 10: Subpart 8 in NBMC Subsection 20.90.070(D) (Accessory Uses Permitted) is amended to read as follows:

~~8. Granny unit, attached or detached, in conformance with Section 20.48.200, subject to the approval of a minor use permit per Part 5 of this title.~~

8. Accessory dwelling unit in conformance with Section 20.48.200.

Section 11: Subpart 8 in NBMC Subsection 20.90.080(D) (Accessory Uses Permitted) is amended to read as follows:

~~8. Granny unit, attached or detached, in conformance with Section 20.48.200, subject to the approval of a minor use permit per Part 5 of this title.~~

8. Accessory dwelling unit in conformance with Section 20.48.200.

Attachment No. PC 2

Draft Resolution Recommending City
Council Authorize Submittal of LC2017-
003 to the CA Coastal Commission

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RESOLUTION NO. XXXX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH RECOMMENDING CITY COUNCIL AUTHORIZE SUBMITTAL OF A LOCAL COASTAL PROGRAM AMENDMENT TO THE CALIFORNIA COASTAL COMMISSION IMPLEMENTING NEW STATE LAW REQUIREMENTS RELATING TO ACCESSORY DWELLING UNITS (PA2017-069)

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

SECTION 1. STATEMENT OF FACTS.

1. State law (Senate Bill 1069 and Assembly Bill 2299, Statutes of 2016) requires jurisdictions to amend their local regulations to conform to Government Code Section 65852.2. Therefore, an amendment to the Local Coastal Program is necessary.
2. Senate Bill 1069 and Assembly Bill 2299 are intended to address the State housing crisis by easing regulatory barriers for homeowners who choose to construct accessory dwelling units.
3. Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods. In addition, homeowners who construct accessory dwelling units benefit from added income and increased sense of security.
4. Allowing accessory dwelling units in single-family residential zones provides additional rental housing stock.
5. Accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character.
6. Pursuant to Section 13515 of the California Code of Regulations, review of the draft LCP amendment was made available and a Notice of the Availability was distributed a minimum of six weeks prior the final action.
7. A public hearing was held on May 4, 2017, in the Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the public hearing was given in accordance with the Newport Beach Municipal Code (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.

This action is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h), “the adoption of an ordinance regarding second units in a single-family or multifamily zone by a city or county to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code” relating to “granny” housing and “second unit ordinances” are exempt from the requirements of CEQA. Similarly, the ministerial approval of accessory dwelling units is not a “project” for CEQA purposes, and environmental review is not required prior to approving individual applications.

SECTION 3. FINDINGS.

1. Adopting an ordinance consistent with Government Code Section 65852.2 ensures that the character of the City of Newport Beach (City) is preserved to the maximum extent possible and that the City’s regulation regarding accessory dwelling units continue to promote the health, safety, and welfare of the community.
2. The City has designated areas where accessory dwelling units may be located, where permitted by Government Code Section 65852.2, based in part upon adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.
3. 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.
4. The LCP, including the proposed amendment, will be carried out fully in conformity with the California Coastal Act.
5. 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:

The Planning Commission of the City of Newport Beach hereby recommends submittal Local Coastal Program Amendment No. LC2017-003, 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 4TH DAY OF MAY, 2017.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Kory Kramer, Chairman

BY: _____
Peter Zak, Secretary

DRAFT

EXHIBIT “A”
Local Coastal Program Amendment No. LC2017-003

Section 1: Newport Beach Municipal Code (NBMC) Subsection 21.18.010(A) and (B) are amended to read as follows:

- A. R-A (Residential-Agricultural) Coastal Zoning District. The R-A Coastal Zoning District is intended to provide for areas appropriate for detached single-family residential dwelling units, accessory dwelling units, and light farming uses, each located on a single legal lot, and does not include condominiums or cooperative housing.
- B. R-1 (Single-Unit Residential) Coastal Zoning District. The R-1 Coastal Zoning District is intended to provide for areas appropriate for a range of detached single-family residential dwelling units and accessory dwelling units, each located on a single legal lot, and does not include condominiums or cooperative housing.

