

# **Attachment A**

Written Correspondence Received



**JAMES F. CARLSON AIA**  
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**California Architectural License # C-13773**

Mr. Jamie Murillo  
Senior Planner  
City of Newport Beach  
One Civic Center  
Newport Beach, California 92660

**Re: Residential Design Standards:  
Single Unit and Two-unit Developments in the Multiple Residential Zone**

Dear: Jamie,

I attended your presentation on the Residential Design Standards this week and agree with your amendments on the items the pertain to the; ***Third Floor Massing and Cottage Preservation.***

However; I disagree with your amendment to the Single-unit and Two-Unit developments in the Multiple Residential (RM) Zoning Districts.

As an Architect who has designed multiple projects in the City of Newport Beach RM Zones for 30' foot lots in both in the 29' / 24' Foot and 33' / 28' Foot categories, I would like to offer my opinions on this proposed amendment.

I agree that the single-family developments in the RM zones should not be entitled to maximum height limits allowed in these zones.

But I disagree that the Two-Unit developments should be restricted from the maximum height limits, as this is exactly what the intention of the RM zones was created for; ***to allow for a greater density with the development of these types of projects.***

As you said yourself it's impossible to develop a 3 Unit development with these lot sizes because of the required parking requirements. ***Therefore, you are proposing a restriction that RM zones were created to allow for these increased densities.***

By allowing for these greater heights it gives the architect the opportunity to design and develop projects that create much better environments that meet all the requirements of these zones.

I have attached a project that I designed a few years ago in the RM zone with the 33'/ 28' height restrictions; it has just completed construction and is a good example of what can be accomplished with the current requirements and height restrictions.

The project is located in the Corona del Mar RM zone with 33' / 28' foot height restrictions.

**See the attached photo's the show the massing and the architectural features of the completed project.**

**The project is: Corona del Mar Condos**

312 & 314 Dahlia Place

Newport Beach, Ca.

- The project features; Two 3 story detached Units with 7 view decks including a roof top deck
- The Front unit is approx. 2050 Sq. Ft. Rear unit is approx. 1990 Sq. Ft. and was designed to be within 1.5 Sq. Ft. of the maximum allowable buildable area.
- It was Designed to meet the unique site requirements with stepped back property lines in the front and front and back easements.
- The units were designed to blend with the existing lower structures in both the front street and rear alley access points.
- They were also designed to provide separation and privacy, and even though they are condominiums they were designed to be completely separate units. ***This feature would be very difficult to achieve with the lower height restriction amendment.***
- As an added bonus they both were able to increase the outdoor areas by utilizing the un-buildable city property adjacent to the Frenleaf retaining wall. ***They would have been successful designs even without the utilization of the adjacent city property, but this was a nice added feature.***

I also think with the higher densities that will be mandated by the State of California early next year that this is not the time to further restrict the RM zone requirements for Two Unit developments.

Sincerely,

*James F. Carlson*

James F. Carlson, AIA

Cc: Seimone Juris  
Samir Goshen  
Peggy Palmer  
Sandra Ayres







**From:** Catherine <catherinewolcott@hotmail.com>  
**Sent:** Friday, August 09, 2019 11:45 AM  
**To:** Dixon, Diane; O'Neill, William; Avery, Brad; Duffield, Duffy; Muldoon, Kevin; Herdman, Jeff; Brenner, Joy; Weigand, Erik; Lowrey, Lee; Ellmore, Curtis; Klaustermeier, Sarah; Kleiman, Lauren; Koetting, Peter; Rosene, Mark; Leung, Grace; Jacobs, Carol; Harp, Aaron; Summerhill, Yolanda; Jurjis, Seimone; Campbell, Jim; Murillo, Jaime  
**Cc:** candwmartin@sbcglobal.net; bmartinworks@sbcglobal.net; Joni Martin; Cynthia Martin  
**Subject:** Proposed changes to RM development standards - Objection letter from Martin Family Trust  
**Attachments:** IMG\_4094.jpg; IMG\_4103.jpg; IMG\_4112.jpg; IMG\_4116.jpg; IMG\_4124.jpg; IMG\_4125.jpg; IMG\_4122.jpg

Members of the Newport Beach City Council, Planning Commission, and City staff:

As I will be out of town on August 19, the date of the community outreach meeting on changes to the Residential Multifamily (RM) development standards, I hereby submit the preliminary objections of the Martin Family Trust, owner of three RM-zoned lots at 1824 West Ocean Front, to the proposed Zoning Code changes. Please note that the objections below do not apply to the City Council's direction to consider Zoning Code changes to preserve beach cottages, or to reduce the impact of improperly enclosed third-floor decks in R-2 zones. Those are different issues that should be considered separately.

