



CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

October 17, 2019
Agenda Item No. 4

SUBJECT: Cottage Preservation Code and LCP Amendments (PA2019-181)
▪ Code Amendment No. CA2019-006
▪ Local Coastal Program Amendment No. LC2019-004

SITE LOCATION: Citywide

APPLICANT: City of Newport Beach

PLANNER: Jaime Murillo, Principal Planner
949-644-3209 or jmurillo@newportbeachca.gov

PROJECT SUMMARY

The City is proposing amendments to the Local Coastal Program (Coastal Land Use Plan and Implementation Plan), Newport Beach Municipal Code (NBMC) Title 20 (Planning and Zoning), and Title 15 (Building and Construction) to provide an option to preserve traditional beach cottages. Typically, cottages do not provide all the code-required parking and additions are limited to 10 percent of the existing floor area. The amendments would allow larger additions of up to 50 percent of the existing floor area without providing the minimum code-required parking when the project would result in the preservation of the cottage character and building envelope that is representative of traditional development patterns in the City. Eligible projects would also receive relief from a building code valuation threshold requiring building code compliance as new construction.

RECOMMENDATION

- 1) Conduct a public hearing;
- 2) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 21065 of CEQA and State CEQA Guidelines Sections 15060 (c)(2), 15060 (c)(3), and 15378. The proposed action is also exempt pursuant to State CEQA Guidelines Section 15061(b)(3) because it has no potential to have a significant effect on the environment;
- 3) Adopt Resolution No. PC2019-033 (Attachment No. PC 1) recommending the City Council approve Code Amendment No. CA2019-006; and
- 4) Adopt Resolution No. PC2019-034 (Attachment No. PC 2) recommending the City Council authorize staff to submit Local Coastal Program Amendment No. LC2019-004 to the California Coastal Commission.

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INTRODUCTION

Study Session

As a result of growing community concerns related to the loss of small residential cottages and the bulk and mass associated with new single- and two-unit dwelling developments in the City, the City Council held a study session on April 23, 2019. At the conclusion of the study session, the City Council directed staff to return with a resolution to initiate code amendments to address these concerns, including incentivizing the preservation of cottages. Study session minutes are included as Attachment No. PC 3.



Initiation of Code Amendment

City Council Policy K-1 (General Plan and Local Coastal Program) provides that a City-sponsored amendment to the certified Local Coastal Program (LCP) shall be initiated by the City Council. Additionally, NBMC Section 20.66.020 allows amendments to the Zoning Code to be initiated by the City Council. The subject amendment was initiated by the City Council on May 14, 2019 (Attachment No. PC 4), as one of two proposed amendments under City Council Resolution No. 2019-43 (PA2019-070).

Community Meeting

On August 19, 2019, Community Development Department staff hosted a community meeting attended by 64 interested members of the public, including design professionals. The intent of the meeting was to share proposed changes to residential design standards intended to minimize bulk and mass associated with current development trends. Included were proposed changes to incentivize the preservation of small cottages by allowing increased additions and alterations to provide an option to full redevelopment of property.

The proposed changes related to cottage preservation were overwhelmingly supported by meeting attendees. General comments in support included:

- Design professionals explained that it is more difficult to remodel and preserve a cottage than to demolish and reconstruct a new home due to the current restrictive code requirements that are in place. The proposed changes would create a feasible option for preservation by removing these code-related constraints;
- Attendees appreciated the fact that the changes were incentive-based instead of a firm restriction on property owner's rights; and
- The incentive allows a reasonably sized addition for nonconforming structures that do not provide adequate parking, which is appropriate if it discourages property owners from tearing down older cottages structures.

DISCUSSION

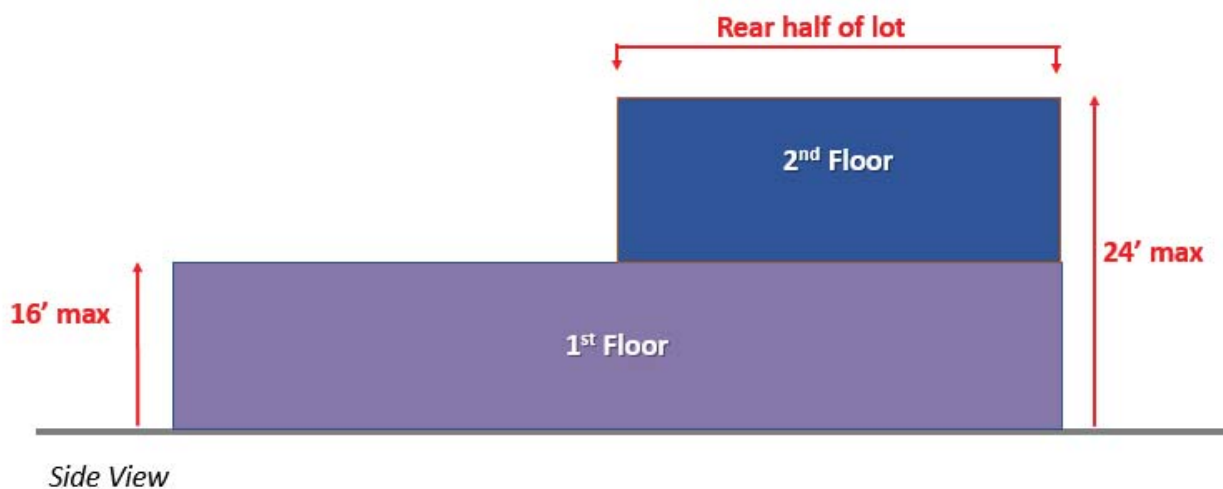
What constitutes a cottage for the purpose of this ordinance?