Section 2: Table 21.18-2 in NBMC Section 21.18.030 (Residential Coastal Zoning Districts General Development Standards) is amended, in part, as to the “Density/Intensity” row as follows:

Density/Intensity	Each legal lot shall be allowed one single-unit detached dwelling. <u>In addition, one accessory dwelling unit may be allowed.</u>
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Section 3: Table 21.40-1 in NBMC Section 21.40.040 (Off-Street Parking Spaces Required) is amended, in part, as to the “Accessory Dwelling Units” row as follows:

Accessory Dwelling Units	1 per unit; a minimum of 2 covered per site. <u>As required pursuant to Government Code Section 65852.2</u>
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Section 4: The definition of “Accessory Dwelling Unit (Land Use) in NBMC Section 21.70.020 (Definition of Specialized Terms and Phrases) is amended to read as follows:

Accessory Dwelling Unit (Land Use). See “Dwelling Unit, ~~Senior~~ Accessory.”

Section 5: The definition of “Dwelling Unit, Senior Accessory (Land Use) in NBMC Section 21.70.020 (Definition of Specialized Terms and Phrases) is amended to read as follows

~~Dwelling Unit, Senior Accessory (Land Use). A dwelling unit accessory to and attached to, detached from, or contained within, the principal dwelling unit on a site zoned for a single-family dwelling. The unit is intended for the sole occupancy of 1 or 2 adult persons who are 55 years of age or older. The floor area of the unit does not exceed 640 square feet.~~

Dwelling Unit, Accessory (Land Use). A dwelling unit accessory to and attached to, detached from, or contained within, the principal dwelling unit on a site zoned for a single-family dwelling. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code, or any successor statute.
2. A manufactured home, as defined in Section 18007 of the Health and Safety Code, or any successor statute.

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Attachment No. PC 3

Government Code Section 65852.2
(State Law Related to ADUs)

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State of California

GOVERNMENT CODE

Section 65852.2

65852.2. (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in single-family and multifamily residential zones. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The unit is not intended for sale separate from the primary residence and may be rented.

(ii) The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.

(iii) The accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(iv) The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.

(v) The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing garage that is converted to a accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.

(III) This clause shall not apply to a unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those offstreet parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot zoned for residential use that contains an existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.

(c) A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings that does not permit at least an efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.

(A) For an accessory dwelling unit described in subdivision (e), a local agency shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

(B) For an accessory dwelling unit that is not described in subdivision (e), a local agency may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) Local agencies shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption.

(i) As used in this section, the following terms mean:

(1) "Living area" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(5) “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(Amended by Stats. 2016, Ch. 735, Sec. 1.5. (AB 2299) Effective January 1, 2017.)

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Attachment No. PC 4

Current NBMC Section 20.48.200
(Senior Accessory Dwelling Units)

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20.48.200 Senior Accessory Dwelling Units.

A. Purpose. The purpose of this section is to:

1. Establish procedures for the creation of granny units as defined in Part 7 of this title (Definitions) and in California Government Code Section [65852.1](#), and to provide development standards to ensure the orderly development of these units in appropriate areas of the City.
2. Prohibit the development of second units, as defined in Part 7 of this title (Definitions), on single-family residential lots as provided for in Government Code Section [65852.2](#).

B. Prohibitions. The creation of a second unit on all sites within the City where this Zoning Code and the General Plan allow only one dwelling unit is expressly prohibited. Nothing contained in this section shall affect the creation of granny units under Government Code Section [65852.1](#) that are in compliance with the Municipal Code.

C. Development Standards. The following standards shall be met before the occupancy of the granny unit in compliance with this section:

1. Building Height. Granny units shall comply with the maximum height limits in the zoning district in which they are located as provided in Part 2 of this title (Zoning Districts, Allowable Land Uses, and Zoning District Standards).
2. Setback Requirements. Granny units shall comply with the setback requirements applicable to the zoning district in which they are located.
3. Minimum Lot Size. A minimum lot size of five thousand four hundred fifty (5,450) square feet shall be required in order to establish a granny unit.
4. Minimum Floor Area. Each granny unit shall provide a minimum of six hundred (600) square feet of floor area and a maximum of six hundred forty (640) square feet of floor area as measured from within the surrounding perimeter walls of the unit.