Requiring R-1 and R-2 zoning standards for some but not all structures in an RM zone is a novel approach to zoning that I never saw applied or considered during the seven years I practiced municipal law. It is inconsistent with state law governing zoning in general law cities. None of the attorneys specializing in land use that I have consulted with, or any of the developers I discussed the matter with, have seen this approach suggested or implemented before. The developers, however, made it clear that losing flexibility and/or height of structures could impact our property value, particularly in a block such as ours where so many lots are already fully built up to or near the current development standard limits.

I apologize for the length of my comments below, but it is important that all my family's objections be included in the administrative record. For those of you who do not have time to wade through this entire letter, the summary of our arguments is as follows:

- The proposed changes will reduce the property values and impinge on the property rights of owners of RM-zoned property. They will create a large number of nonconforming structures. They will also spot-zone some or all of our lots down to R-2.
- The proposed changes will not address the City Council's stated objective of reducing mass and preventing excessive contrast between the heights of structures on neighboring properties.
- The proposed changes place an undue burden on RM-zoned property owners who have not already fully developed their properties, and confer an undue benefit on those that have. This is

in contravention of the uniform treatment principles of Government Code Section 65852, and the cases interpreting it.

- Quality design standards and articulation requirements would be a better solution to the City's concerns about the physical appearance of the RM zoning districts, and could enhance property values as well.
- Zoning Code changes that effectively create downzoning should be handled through the General Plan amendment process.

For the reasons set forth more fully below, I respectfully request that City elected officials and staff either:

***(a) leave RM zoning and development standards as they are, with no change, or***

***(b) exempt the 1800 block of West Ocean Front, and other similarly situated RM-zoned areas, from the proposed changes to RM development standards.***

1. **Proposed development standard changes will result in reduction of property values and diminished rights of property owners in RM zoning districts.**

My family and I are concerned that the Council's proposed changes to development standards in the RM zoning district will substantially reduce our property rights and our property's value. The majority of the similarly affected neighboring property owners that we have been able to reach share that concern.

As the Newport Beach Zoning Code is currently written, owners of properties in the RM zoning districts can build one-, two- or three-unit structures on their property. This allows owners the appropriate level of flexibility to use their property in a way that best suits their needs while allowing structures that are consistent with surrounding structures. The proposed amendments which the City Council directed staff to consider would drastically alter this.

If the proposed changes are adopted, RM owners may still build up to three units per lot (where individual lot size and location allows), but would have to apply R-1 or R-2 development standards if they chose (or were required to) build structures containing less than three dwelling units. In many cases, the highest and best use of a particular property is not a three-unit building, especially with the City's stringent onsite parking requirements.

As detailed below, only one of the buildings on the 1800 block of West Ocean Front is a three-unit building, and many are already built at or near the current allowed height. Adoption of the proposed changes would significantly increase the number of nonconforming buildings on our block, and the burden on owners of nonconforming property as well as the administrative burden of the City would be commensurately increased.

City planning staff has told us that on some or all of our lots we would have difficulty meeting the onsite parking requirements for three units because of our alley frontage measurements. Therefore, the proposed changes would effectively spot-zone some or all of our lots down to R-2, while many other

single- and two-unit properties on the block are already built to the full currently permitted height and Floor Area Ratio (FAR), while only having to provide parking for single- or two-family dwellings.