There is no definition that accurately describes what constitutes a cottage. However, as used by the community, the term cottage refers to the smaller residential dwellings or structures that are representative of the traditional development patterns in the City, particularly in old Corona del Mar, Balboa Island, and the Balboa Peninsula. These structures are typically one-story, with the exception of a small second story above parking in the rear of a lot. Many cottages vary in architectural style and year of

construction. Therefore, for the purpose of this amendment, the cottage preservation incentive will be granted for those projects that agree to maintain a building envelope representative of traditional cottages.

The building envelope for cottage preservation eligibility would be limited as follows:

- Front half of lot limited to one story and a maximum height of 16 feet;
- Rear half of lot limited to two stories and a maximum height of 24 feet; and
- Third floors or third floor decks would be prohibited.



Why are we losing cottages?

The primary reason for the loss of cottages is due to the fact that many of these properties were historically used as beach homes or second homes, but are now predominantly used as principal residences. As such, property owners are seeking to maximum the size of their homes to increase the livability and include modern features. Additionally, as property values in the City have significantly increased, property owners are now seeking to construct the maximum allowable floor area and height to ensure they are receiving the highest and best return on their investment.

However, there are property owners who would like to preserve their older cottages, but have run into complications when seeking to remodel to add an extra bedroom or bathroom. There are two existing code restrictions that lead property owners to demolish the old cottage in favor of developing a new, larger home.

1. Nonconforming Parking Limitations (Title 20 and 21)

Due to changes in zoning requirements over time that have increased the minimum parking requirements, most cottages are nonconforming because they no longer

provide the minimum number of spaces on-site. For example, minimum parking requirements for a single-family dwelling increased from zero spaces, to one space, to two spaces per unit.

NBMC Sections 20.38.060 (Nonconforming Parking) of the Zoning Code (Title 20) and 21.38.060 (Nonconforming Parking) of the Local Coastal Program Implementation Plan (Title 21) both limit the allowable area of additions for residential dwellings that are nonconforming due to parking to a maximum of 10 percent of the existing floor area of the structure. This 10 percent limitation is typically not sufficient to accommodate the addition of a new master bedroom or justify the cost of a remodel. For example, a one-story dwelling on a typical Corona del Mar lot (30' x 118') may measure approximately 2,200 square feet in area. The 10 percent limitation would only allow an addition of 220 square feet. Smaller cottages with lower existing floor areas would result in even smaller additions. Additions larger than 10 percent require code-compliant parking (a two-car garage) to be created dramatically changing the scope of work. Typically, modifying a small cottage to create a two-car garage cannot be done without significantly altering the cottage thus defeating the owner's hope to preserve the small home.

2. Building Code Limitations (Title 15)

Currently, Section 102.7 (Remodel or renovation) of Section 15.02.060 of the NBMC requires a dwelling to be subject to building code regulations as a new structure when the valuation of the permit for a remodel or renovation exceeds 50 percent of the market value of the dwelling. As a result of this 50 percent valuation threshold, many small remodeling and addition projects require substantial improvements beyond the original scope of work in order to comply with building code regulations as if the house is new construction. Due to this increased scope of work and costs, many property owners decide that it is not financially feasible to maintain their existing residential cottages and decide to demolish and rebuild.

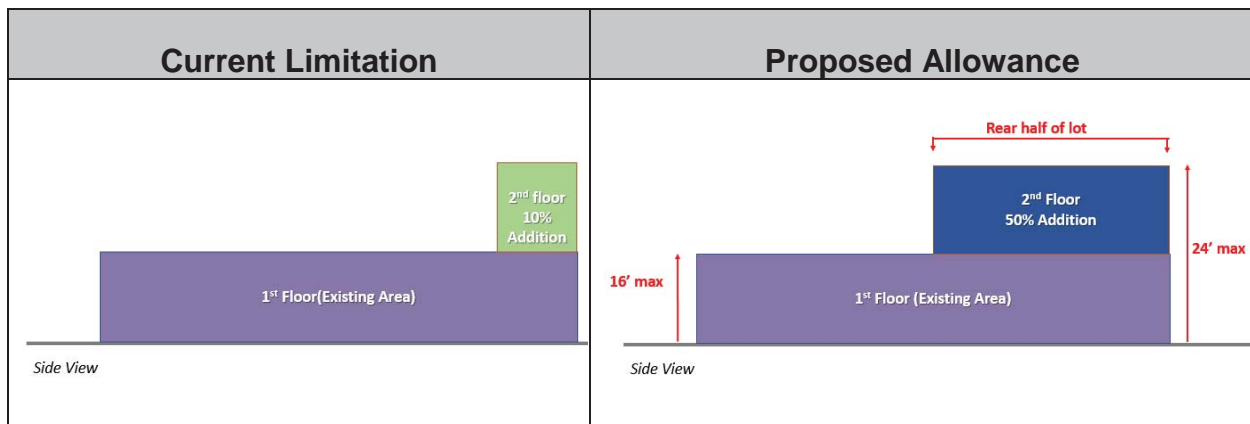
What are the proposed changes/incentives?

In order to loosen constraints discussed above, staff is proposing the following amendments in exchange for a property owner's commitment to maintain the required cottage building envelope as previously described. A redline strikeout version of the proposed amendments are included as Attachment No. PC 5 for reference.

1. Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) Changes:
 - a. Increase addition limits from ten (10) to fifty (50) percent - Cottages are typically smaller structures that are built significantly below the allowable floor area limitations of a site. Therefore, staff is recommending to increase the allowable area of additions for residential dwellings that are nonconforming due to parking

to a maximum of fifty (50) percent of the existing floor area of the structure. This new standard would allow for a reasonably sized addition as a realistic alternative to demolishing and redeveloping their properties.

- b. Require recordation of a revocable deed restriction - In order for a property owner to take advantage of this incentive, they will be required to record a deed restriction with the County Recorder's Office agreeing to maintain the property consistent with the limitations specified for cottage preservation (i.e., one-story and 16 feet high within front half of lot and two-story, 24 feet high within rear half of lot). The deed restriction will apply to future owners and remain in effect so long as the modified cottage project exists. The deed restriction would not be permanent and could be removed if the property owner wanted to expand the cottage or redevelop the property in compliance with applicable code requirements. However, in these cases, code-required parking would be included.