5. Owner Occupancy Required. The principal dwelling unit or the granny unit shall be continuously occupied by at least one person having an ownership interest in the lot.

D. Verification of Occupancy. Commencing with the final inspection of the granny unit by the Building Inspector and on an annual basis every year afterwards, the property owner shall submit to the Director the names and birth dates of any and all occupants of the granny unit to verify occupancy by a person or persons fifty-five (55) years of age or older. Upon any change of tenants, the property owner shall notify the Director immediately. This information shall be submitted in writing and shall contain a statement signed by the property owner certifying under penalty of perjury that all of the information is true and correct.

E. Deed Restriction and Recordation Required. After approval of a minor use permit and before issuance of a building and/or grading permit for a granny unit, 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. The deed restriction document shall state that under no circumstances shall the granny unit be rented to or otherwise occupied by any person or persons less than fifty-five (55) years of age. The deed restriction document shall also contain all conditions of approval imposed by the review authority. This deed restriction shall remain in effect so long as the granny unit exists on the property.

F. Termination of Use. In the event that the property owner desires to terminate the use of the granny unit and remove the deed restriction, building permits shall be obtained that restore the property to a single dwelling unit as defined in Part 7 of this title (Definitions). The Director shall review and approve the plans before the issuance of the building permits to ensure compliance with the intent of this section and the definition. Upon completion of the final inspection by the Building Official, the Director shall cause the deed restriction to be removed from the property by the County Recorder. (Ord. 2010-21 § 1 (Exh. A)(part), 2010)

Attachment No. PC 5

City Council Ordinance No. 88-39
(City Prohibition of Second Units)

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ORDINANCE NO. 88-39

AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF NEWPORT BEACH AMENDING TITLE 20
OF THE MUNICIPAL CODE SO AS TO ADOPT AN ORDINANCE
PROHIBITING THE CREATION OF SECOND FAMILY UNITS IN
SINGLE FAMILY OR MULTI-FAMILY DISTRICTS
(Planning Commission Amendment No. 669)

WHEREAS, Section 65852.2 of the California Government Code provides criteria for local agencies to establish regulations pertaining to the creation of second family units on single or multi-family building sites or to prohibit such uses; and

WHEREAS, the City has recently completed major revisions to the Land Use and Circulation Elements of the General Plan; and

WHEREAS, as a part of these revisions the City reviewed all of it's existing commercial intensity standards and permitted residential densities and it was determined that the previous allowable development would adversely impact the City's existing circulation system; and

WHEREAS, in order to determine the levels of development that could be accommodated in the City, a computerized Traffic Model was developed to analyze the impacts of different levels of commercial, residential, and industrial growth on the City's circulation system; and

WHEREAS, after over eighteen months of public input, extensive analysis by Staff and Consultants, and many public hearings before the Planning Commission and City Council, the Land Use Element of the General Plan now establishes specific levels of development, both commercial and residential, that are correlated with the Circulation Element; and

WHEREAS, the increase in the number of dwelling units that could be created pursuant to Section 65852.2 of the Government Code would adversely impact the balance and correlation between the Land Use and Circulation Elements of the General Plan; and

WHEREAS, Section 65852.2 (c) sets forth the findings necessary for local agencies to prohibit second family units; and

WHEREAS, the areas devoted to single family residential uses within the City of Newport Beach have developed so as to provide the residents a high quality of life and the peaceful enjoyment of their neighborhoods; and

WHEREAS, the City of Newport Beach has historically provided a balance between the amount of land devoted to single and multi-family areas; and

WHEREAS, there are many areas of the City designated for Two-Family and Multi-Family Residential uses that are developed with less than the permitted number of dwelling units on individual building sites; and

WHEREAS, these underdeveloped Two-Family and Multi-Family Residential areas have been designed and built to provide adequate infrastructure for additional dwelling units; and

WHEREAS, it is likely that any additional dwelling units created within these underdeveloped Two-Family and Multi-Family Residential areas would provide housing opportunities for all economic segments of the City; and