2. **Proposed development standard changes will have little or no impact on the City Council's stated justification for the changes.**

To the best of my knowledge, the only publicly stated justification the City Council provided for this proposed Zoning Code change is to reduce the impression of mass and height that taller buildings create. However, the proposed changes do nothing to address the Council's stated concerns. As noted above, many RM-zoned properties on our block have already been built to or near the maximum height allowed. If this change is adopted, owners of the remaining properties who can will simply build more three-unit buildings to the maximum height allowed in the RM zoning districts.

The visual mass of a three-unit building will have the identical impact that a similarly sized two- or one-unit building would have, no matter what those buildings contain inside. To illustrate this, I have attached photographs of some of the largest buildings on the 1800 block of West Ocean Front. Bearing in mind that only one of these buildings contains three units, I challenge members of the Council or Planning Commission to identify solely by visual inspection which of these buildings are three-unit, two-unit, or single-family dwellings.

Since the RM zoning districts are small in size and scattered throughout the City, the overall reduction in perceived mass and scale of buildings would be de minimis at best. Therefore, the proposed solution has no nexus with the desired outcome, and the legal and practical justifications for its adoption are questionable.

Now that I have raised this point with staff, I fully expect that future City communications will include references to the desirability of providing additional housing units and meeting RHNA standards. I know staff's RHNA concerns are sincere. However, at no time during my seven-and-a-half year tenure in the Newport Beach City Attorney's Office were RHNA standards met. Because of the comparatively small number of RM-zoned properties within the City, this proposed change will do little to further that goal. Furthermore, Council members did not cite providing additional dwelling units as a factor at any point during their April 23<sup>rd</sup> study session or May 28<sup>th</sup> Council meeting when they discussed this proposed change. Instead, they cited concerns about visual massing, and contrasts in heights and mass of immediately adjacent properties.

3. **On well over half the parcels in the 1800 block of West Ocean Front, either structures already exist at or near the maximum height, or the owners have expressed a desire to build to a similar height.**

I have reviewed all the buildings on the 1800 block of West Ocean Front, as well as the R-2 zoned structures in the 1700 block and R-1 zoned 1900 blocks of West Ocean Front. I encourage staff and elected officials to do the same. There are numerous tall three-story structures in all three blocks, and many of those are single- and two-unit buildings. I do not have measurements of the roof heights of all of these buildings, but here is some preliminary information:

- The structure at 1810 West Ocean Front was determined by the Newport Beach Fire Marshall to be a four-story building in 2008 or 2009. The top rail of its roof deck is over 47 feet above



finished grade; its roofline is over 45 feet above finished grade. Although this structure was originally built as a three-unit building, it has since been converted to single-family use.

- The structure at 1806 West Ocean Front is a two-unit structure; its roofline is approximately 43 feet above finished grade at the top of the roof ridge.
- 1818 West Ocean Front is a three-story, three-unit condominium building, built to the maximum height allowed.
- 1820 West Ocean Front is a three-story, two-unit condominium building under construction, built to the maximum height and FAR allowed.
- One two-story property on the 1800 block is undergoing review of plans that will allow the owner to build a single-family home with a roof ridge line at over 43 feet above finished grade.
- Owners of two of the remaining two-story single-lot buildings on the block have expressed interest in building their properties up in the future.
- My family has been aware for some time that our three lots will need to be developed and built up at some point, even if the property is kept in the family.
- This leaves only four out of 14 lots on the 1800 West Ocean Front block (**less than 30%**) whose owners have not yet either fully developed or expressed an intention to develop their property. As we have not yet spoken to all property owners, it is possible that even more owners than we are aware of are interested in developing or improving their property to a degree consistent with their neighbors.
- In the adjacent R-2 zoned 1700 block, on the 13 lots on the block there are five buildings with partial third stories in place, and a sixth under construction.
- On the 13 half-depth lots in the adjacent R-1 zoned 1900 block, there appear to be three buildings with a partial third story, and all but one of the lots appear to be built out to the maximum height allowed.

In short, adopting the proposed changes will not reduce the impression of height and massing on our block, or either adjacent block, and would unduly burden the property owners who have not yet built their properties to the maximum height allowed. Quality design standards and design articulation would be a better solution to the City's concerns about the physical appearance of the RM zoning districts, and could enhance property values as well.