2. Title 15 Change - Remove new construction code requirements for eligible cottage preservation projects - In the event that the construction valuation exceeds fifty (50) percent of the value of the structure, only the components of the structure that are affected by the renovation/addition will have to comply with new building code requirements. For example, in the case of a new bedroom addition over the garage, the addition and portions of the existing garage that are affected by the addition, will have to comply current building code requirements; however, the existing one-story component of the house that would remain would no longer have to be fully retrofitted to comply with building code standards as a new home constructed today.

Unfortunately, if a property is located within a special flood hazard area as mapped by the Federal Emergency Management Agency (FEMA), a separate valuation threshold will continue to apply as required by FEMA. The FEMA threshold is more restrictive and may trigger a need to substantially improve the existing structure to

avoid the identified flood hazard. Improvements would typically include raising the finish floor of the structure, which typically leads property owners to demolish the structure and construct a new home.

Typical Cottage



Example Cottage Preservation Project



Why is Coastal Commission review required?

Properties located in the Coastal Zone (Attachment No. PC 6) of the City are regulated by the Local Coastal Program (LCP), which is comprised of the Coastal Land Use Plan (CLUP), a policy document, and the Implementation Plan (IP or Title 21), a regulatory document.

On January 13, 2017, the California Coastal Commission (“Coastal Commission”) effectively certified the City’s LCP and the City assumed coastal development permit-issuing authority on January 30, 2017. Any amendments to the LCP must be reviewed and approved by the City Council, with a recommendation from the Planning Commission, prior to submitting the amendment request to the Coastal Commission. The Coastal Commission is the final decision-making authority on amendments to the certified LCP.

In addition to the proposed changes to Title 21 as described above, staff is recommending that Coastal Land Use Plan Policy 2.9.3-8 be amended to include a policy to support the proposed Title 21 cottage preservation amendment described above. A change to the policy is important to avoid a determination that the proposed Title 21 code amendment may be inconsistent with the current language of Policy 2.9.3-8. Additionally, regulations in Title 21 require policies in the Coastal Land Use Plan.

2.9.3-8 *Continue to require properties with nonconforming parking to provide code-required off-street parking when new uses, alterations, or additions result in increased parking demand. However, additions of up to fifty (50) percent of the existing floor area of a residential development may be allowed without requiring the code-required parking when the project would result in the preservation of the cottage character of the development and a building envelope representative of traditional cottage development patterns in the City.*

Environmental Review

The action proposed herein is not a project subject to the California Environmental Quality Act (CEQA) in accordance with Section 21065 of CEQA and State CEQA Guidelines Sections 15060 (c)(2), 15060 (c)(3), and 15378. The proposed action is also exempt from the CEQA pursuant to State CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Lastly, pursuant to CEQA Guidelines Section 15265(a)(1), local governments are exempt from the requirements of CEQA in connection with the adoption of a Local Coastal Program. The Amendment itself does not authorize any development and therefore would not directly result in physical change to the environment.

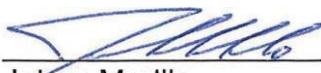
Public Notice

Pursuant to Section 13515 of the California Code of Regulations, a review draft of the LCP Amendment was made available and a Notice of Availability was distributed on October 4, 2019, to all persons and agencies on the Notice of Availability mailing list.

In addition, notice of these amendments was published in the Daily Pilot as an eighth-page advertisement, consistent with the provisions of the NBMC. The item also appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Lastly, notice of this amendment was emailed to interested parties that attended the community meeting.

Prepared by:



Jaime Murillo
Principal Planner

Submitted by:



Jim Campbell, Deputy Director

ATTACHMENTS

- PC 1 Draft Resolution- Title 15 and Title 20 Code Amendments
- PC 2 Draft Resolution- Local Coastal Program Amendments (including Title 21)
- PC 3 April 23, 2019, City Council Study Session Minutes
- PC 4 City Council Resolution No. 2019-43
- PC 5 Redline Strikeout Version of Amendments
- PC 6 Coastal Zone Map

Attachment No. PC 1

Draft Resolution- Title 15 and Title 20
Code Amendments

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RESOLUTION NO. PC2019-033

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, RECOMMENDING CITY COUNCIL ADOPTION OF CODE AMENDMENT NO. CA2019-006 TO AMEND TITLE 15 (BUILDING AND CONSTRUCTION) AND TITLE 20 (PLANNING AND ZONING) OF THE CITY OF NEWPORT BEACH MUNICIPAL CODE RELATED TO COTTAGE PRESERVATION (PA2019-181)

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

SECTION 1. STATEMENT OF FACTS.

1. An amendment to Title 15 (Building and Construction) and Title 20 (Planning and Zoning) ("Code Amendment") of the City of Newport Beach Municipal Code ("NBMC") is necessary to incentivize the preservation of cottages.
2. A public hearing was held by the Planning Commission on October 17, 2019, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with the California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and Chapter 20.62 of the 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.

The action proposed herein is not a project subject to the California Environmental Quality Act ("CEQA") in accordance with Section 21065 of the California Public Resources Code and Sections 15060 (c)(2), 15060 (c)(3), and 15378 of the California Code of Regulations Title 14, Division 6, Chapter 3 ("CEQA Guidelines"). The proposed action is also exempt pursuant to CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The Amendment itself does not authorize development that would directly result in physical change to the environment.

SECTION 3. FINDINGS.

1. Currently, Section 102.7 (Remodel or renovation) of Section 15.02.060 of the NBMC requires a dwelling to be subject to building code regulations as a new structure when the valuation of the permit for a remodel or renovation exceeds fifty (50) percent of the market value of the dwelling. As a result of this fifty (50) percent valuation threshold, many small remodel and residential addition projects require substantial improvements to comply with building code regulations as new construction. Due to this increased scope of work and costs, many property owners decide that it is not financially feasible to maintain their existing residential cottages and decide to demolish these cottages. The current redevelopment

trend is to reconstruct new single- or two-family dwellings that maximize the building envelope, including three-level development, to realize the maximum return on investment.