WHEREAS, it is the intention of the City to adopt an ordinance permitting "Granny Units;" and

WHEREAS, the creation of additional dwelling units in the Two-Family and Multi-Family Residential areas within the growth limits established in the General Plan Land Use Element will satisfy the legislative intent of

Section 65852.2 by increasing the number of housing opportunities within the region; and

WHEREAS, prohibiting second family units within Single and Multi-Family Residential areas may limit housing opportunities of the region, any additional demand can be provided within the existing underdeveloped Two-Family and Multi-Family Residential areas; and

WHEREAS, the creation of second family dwelling units in Single Family Detached areas will adversely impact the peace and quiet associated with these neighborhoods in the City; and

WHEREAS, the City Council of the City of Newport Beach has found and determined that second family units as defined herein and in Section 65852.2 of the Government Code will adversely impact the public health, safety, and welfare of residents in the City. NOW THEREFORE,

THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The Newport Beach Municipal Code is hereby amended to include Chapter 20.79, Second Family Units. This Chapter shall apply to all property within the City.

SECTION 2. The Planning Director of the City of Newport Beach is hereby instructed and directed to enforce the provisions of this Chapter.

SECTION 3. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. This ordinance shall be published once in the official newspaper of the City within fifteen (15) days of its adoption. This ordinance shall be effective thirty days after the date of its adoption.

SECOND FAMILY UNITS

CHAPTER 20.79

Sections:

- 20.79.010 Intent and Purpose
- 20.79.015 Definitions
- 20.79.020 Prohibitions
- 20.79.025 Separability

20.79.010 INTENT AND PURPOSE. It is the intent of this Chapter to prohibit the development of second family residential units on single family residential lots as provided for in Section 65852.2 of the California Government Code.

20.79.015 DEFINITION. The following term used in this Chapter shall have the meaning indicated herein:

Second Family Residential Unit. A dwelling unit ancillary to and either attached to, detached from, or contained within the primary dwelling unit on a building site.

20.79.020 PROHIBITIONS. The creation of a second family residential unit on all building sites within the City of Newport Beach where the zoning and General Plan permit only one (1) dwelling unit is expressly prohibited. Nothing contained herein shall affect the creation of Granny Units under Section 65852.1 of the California Government Code that are in compliance with the Newport Beach Municipal Code.

20.79.025 SEPARABILITY. If any provisions or requirements of this Chapter shall be found invalid or unconstitutional in application or interpretation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport beach held on the 10th day of October, 1988, and was adopted on the 24th day of October, 1988, by the following vote, to wit:

AYES, COUNCIL MEMBERS TURNER, PLUMMER, HART,

COX, STRAUSS, SANSONE, MAURER

NOES, COUNCIL MEMBERS NONE

ABSENT COUNCIL MEMBERS NONE

MAYOR

ATTEST:

Nanada E. Paggio
City Clerk

CG:WP:ORD2079:October 4, 1988



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Attachment No. PC 6

Proposed NBMC Section 20.40.200
(Accessory Dwelling Units)

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20.48.200 Accessory Dwelling Units

- A. Purpose.** The purpose of this Section is to establish the procedures for the creation of accessory dwelling units as defined in Part 7 (Definitions) and in the California Government Code Section 65852.2 in single-unit residential zoning districts or areas designated for single-family residential use as part of a Planned Community Development Plan or Specific Plan, and to provide development standards to ensure the orderly development of these units in appropriate areas of the City.
- B. Review Authority.** Accessory dwelling units shall be approved in all single-unit residential zoning districts subject to the approval of the Director upon finding that the following conditions have been met:
1. The dwelling conforms to the development standards and requirements for accessory dwelling units established in the subsections below.
 2. Public and utility services including emergency access are adequate to serve both dwellings.
- C. Development standards.** Except as modified by this subsection, an accessory dwelling unit shall conform to all requirements of the underlying residential zoning district, any applicable overlay district, and all other applicable provisions of this Code, including but not limited to height, setback, site coverage, floor area limit, and residential development standards and design criteria; unless the unit is contained within a legal, nonconforming structure and does not expand the nonconformity.
1. **Minimum lot area.** The minimum lot area for an accessory dwelling unit shall equal the minimum lot area established for the district.
 2. **Setback requirements.** Accessory dwelling units shall comply with the setback requirements applicable to the zoning district in which they are located, except in cases where the minimum required garage setbacks differ from principal building setbacks, in which case the following applies:
 - a. No additional setback shall be required for an existing garage that is converted to an accessory dwelling unit, provided that the side and rear setbacks comply with required Building Codes.
 - b. A setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit constructed above the garage.
 3. **Building height.** Detached accessory dwelling units shall not exceed one story and a height of 14 feet, unless the accessory dwelling unit is constructed above a garage, in which case the structure shall comply with the height limits of the underlying zoning district.
 4. **Unit size.** The maximum size of an accessory dwelling unit shall not exceed a 750 square feet of floor area, or 50 percent of the existing floor area (excluding garage) of the principal unit, whichever is less.