#### 4. **State law supports a policy of uniform treatment of all parcels within a zoning district.**

California Government Code Section 65852 sets forth the standard zoning principle of uniform treatment within a zoning district. The best summary of the effect of this code section's provisions is provided by Neighbors in Support of Appropriate Land Use v. County of Tuolumne (2007) 157 CA4th 997, which states:

[Government Code] Section 65852 provides that the regulations contemplated by section 65850 must be uniform within each of the zones contemplated by section 65851, but may differ from zone to zone. The general meaning of this sequence is not difficult to understand: *Cities and counties may create rules and they may create zones; the rules should be the same for each parcel within the zone* but may be different for parcels in different zones. Our Supreme Court aptly has explained the fundamental reason for having a scheme of this nature . . . “A zoning scheme, after all, is similar in some respects to a contract; each party foregoes rights to use its land as it wishes in return for the assurance that the use of neighboring property will be similarly restricted, the rationale being that such mutual restriction can enhance total community welfare.” 157 CA4th at 1008-1009 (Italics added, citations omitted)

In addition, the Neighbors in Support of Appropriate Land Use court summarized some of the policy underlying Government Code Section 65852: “If a zoning scheme is like a contract, the uniformity requirement is like an enforcement clause, allowing parties to the contract to challenge burdens unfairly imposed on them or benefits unfairly conferred on others.” 157 CA4th at 1009

I am, of course, aware that the uniformity requirement of Government Code Section 65852 applies directly to general law cities and that charter cities may develop their own zoning provisions. However, Section 65852 codifies one of the basic principles of consistent, evenhanded zoning practices. Applying R-1 and R-2 development standards to selected residential structures in the RM zoning districts is inconsistent with this policy. It would burden property owners who have not already built up their properties, while depriving them of benefits enjoyed by other surrounding property owners.

5. **Zoning Code changes with this level of impact on a limited number of property owners are more properly handled through the General Plan amendment process.**

Whether or not the City Council intended it, this proposal gives the impression that the City is attempting to downzone certain RM-zoned areas without going through the required General Plan amendment. If the City wants that result, it should go through the proper General Plan amendment process, with the full public awareness that entails.

Sincere thanks for your consideration, and your time. I hope the City can develop an alternate approach which does not create an undue burden on a handful of RM property owners.

Regards,  
Catherine Martin Wolcott





















TO THE NEWPORT BEACH CITY COUNCIL:


AS PROPERTY OWNERS IN THE 1800 BLOCK OF WEST OCEAN FRONT WE  
REQUEST THAT THE ZONING AND BUILDING STANDARDS FOR THE 1800  
BLOCK OF WEST OCEAN FRONT BE RETAINED AS THEY CURRENTLY  
EXIST

Carol Marten  
SIGNATURE

1822 1824 1826  
PROPERTY ADDRESS

TO THE NEWPORT BEACH CITY COUNCIL:

AS PROPERTY OWNERS IN THE 1800 BLOCK OF WEST OCEAN FRONT WE  
REQUEST THAT THE ZONING AND BUILDING STANDARDS FOR THE 1800  
BLOCK OF WEST OCEAN FRONT BE RETAINED AS THEY CURRENTLY  
EXIST

  
SIGNATURE

1816 W. Oceanfront N.B.  
PROPERTY ADDRESS

TO THE NEWPORT BEACH CITY COUNCIL:

AS PROPERTY OWNERS IN THE 1800 BLOCK OF WEST OCEAN FRONT WE  
REQUEST THAT THE ZONING AND BUILDING STANDARDS FOR THE 1800  
BLOCK OF WEST OCEAN FRONT BE RETAINED AS THEY CURRENTLY  
EXIST

  
SIGNATURE

1816 W. Oceanfront Newport Beach  
PROPERTY ADDRESS

TO THE NEWPORT BEACH CITY COUNCIL:

AS PROPERTY OWNERS IN THE 1800 BLOCK OF WEST OCEAN FRONT WE  
REQUEST THAT THE ZONING AND BUILDING STANDARDS FOR THE 1800  
BLOCK OF WEST OCEAN FRONT BE RETAINED AS THEY CURRENTLY  
EXIST