2. Authorizing the amendment to Title 15 (Building and Construction) of the NBMC would incentive the preservation of cottages by removing the valuation threshold requiring building code compliance as new construction and allowing reasonable size additions to existing residential developments that preserve their cottage character and building envelope.
3. Authorizing the amendment to Title 20 (Planning and Zoning) of the NBMC would incentivize the preservation of cottages by increasing the percentage of an allowed addition to a nonconforming residential structure due to parking from ten (10) percent to fifty (50) percent, thereby eliminating a design constraint that has resulted in property owners choosing to demolish older cottages and redevelop the site with new, larger, three-level homes that maximize the allowable building envelope.
4. An amendment to Title 21 and the Local Coastal Program ("LCP") to incentivize the preservation of cottages ("LCP Amendments") is also proposed for properties located in the coastal zone. The Code Amendment shall not become effective for projects located in the coastal zone until approval of the LCP Amendments 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:

1. The Planning Commission finds the proposed code amendments are not a projects subject to CEQA pursuant to Section 21065 of Public Resources Code and the CEQA Guidelines Sections 15060(c)(2), 15060(c)(3), and 15378. The proposed action is also statutorily exempt pursuant to CEQA Guidelines Section 15061(b)(3) because it has no potential to have a significant effect on the environment.
2. The Planning Commission of the City of Newport Beach hereby recommends approval of Code Amendment No. CA2019-006 as set forth in Exhibit "A," which is attached hereto and incorporated herein by reference.

PASSED, APPROVED, AND ADOPTED THIS 17th DAY OF OCTOBER, 2019.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Peter Koetting, Chairman

BY: _____
Lee Lowrey, Secretary

EXHIBIT “A”**Proposed Code Amendment No. CA2019-006 Related to Cottage Preservation**

Section 1: Amend Section 102.7 (Remodel or renovation) of Section 15.02.060 of the Newport Beach Municipal Code as follows:

15.02.060 Added to Section 102.7.

Section 102.7 is added to read as follows:

Section 102.7 Remodel or renovation. If the valuation of the permit for the remodel or renovation of a building is equal to or exceeds 50 percent of the market value of such building, then the entire building shall comply with the Code provisions for new construction.

Exceptions:

1. This provision does not apply for permit valuations less than \$209,000;
2. The Chief Building Official is authorized to accept less than the requirements for new construction if substantial conformance to the requirements is found and the protection of life and property are maintained.
3. This provision does not apply to projects meeting the criteria for cottage preservation pursuant to Section 20.38.060(A)(3) and not located in a Special Flood Hazard Area per the latest revision of the Federal Insurance Rate Map.

Section 2: Amend Section 20.38.060 (Nonconforming Parking) of Title 2 (Planning and Zoning) of the Newport Beach Municipal to read as follows:

20.38.060 Nonconforming Parking.

A. Residential. Where a residential structure or use is nonconforming only because it does not conform to the off-street parking requirements of this Zoning Code, only the following alterations may be allowed:

1. Number of Spaces. A residential development having less than the required number of parking spaces per dwelling unit shall be allowed the following repairs, alterations, and additions:

- a. Repair and maintenance, interior alterations, and structural alterations, as provided for in Section [20.38.040](#)(A) through (F); and
 - b. Additions up to a maximum of ten (10) percent of the existing floor area of the structure within a ten (10) year period as provided in Section [20.38.040](#)(G).
2. Dimensions or Type of Parking Spaces. Residential developments that are nonconforming because they do not have the required type of covered or enclosed parking spaces or because amendments to this Zoning Code have changed the dimensions of required parking spaces subsequent to the original construction of the structure may be altered or expanded as follows:
 - a. All improvements and expansions allowed under subsection (A)(1) of this section;
 - b. Additions larger than those allowed under subsection (A)(1) of this section may be allowed subject to the approval of a modification permit in compliance with Section [20.52.050](#) (Modification Permits).
3. Exception for Cottage Preservation. Notwithstanding the provisions of subsections (A)(1) and (A)(2) of this section, additions of up to fifty (50) percent of the existing floor area of the structure are permitted for projects that remodel and expand a smaller residential dwelling or structure representative of the traditional development patterns in the City, result in the preservation of the cottage character, and comply with the following criteria:
 - a. The floor area of any addition, together with the floor area of the existing structure, shall not exceed the allowed maximum floor area for the zoning district;
 - b. The addition shall comply with all applicable development standards and use regulations of this Zoning Code;
 - c. The square footage of residential parking area additions identified below shall be excluded from the allowed expansion under subsection (A)(3), but shall be included as gross floor area;

Required Parking	Maximum Excluded Area
One-car garage	200 square feet, maximum
Two-car garage	400 square feet, maximum
Three-car garage	600 square feet, maximum

d. The height of the resulting structure shall not exceed the following, regardless of roof pitch:

- i. Front half of lot: one story and 16 feet; and
- ii. Rear half of lot: two stories and 24 feet.

e. The residential structure shall not include third floor deck; and

f. Deed Restriction and Recordation Required. Prior to the issuance of a building permit for a cottage preservation project, the property owner shall record a deed restriction with the County Recorder's Office, the form and content of which is satisfactory to the City Attorney, agreeing to maintain the property consistent with the limitations specified above for cottage preservation. The deed restriction document shall notify future owners of the restriction. This deed restriction shall remain in effect so long as the cottage preservation project exists on the property.