5. **Design.** An accessory dwelling unit shall be similar to the principal dwelling with respect to architectural style, roof pitch, color, and materials.
6. **Conversion of space within existing structure.** Notwithstanding the provisions of subsections C(1), C(2), C(3), C(4) and C(5) above, an accessory dwelling unit shall be permitted if the unit is contained within the existing space of a single-unit dwelling or existing accessory structure, has independent exterior access from the existing dwelling, and the side and rear setbacks comply with required Building Codes, and if the accessory dwelling unit conforms with the following:
 - a. For the purposes of this section, the portion of the single-unit dwelling or accessory structure must have been legally permitted and existing for a minimum of three years prior to the issuance of a permit to convert the space into an accessory dwelling unit.
 - b. No new or separate utility connection may be required between the accessory dwelling unit and the utility service, such as water, sewer, and power.
7. **Fire sprinklers.** Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the principal residence.
8. **Passageway.** No passageway shall be required in conjunction with the construction of an accessory dwelling unit. For the purposes of this section, "passageway" means a pathway that is unobstructed clear to the sky and extends from the street to one entrance of the accessory dwelling unit.
9. **Parking.** Parking shall comply with requirements of Chapter 20.40 (Off-Street Parking), except as modified below:
 - a. One parking space required for one-bedroom or efficiency unit; two parking spaces required for unit with two or more bedrooms.
 - b. Such parking may be provided as tandem parking and/or may be located on an existing driveway; however, in no case shall parking be allowed in a rear setback abutting an alley.
 - c. No parking shall be required for:
 - i. Accessory dwelling unit converted as part of the existing principal residence or existing accessory structure as described in subsection (C)5.
 - ii. Accessory dwelling units located within one-half mile of a public transit. For the purposes of this section "public transit" shall include a bus stop with fixed route bus service that provides transit service at 15 minute intervals or better during peak commute periods.
 - iii. Accessory dwelling unit is located within an architecturally and historically significant historic district.

- iv. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
- v. When there is a car-share vehicle located within one block of the accessory dwelling unit. For the purposes of this section, “car-share vehicle” shall mean part of an established program intended to stay in a fixed location for at least 10 years and available to the public.
- d. If an accessory dwelling unit replaces an existing garage, replacement spaces must be provided. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, any required replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.

D. Additional requirements for all accessory dwelling units.

- 1. Sale of units.** The accessory dwelling unit shall not be sold separately from the principal dwelling.
- 2. Short-term lodging.** The accessory dwelling unit shall not be rented for periods of less than 30 days.
- 3. Number of units allowed.** Only one accessory dwelling unit may be located on the lot.
- 4. Existing development.** A single-unit dwelling must exist on the lot or shall be constructed on the lot in conjunction with the construction of the accessory dwelling unit.
- 5. Occupancy.** The principal dwelling unit or the accessory dwelling unit shall be continuously occupied by at least one person having an ownership interest in the lot.

