



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

November 21, 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  
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### **PROJECT SUMMARY**

The Planning Commission reviewed the proposed amendments on October 17, 2019, and voted to continue the item to allow staff additional time to revise certain aspects of the amendments. Staff has incorporated changes to address concerns raised at the hearing, including clarifying the applicability of the program, prohibiting short-term rentals, and reducing the amount of expansion permitted.

The proposed amendments to the Local Coastal Program (Coastal Land Use Plan and Implementation Plan), Newport Beach Municipal Code (NBMC) Title 20 (Planning and Zoning), and NBMC Title 15 (Building and Construction) will provide a voluntary option for homeowners seeking to remodel, but 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 (up to 50 percent of the existing floor area or 500 square feet, whichever is greater) 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;

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- 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.

## **BACKGROUND**

On October 17, 2019, staff presented the proposed amendments to the Planning Commission for review and recommendation. The following comments were raised by Commissioners:

- One-size-fits-all approach to preservation may not be appropriate given that differences that exist in various areas of the City;
- Additional community outreach may be warranted to individual communities;
- The 50-percent expansion allowance may be too high; and
- Deed restriction requirement may be dissuade effectiveness of amendments.

Four comment letters were also submitted expressing concern with the proposed amendments (Attachment No. 3). The primary concerns raised include:

- Areas where cottages are more prevalent are already impacted by a lack of on-street parking and allowing larger additions for cottages will exacerbate an area's parking deficiency;
- Consider a cap or floor area limit for cottages;
- Should only apply to single-family residences;
- Prohibit short-term rental use; and
- Prohibit second level decks.

Four verbal comments were made at the hearing by members of the public. One comment was in support and shared the overwhelming public support that was expressed at the previous community meeting. Two comments were made in opposition reiterating the written comments submitted. Lastly, one comments raised technical corrections to the language and noticing process.

At the conclusion of the meeting, the Commission voted 5-2 to continue the item to allow staff additional time to draft language applicable to specific areas, reconsider applicability to duplexes and triplexes, and reduce the allowable percentage of addition.

The October 17, 2019, Planning Commission staff report is included as Attachment No. PC4, and includes project background, results of August 19, 2019, community meeting, and project details. Draft minutes from the hearing are included as Attachment No. PC5.

The October 17, 2019, Planning Commission staff report is included as Attachment No. PC 4, and includes project background, results of the August 19, 2019, community meeting, and project details. Draft minutes from the hearing are included as Attachment No. PC 5.

## **DISCUSSION**

### **Proposed Revisions**

#### *Applicability – Three Units or Less*

The original draft code language allowed any residential development project to take advantage of the cottage preservation amendments, regardless of unit count. For example, a single-unit dwelling or 10-unit apartment building development could equally take advantage of the amendments, provided the project fits within the building envelope requirements.

Comments received at the previous Planning Commission hearing requested that the proposed amendments should only apply to single-unit dwellings; however, the intent of these code amendments was to incentivize the preservation of cottages that are representative of the historic areas of the City, such as Corona del Mar, Balboa Island, and the Balboa Peninsula. A majority of the lots in these areas allow two-unit development and include two-unit cottages. In Corona del Mar, the 300 block of Marguerite Avenue is zoned for multi-unit residential and several of the lots are currently developed with three-unit cottages (see Figure 1 below). Restricting applicability of these amendments to only single-unit dwellings would have the effect of excluding a majority of the cottages in Corona del Mar and Balboa Island from taking advantage of this new incentive.

*Figure 1. Three-Unit Cottage Example on Marguerite Avenue*



Furthermore, it is not uncommon for a property owner to live in the front unit of a duplex and rent out the smaller, rear unit for income. Allowing a property owner of a duplex to remodel and expand their front unit would provide a realistic alternative to redeveloping the entire property. Therefore, staff is recommending that the cottage preservation incentives apply to residential developments consisting of three (3) units or less. By restricting the applicability to single-unit dwellings only, staff believes the ordinance would be ineffective and not achieve the desired goal and intent.