Attachment No. PC 2

Draft Resolution- Local Coastal Program
Amendments (including Title 21)

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RESOLUTION NO. PC2019-034

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, RECOMMENDING CITY COUNCIL AUTHORIZE SUBMITTAL OF LOCAL COASTAL PROGRAM AMENDMENT NO. LC2019-004 TO THE CALIFORNIA COASTAL COMMISSION TO AMEND TITLE 21 (LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN) OF THE CITY OF NEWPORT BEACH MUNICIPAL CODE AND THE CITY OF NEWPORT BEACH LOCAL COASTAL PROGRAM COASTAL LAND USE PLAN RELATED TO COTTAGE PRESERVATION (PA2019-181)

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

SECTION 1. STATEMENT OF FACTS.

1. Section 30500 of the California Public Resources Code requires each county and city to prepare a local coastal program ("LCP") for that portion of the coastal zone within its jurisdiction.
2. In 2005 the City of Newport Beach ("City") adopted the City of Newport Beach Local Coastal Program Coastal Land Use Plan ("Local Coastal Program") as amended from time to time including most recently on January 22, 2019, via Resolution No. 2019-8.
3. The California Coastal Commission effectively certified the City's Local Coastal Program Implementation Plan on January 13, 2017, and the City added Title 21 (Local Coastal Program Implementation Plan) ("Title 21") to the Newport Beach Municipal Code ("NBMC") whereby the City assumed coastal development permit-issuing authority as of January 30, 2017.
4. An amendment to Title 21 and the Local Coastal Program is necessary to incentivize the preservation of cottages ("LCP Amendments").
5. Pursuant to Section 13515 of the California Code of Regulations Title 14, Division 5.5, Chapter 8, drafts of the LCP Amendments were made available and a Notice of Availability was distributed on October 4, 2019 at least six (6) weeks prior to the anticipated final action date.
6. A public hearing was held by the Planning Commission on October 17, 2019, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with the California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and Chapter 21.62 of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

The action proposed herein is not a project subject to the California Environmental Quality Act ("CEQA") in accordance with Section 21065 of the California Public Resources Code and Sections 15060 (c)(2), 15060 (c)(3), and 15378 of the California Code of Regulations Title 14, Division 6, Chapter 3 ("CEQA Guidelines"). The proposed action is also exempt pursuant to CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Lastly, pursuant to CEQA Guidelines Section 15265(a)(1), local governments are statutorily exempt from the requirements of CEQA in connection with the adoption of a local coastal program. The LCP Amendment itself does not authorize development that would directly result in physical change to the environment.

SECTION 3. FINDINGS.

1. Authorizing the amendment to Title 21 (Local Coastal Program Implementation Plan) of the NBMC and the City's Local Coastal Program would incentivize the preservation of cottages by increasing the percentage of an allowed addition to a nonconforming residential structure due to parking from ten (10) percent to fifty (50) percent of the existing floor area, thereby eliminating a design constraint that has resulted in property owners choosing to demolish older cottages and redevelop properties with new, larger, three (3)-level homes that maximize the allowable building envelope.
2. 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.
3. The Local Coastal Program and Title 21, including the proposed LCP Amendments, will be carried out fully in conformity with the California Coastal Act.
4. 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:

1. The Planning Commission finds the LCP Amendments are not a project subject to CEQA pursuant to Section 21065 of CEQA and CEQA Guidelines Sections 15060 (c)(2), 15060 (c)(3), and 15378. The proposed action is also exempt pursuant to CEQA Guidelines Section 15061(b)(3) because it has no potential to have a significant effect on the environment. Finally, the adoption of local coastal programs are statutorily exempt according to Section 15265(a)(1) of the CEQA Guidelines.

2. The Planning Commission of the City of Newport Beach hereby recommends submittal of Local Coastal Program Amendment No. LC2019-004 related to cottage preservation, amending Section 21.38.060 (Nonconforming Parking) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code and amending the City of Newport Beach Local Coastal Program Coastal Land Use Plan as set forth in Exhibit "A," which is attached hereto and incorporated herein by reference, to the California Coastal Commission.

PASSED, APPROVED, AND ADOPTED THIS 17th DAY OF OCTOBER, 2019.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Peter Koetting, Chairman

BY: _____
Lee Lowrey, Secretary

EXHIBIT “A”**Proposed Amendment to the City of Newport Beach Local Coastal Program
Related to Cottage Preservation (LC2019-004)**

Section 1: Amending Policy 2.9.3-8 of Chapter 2.0 (Land Use and Development) of the Coastal Land Use Plan as follows, with all other provisions of the Coastal Land Use Plan remaining unchanged:

2.9.3-8 Continue to require properties with nonconforming parking to provide code-required off-street parking when new uses, alterations, or additions result in increased parking demand. However, additions of up to fifty (50) percent of the existing floor area of a residential development may be allowed without requiring the code-required parking when the project would result in the preservation of the cottage character of the development and a building envelope representative of traditional cottage development patterns in the City.

Section 2: Amend Section 21.38.060 (Nonconforming Parking) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code to read as follows:

21.38.060 Nonconforming Parking.

A. Residential. Where a residential structure or use is nonconforming only because it does not conform to the off-street parking requirements of this Implementation Plan, the following provisions shall apply:

1. Number of Spaces. A residential development having less than the required number of parking spaces per dwelling unit shall be allowed the following repairs, alterations, and additions:
 - a. Repair and maintenance, interior alterations, and structural alterations, as provided for in Section [21.38.040](#)(A) through (F);
 - b. Additions up to a maximum of ten (10) percent of the existing floor area of the structure as provided in Section [21.38.040](#)(G);
 - c. Any repair, maintenance, or additions shall not result in loss of existing parking spaces; and
 - d. Required parking shall be provided where feasible.
2. Dimensions or Type of Parking Spaces. Residential developments that are nonconforming because they do not have the required type of covered or enclosed parking spaces or because amendments to this Implementation Plan

have changed the dimensions of required parking spaces subsequent to the original construction of the structure may be altered or expanded as follows:

- a. All improvements and expansions allowed under subsection (A)(1) of this section;
 - b. Additions larger than those allowed under subsection (A)(1) of this section may be allowed subject to the approval of a coastal development permit.
3. Alley Access. Where applicable, residential development involving repairs, alterations, and additions to residential development having less than the required number of parking spaces per dwelling unit shall provide alley access to parking area if it would result in additional public street parking.
4. Exception for Cottage Preservation. Notwithstanding the provisions of subsections (A)(1) and (A)(2) of this section, additions of up to fifty (50) percent of the existing floor area of the structure are permitted for projects that remodel and expand a smaller residential dwelling or structure representative of the traditional development patterns in the City, result in the preservation of the cottage character, and comply with the following criteria:
 - a. The floor area of any addition, together with the floor area of the existing structure, shall not exceed the allowed maximum floor area for the coastal zoning district;
 - b. The addition shall comply with all applicable development standards and use regulations of this Implementation Plan;
 - c. The square footage of residential parking area additions identified below shall be excluded from the allowed expansion under subsection (A)(4), but shall be included as gross floor area;

Required Parking	Maximum Excluded Area
One-car garage	200 square feet, maximum
Two-car garage	400 square feet, maximum
Three-car garage	600 square feet, maximum

- d. The height of the resulting structure shall not exceed the following, regardless of roof pitch:
- i. Front half of lot: one story and 16 feet; and
 - ii. Rear half of lot: two stories and 24 feet.
- e. The residential structure shall not include third floor deck; and
- f. The addition complies with the limitations of Section 21.38.040(G)(1).

Attachment No. PC 3

April 23, 2019, City Council Study Session
Minutes

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CITY OF NEWPORT BEACH

City Council Minutes Study Session and Regular Meeting April 23, 2019

I. ROLL CALL - 4:00 p.m.

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

II. CURRENT BUSINESS

SS1. Clarification of Items on the Consent Calendar

Mayor Dixon announced she will be requesting that the minutes (Item 1) be continued to the May 14, 2019 City Council meeting.

In response to Council Member Muldoon's questions, Public Works Director Webb indicated the contract for Item 7 would need to be modified if organics were to be used and there would be no pesticide usage related to Item 8.

Prior to responding to Council Member Brenner's question regarding Item 5, ***Council Member Muldoon recused himself due to property interest conflicts.*** City Manager Leung and Public Works Director Webb noted Item 5 is for playground equipment replacement and only new equipment requests need to be discussed at a Parks, Beaches and Recreation Commission meeting.

SS2. *Poppy Month Proclamation*

Carolyn Whitlinger and Debbie Schubert, American Legion Auxiliary, provided the background on *Poppy Month* and received the proclamation from Mayor Dixon. Council Member Brenner expressed the importance of *Poppy Month*.

SS3. *CASA of Orange County Day Proclamation*

Stefanie Gillett provided Court Appointed Special Advocate's (CASA's) background, gave pinwheels to each of the Council Members, discussed *Foster Care Awareness Month* and the CASA Pinwheel Project (CASAoc.org/events), and received the proclamation from Mayor Dixon.

SS4. Recognition of Ford W. Fairon

Chief Lewis, on behalf of the Police and Fire Departments, commended Ford Fairon for his bravery and heroic actions on January 21, 2019. Ford Fairon thanked the Police and Fire Departments for being our everyday heroes, and received the proclamation from Mayor Dixon.

SS5. Potential Changes to Residential Development Standard to Preserve Cottages and Address 3rd Story Massing

Community Development Director Jurjis and Principal Planner Ramirez utilized a PowerPoint presentation to display the location map and discuss reasons the City is losing beach cottages, cottage sizes, the number of cottages in the City, standards for Council to study, and the amendment process.

Discussion ensued relative to increasing buildable square footage for cottage owners if they maintain a single story, finding incentives to keep the cottages, conducting extensive outreach before any code amendment occurs, streamlining the process, considering amending parking requirements for cottages, and discussed how many cottages have been replaced with larger homes.

Ron Yeo provided a handout, indicated he inventoried the current cottages in Corona del Mar, believed parking is the biggest issue, and expressed hope the City could assist with keeping the cottages in the City.

Jerry Jansen, past President of the Balboa Island Improvement Association, expressed support for retaining cottages and allowing them to rebuild in the same or similar footprint without requiring parking.

Tanya, cottage owner, indicated she would like to expand a little but cannot due to the parking restrictions.

Nancy Arrache expressed concern with setbacks and amending parking standards in high density areas.

Mark Becker expressed support for preserving Balboa Island's uniqueness.

David Tanner believed parking exceptions should be made to preserve the cottages.

Gary Cruz requested and received clarification that redevelopment does not have to be done by the original cottage owner and there is no restriction to the number of people living in a home.

Andrew Goetz believed an owner should be able to fix other parts of the home without triggering a complete teardown.

Karen Tringali expressed support for the cottage community.

Denys Oberman believed parking problems are created by the larger buildings and that this issue should be considered with the City's total housing stock.

Regarding residential height and massing, Senior Planner Ramirez utilized a PowerPoint presentation to display a map of high density neighborhoods and discuss the goals of the 2010 code amendments, R-1 and R-2 height and bulk standards, third story covered decks, issues in the RM Zoning District, changes for Council to consider, and the amendment process.

Discussion ensued relative to how staircases and vaulted ceilings are counted toward the total square footage, setbacks, third story decks, height and floor area standards in RM Zoning Districts, and design articulation.

Ron Yeo discussed third stories and suggested counting covered deck areas as square footage.

Mark Becker believed the large envelopes are destroying the intimacy in neighborhoods and provided his recommendations.

Vicky Swanson indicated she cannot enjoy her home because the houses next to her are too large and she loses light.

Andrew Goetz expressed concern with the wall heights relative to the roof and suggested minimizing the wall area around cabanas or minimizing the amount of ridge area that sits on the lot.