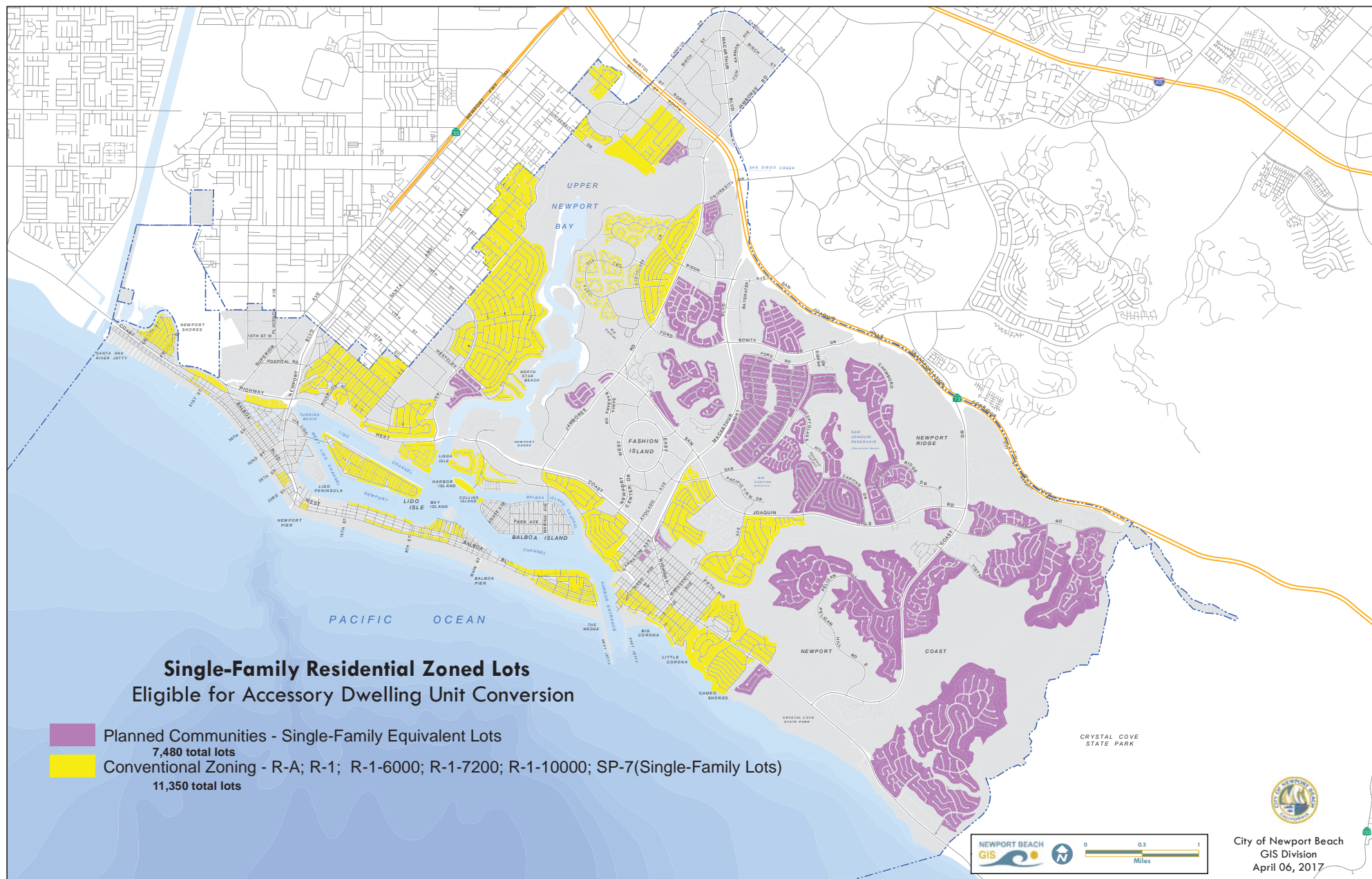
E. Deed restriction and recordation required. Prior to the issuance of a Building and/or Grading Permit for an accessory dwelling unit, the property owner shall record a deed restriction with the County Recorder's Office, the form and content of which is satisfactory to the City Attorney. The deed restriction document shall notify future owners of the owner occupancy requirements and restrictions on short-term rentals. This deed restriction shall remain in effect so long as the accessory dwelling unit exists on the property.