Judi Jacoby  
SIGNATURE

1804 West Oceanfront  
PROPERTY ADDRESS

TO THE NEWPORT BEACH CITY COUNCIL:

AS PROPERTY OWNERS IN THE 1800 BLOCK OF WEST OCEAN FRONT WE  
REQUEST THAT THE ZONING AND BUILDING STANDARDS FOR THE 1800  
BLOCK OF WEST OCEAN FRONT BE RETAINED AS THEY CURRENTLY  
EXIST

Tony Hayes  
SIGNATURE

1810 West Ocean Front  
PROPERTY ADDRESS



TO THE NEWPORT BEACH CITY COUNCIL:

AS PROPERTY OWNERS IN THE 1800 BLOCK OF WEST OCEAN FRONT WE  
REQUEST THAT THE ZONING AND BUILDING STANDARDS FOR THE 1800  
BLOCK OF WEST OCEAN FRONT BE RETAINED AS THEY CURRENTLY  
EXIST

Maylene S. Taylor  
SIGNATURE

105 18th St  
Newport Beach  
PROPERTY ADDRESS

TO THE NEWPORT BEACH CITY COUNCIL:

AS PROPERTY OWNERS IN THE 1800 BLOCK OF WEST OCEAN FRONT WE  
REQUEST THAT THE ZONING AND BUILDING STANDARDS FOR THE 1800  
BLOCK OF WEST OCEAN FRONT BE RETAINED AS THEY CURRENTLY  
EXIST

[Signature]  
SIGNATURE

1800 W. Ocean Front, Newport  
PROPERTY ADDRESS

**From:** Christopher Brandon <chris@brandonarchitects.com>  
**Sent:** Thursday, August 15, 2019 8:27 AM  
**To:** Murillo, Jaime  
**Cc:** Tyler Wilson; Justin Johnston; Ryan McDaniel; Caitlin Smith; Brandon Lindsay  
**Subject:** Re: Notice of Community Meeting- Residential Design Standards

Gotcha. We're on board with the reduction in the appearance of 3rd floor covered areas...and we're not surprised it's become an issue. Many bad examples out there. My initial thoughts are that this makes sense...forcing covered cabanas and roof structures back to the same setback as 3rd floor enclosed space. You might need to define other architectural details or eaves, some styles it looks nice to have a trellis or corbels or extended eaves so I would hate to be limited. I'm not sure a 50% coverage would be needed if the setbacks were enforced. I would have the same concerns here about how you calculate that with eaves, overhangs, dormers, etc...

RM zones are tricky...I expect a lot of that is coming from Marguerite in the village. I wonder if you could impose the same residential design criteria but keep the height limit? I think it could cause 2 unit or 1 unit structures to be different or out of character. I'm all for reducing the massing which I think the open space and 3rd floor setbacks and limitations could achieve but losing the extra 2 or 3 feet would hurt....and I don't think it would significantly change the look of these taller units. If the 3rd floor massing is pushed back that's much more visually impactful than the max height.

Just some quick thoughts. The cottage rules seem to make sense. Although from my experience there are way more challenges with the building code when trying to retrofit or remodel older homes. Increasing the valuation makes A LOT of sense, it's way too low.

Looking forward to hearing how things go next week. Please do what you can to keep us in the loop and let me know if you think it would be helpful to have some of us come in and chat with you and Jim or Rosalyn. Thank you!

Best Regards,

Christopher Brandon, AIA  
*President*

## BRANDON ARCHITECTS

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**From:** Marie Zondler <mzondler@sbcglobal.net>  
**Sent:** Monday, August 19, 2019 5:57 PM  
**To:** Murillo, Jaime  
**Subject:** Meeting regarding Balboa building regulations

Sorry am out of the country, I support all regulations that will help the density and lose of Balboa charm from disappearing. I support some type restrictions and also the need for the builders tearing down old properties and building these black trim white wood or stucco houses all over, enough is enough. Thank you,

Marie Zondler. A property owner for over fifty years.

Sent from my iPhone