Denys Oberman took issue with the 2010 code changes and highlighted confusing terminology.

David Tanner requested that any change to the code not make areas worse, questioned how height limits will account for sea level rise, and believed single family homes are being rented as duplexes.

Linda Watkins questioned how a large home was built in a gated community and requested the City tighten the zoning codes.

Jim Mosher noted that the code contains a section about ministerial design criteria that applies to all areas of the City and asked how they are being applied.

Karen Tringali indicated the City may adjust the code to preserve the nature and qualities of certain neighborhoods.

Council indicated that potential considerations moving forward include counting two-story vaulted ceilings, all levels of staircases and anything with a roof as square footage; maintaining the setback that was allowed between multiple lots; ensuring property rights are maintained; revisiting how third story decks are handled with preference of having all sides open; and expediting the simpler issues.

With Mayor Pro Tem O'Neill dissenting, the majority of Council requested the City Attorney look into implementing a moratorium on RM Zoning District conversions to single-family homes, believing a standard height limit should be set for all single-family homes.

SS6. On-Street Parking Impacts Due to Construction Activities

Community Development Director Jurjis and Deputy Community Development Director Ghosn utilized a PowerPoint presentation to provide the background and discuss the public outreach meetings, feedback received, and staff suggestions.

Discussion ensued relative to implementing rules only in areas that are most impacted by this issue, not allowing Saturday construction, the importance of code enforcement, determining if all parts of the City would want to utilize the signage, and looking at short term lodging impacts separately.

Council Member Herdman expressed his gratitude to staff for the attempt, but felt it best not to move forward with this effort.

Nancy Orazi expressed concerns with the number of short term lodging on the Peninsula and Balboa Island, and noted that parking issues are also due to other sources, not just contractors.

Jeff Stolrow discussed parking impacts and safety concerns due to construction on Lido Isle.

Gary Cruz expressed concerns regarding parking impacts and disturbances due to construction on Newport Island, and requested notification about meetings regarding this issue.

Vicky Swanson believed the City should require construction management plans.

David Tanner believed short term lodging adds to the parking issues and the City should identify how the code is being gamed.

Mayor Dixon indicated short term lodging issues will be coming before Council at a later date.

Council unanimously concurred to bring back an item to add a parking enforcement person through AmeriPark for seasonal parking enforcement; Mayor Dixon and Council Members Duffield, Herdman and Brenner concurred that no construction should occur on Saturdays; and all Council Members, except for Council Member Avery, concurred that the restrictions should only apply in high density areas.

SS7. City Emergency Council Update

The item was continued to a future meeting.

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Attachment No. PC 4

City Council Resolution No. 2019-43

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RESOLUTION NO. 2019-43

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, INITIATING AMENDMENTS TO TITLE 20 ENTITLED "PLANNING AND ZONING" AND TITLE 21 ENTITLED "LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN" OF THE CITY OF NEWPORT BEACH MUNICIPAL CODE RELATED TO MASSING OF THREE STORY RESIDENTIAL STRUCTURES AND DEVELOPMENT STANDARDS FOR SMALL BEACH COTTAGES (PA2019-070)

WHEREAS, Newport Beach Municipal Code ("NBMC") Section 20.66.020 provides that the City Council of the City of Newport Beach ("City Council") may initiate an amendment to NBMC Title 20 with or without a recommendation from the Planning Commission;

WHEREAS, City Council Policy K-1 entitled "General Plan and Local Coastal Program" requires amendments to the City of Newport Beach certified Local Coastal Program codified in NBMC Title 21 to be initiated by the City Council;

WHEREAS, the City Council desires to modify regulations related to third story residential building massing and provide flexibility in certain development standards that may allow more improvements to smaller beach cottages; and

WHEREAS, in order to implement the aforementioned modifications, amendments to Title 15, Title 20 and Title 21 are required.

NOW, THEREFORE, the City Council of the City of Newport Beach resolves as follows:

Section 1: The City Council hereby initiates amendments to NBMC Title 20 "Planning and Zoning" and Title 21 "Local Coastal Program Implementation Plan" to modify regulations relating to nonconforming structures, nonconforming parking, off-street parking spaces required, residential development standards and design criteria and associated definitions of specialized terms and phrases. Modifications to Title 15 may be implemented as authorized by the NBMC.

Section 2: If any section, subsection, sentence, clause or phrase of this resolution is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 3: The recitals provided in this resolution are true and correct and are incorporated into the substantive portion of this resolution.

Section 4: The City Council finds the adoption of this resolution is categorically exempt pursuant to Title 14, Division 6, Chapter 3, of the California Code of Regulations, Section 15262 (Feasibility and Planning Studies) Guidelines for Implementation of the California Environmental Quality Act ("CEQA"). Section 15262 exempts projects involving feasibility or planning studies for possible future actions which the agency, board, or commission has not approved or adopted.

Section 5: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting this resolution.

ADOPTED this 14TH day of May, 2019.

Diane B. Dixon
Mayor

ATTEST:

Leilani I. Brown
City Clerk



APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

Aaron C. Harp
City Attorney

STATE OF CALIFORNIA }
COUNTY OF ORANGE }
CITY OF NEWPORT BEACH } ss.

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; the foregoing resolution, being Resolution No. 2019-43 was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 14th day of May, 2019; and the same was so passed and adopted by the following vote, to wit:

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

NAYS: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 15th day of May, 2019.



Leilani I. Brown
City Clerk
Newport Beach, California



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Attachment No. PC 5

Redline Strikeout Version of Amendments

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Cottage Preservation (PA2019-181)

Proposed Zoning Code Amendments

20.38.060 Nonconforming Parking.

A. Residential. Where a residential structure or use is nonconforming only because it does not conform to the off-street parking requirements of this Zoning Code, only the following alterations may be allowed:

1. Number of Spaces. A residential development having less than the required number of parking spaces per dwelling unit shall be allowed the following repairs, alterations, and additions:

- a. Repair and maintenance, interior alterations, and structural alterations, as provided for in Section [20.38.040](#)(A) through (F); and
- b. Additions up to a maximum of ten (10) percent of the existing floor area of the structure within a ten (10) year period as provided in Section [20.38.040](#)(G).