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Attachment No. PC 7

Map of Eligible Single-Family Residential
Zoned Lots

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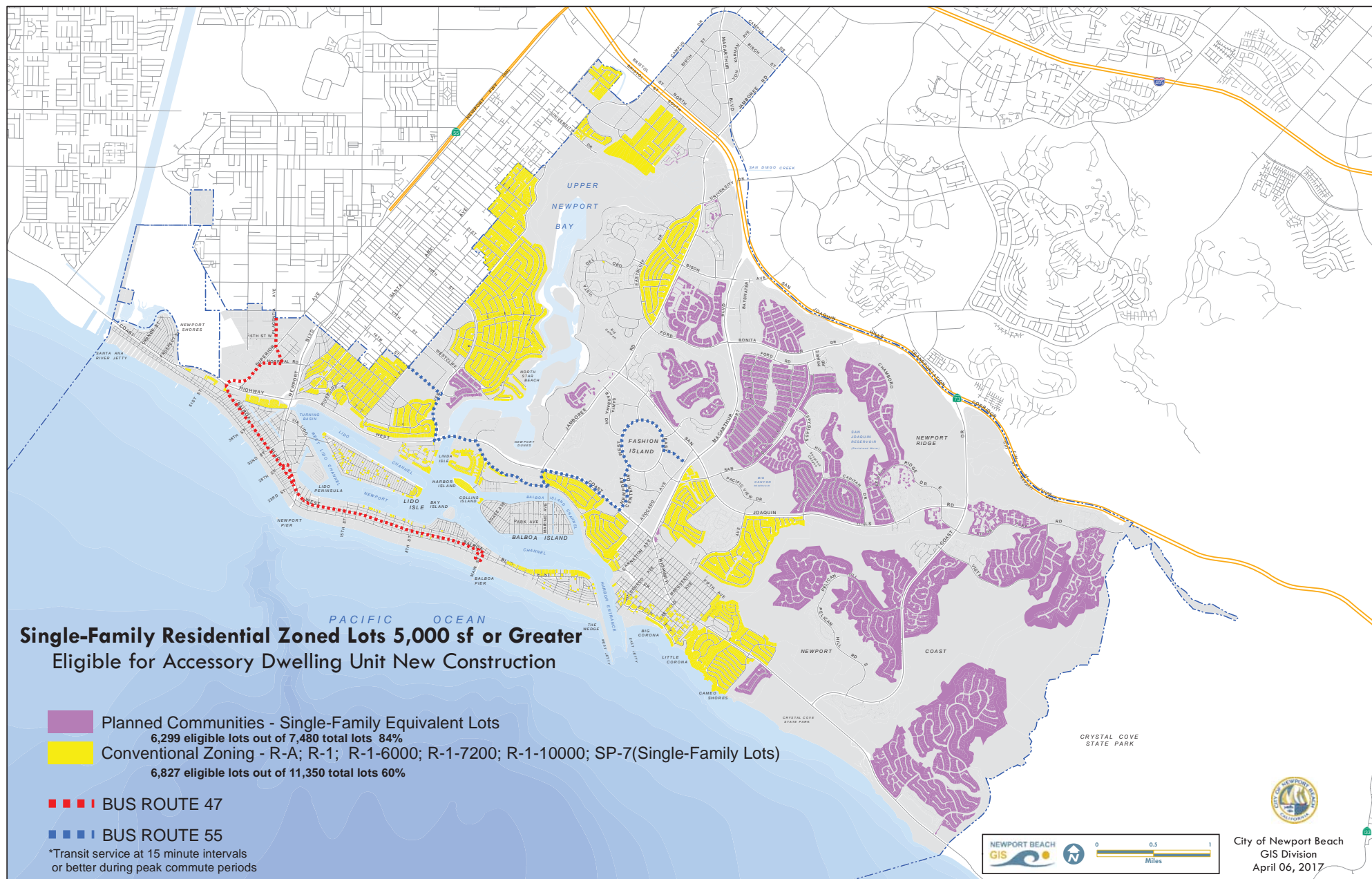
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Attachment No. PC 8

Map of Eligible Single-Family Residential
Zoned Lots with Conforming Lot Sizes and
Bus Routes

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