2. Dimensions or Type of Parking Spaces. Residential developments that are nonconforming because they do not have the required type of covered or enclosed parking spaces or because amendments to this Zoning Code have changed the dimensions of required parking spaces subsequent to the original construction of the structure may be altered or expanded as follows:

- a. All improvements and expansions allowed under subsection (A)(1) of this section;
- b. Additions larger than those allowed under subsection (A)(1) of this section may be allowed subject to the approval of a modification permit in compliance with Section [20.52.050](#) (Modification Permits).

3. Exception for Cottage Preservation. Notwithstanding the provisions of subsections (A)(1) and (A)(2) of this section, additions of up to fifty (50) percent of the existing floor area of the structure are permitted for projects that remodel and expand a smaller residential dwelling or structure representative of the traditional development patterns in the City, result in the preservation of the cottage character, and comply with the following criteria:

- a. The floor area of any addition, together with the floor area of the existing structure, shall not exceed the allowed maximum floor area for the zoning district;

b. The addition shall comply with all applicable development standards and use regulations of this Zoning Code;

c. The square footage of residential parking area additions identified below shall be excluded from the allowed expansion under subsection (A)(3), but shall be included as gross floor area;

<u>Required Parking</u>	<u>Maximum Excluded Area</u>
<u>One-car garage</u>	<u>200 square feet, maximum</u>
<u>Two-car garage</u>	<u>400 square feet, maximum</u>
<u>Three-car garage</u>	<u>600 square feet, maximum</u>

d. The height of the resulting structure shall not exceed the following, regardless of roof pitch:

i. Front half of lot: one story and 16 feet; and

ii. Rear half of lot: two stories and 24 feet.

e. The residential structure shall not include third floor deck; and

f. Deed Restriction and Recordation Required. Prior to the issuance of a building permit for a cottage preservation project, the property owner shall record a deed restriction with the County Recorder's Office, the form and content of which is satisfactory to the City Attorney, agreeing to maintain the property consistent with the limitations specified above for cottage preservation. The deed restriction document shall notify future owners of the restriction. This deed restriction shall remain in effect so long as the cottage preservation project exists on the property.

Proposed Building Code Amendment

15.02.060 Added to Section 102.7.

Section 102.7 is added to read as follows:

Section 102.7 Remodel or renovation. If the valuation of the permit for the remodel or renovation of a building is equal to or exceeds 50 percent of the market value of such building, then the entire building shall comply with the Code provisions for new construction.

Exceptions:

1. This provision does not apply for permit valuations less than \$209,000;
2. The Chief Building Official is authorized to accept less than the requirements for new construction if substantial conformance to the requirements is found and the protection of life and property are maintained.
3. This provision does not apply to projects meeting the criteria for cottage preservation pursuant to Section 20.38.060(A)(3) and not located in a Special Flood Hazard Area per the latest revision of the Federal Insurance Rate Map.

Proposed Local Coastal Program Amendment

21.38.060 Nonconforming Parking.

A. Residential. Where a residential structure or use is nonconforming only because it does not conform to the off-street parking requirements of this Implementation Plan, the following provisions shall apply:

1. Number of Spaces. A residential development having less than the required number of parking spaces per dwelling unit shall be allowed the following repairs, alterations, and additions:

- a. Repair and maintenance, interior alterations, and structural alterations, as provided for in Section [21.38.040](#)(A) through (F);
- b. Additions up to a maximum of ten (10) percent of the existing floor area of the structure as provided in Section [21.38.040](#)(G);
- c. Any repair, maintenance, or additions shall not result in loss of existing parking spaces; and
- d. Required parking shall be provided where feasible.

2. Dimensions or Type of Parking Spaces. Residential developments that are nonconforming because they do not have the required type of covered or enclosed parking spaces or because amendments to this Implementation Plan have changed the dimensions of required parking spaces subsequent to the original construction of the structure may be altered or expanded as follows:

- a. All improvements and expansions allowed under subsection (A)(1) of this section;
- b. Additions larger than those allowed under subsection (A)(1) of this section may be allowed subject to the approval of a coastal development permit.

3. Alley Access. Where applicable, residential development involving repairs, alterations, and additions to residential development having less than the required number of parking spaces per dwelling unit shall provide alley access to parking area if it would result in additional public street parking.

4. Exception for Cottage Preservation. Notwithstanding the provisions of subsections (A)(1) and (A)(2) of this section, additions of up to fifty (50) percent of the existing floor area of the structure are permitted for projects that remodel and expand a smaller residential dwelling or structure representative of the traditional development patterns in the City, result in the preservation of the cottage character, and comply with the following criteria:

a. The floor area of any addition, together with the floor area of the existing structure, shall not exceed the allowed maximum floor area for the coastal zoning district;

b. The addition shall comply with all applicable development standards and use regulations of this Implementation Plan;

c. The square footage of residential parking area additions identified below shall be excluded from the allowed expansion under subsection (A)(4), but shall be included as gross floor area;

<u>Required Parking</u>	<u>Maximum Excluded Area</u>
<u>One-car garage</u>	<u>200 square feet, maximum</u>
<u>Two-car garage</u>	<u>400 square feet, maximum</u>
<u>Three-car garage</u>	<u>600 square feet, maximum</u>

d. The height of the resulting structure shall not exceed the following, regardless of roof pitch:

i. Front half of lot: one story and 16 feet; and

ii. Rear half of lot: two stories and 24 feet.

e. The residential structure shall not include third floor deck; and

f. The addition complies with the limitations of Section 21.38.040(G)(1).

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Attachment No. PC 6

Coastal Zone Map

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