#### *Short-Term Lodging Prohibition*

If a cottage is currently used for short-term lodging, the added floor area could increase occupancy and could exacerbate existing potential conflicts including increased demand for on-street parking and removal of rental units from the housing stock. Therefore, staff has revised the code language to include a prohibition of the use of the property for short-term rentals. This prohibition will be included in the required deed restriction.

#### *Maximum Addition*

Although the original intent was to create a significant incentive to the preservation of these cottages by allowing a maximum addition of 50 percent of the existing floor area (with no upper limit), in certain situations this may allow for large additions beyond the original intent. Multiple ideas were shared at the previous Planning Commission hearing to resolve this concern, including: 1) reducing the percentage of allowable addition from 50 to 25 percent; 2) allowing a 50-percent addition but no more than 750 square feet maximum; and 3) limiting the total floor area of the development to 75 percent of the maximum allowed on the site.

After further research and consideration, staff believes retaining the 50 percent addition allowance, but adding a maximum cap of 500 square feet is appropriate. This would allow for small, single-unit cottages a reasonable size addition (e.g., 1000 sf dwelling x 50%= 500 sf addition). However, to prevent larger cottages, such as a two-unit cottage on Balboa Island from benefiting from a larger addition and potentially impacting the area, the 500-square-foot cap retains the original intent of allowing smaller, reasonable sized additions (e.g., 2,325 sf, 2-unit cottage x 50% = 1162.5 sf addition; 500 sf cap results in a 22% addition).

#### Additional Response to Comments

##### *One-Size-Fits-All Approach – Case Study*

A concern was made that cottages are slightly different in each area of the City and that this one-size-fits-all approach to preservation may not be appropriate. However, the intent of the amendments is to provide an alternative to redeveloping cottage properties by providing a voluntary option or incentive for preservation. To ensure that this program is successful and can apply to a wide variety of projects and circumstances, it is important

to maintain the limitations as general as possible. The more restrictions that are imposed for project eligibility reduces the attractiveness of this program and may drive a property owner to redevelop their property, eliminating the traditional cottage

To evaluate how this program would affect cottages in different areas, staff prepared a case study exhibit (Attachment No. PC 6) for eight randomly selected cottage properties, two on the Balboa Peninsula, two on Balboa Island, two in Corona del Mar, and two in Newport Heights. The case study illustrates differences that exist on these properties and typical configuration depending on location. For example, in Newport Heights, cottages are located on larger lots, consist of larger single-unit dwellings and provide two-car garages that are nonconforming due to size. In Corona del Mar and Balboa Island, cottages typically consist of duplexes located on smaller lots and are nonconforming due to number of spaces provided. The exhibit illustrates that the 50 percent addition allowance is appropriate for smaller cottages, but for larger cottages or multi-unit cottages, the allowance would allow for an addition deemed too large. However, with the proposed 500-square-foot cap applied, an appropriate limit on additions to larger cottages results.

What is common in most cases is the existing building envelope consisting of single-story structures, with the exception of second-story elements located on the rear half of the lots. Therefore, staff believes the most important feature to retain is this character-defining feature of historic cottages in the community. As illustrated in Figure 2, allowing a second floor addition at the front half of the lot along the street completely removes the cottage character and results in a more dominant street presence. The additional proposed prohibitions on short-term lodging and 500-square-foot addition limitation will further ensure that these projects remain compatible with the various communities within which they are located.

*Figure 2 – Street Presence and Cottage Character*







### *Parking Concerns*

Not all cottages are nonconforming due to the number of parking spaces, but may be nonconforming due to the size of parking spaces. Most single-unit dwelling cottages provide two parking spaces, but due to changes in Zoning Code requirements for minimum interior clear garage dimensions for lots wider than 40 feet (17'6" wide x 19' deep [old standard] vs. 20' wide x 20' deep [current standard]), are now considered nonconforming due to parking and are limited to the 10 percent addition limitation. Allowing for increased expansions should not have an impact on the availability of on-street parking spaces in these cases.

Most multi-unit cottages appear to provide at least one space per unit, whereas two spaces per unit would be required under current standards. In these cases, the proposed amendments would allow an expansion to developments that are nonconforming due to number of spaces. Whether or not they would exacerbate the lack of on-street parking in neighborhoods is not clear. Many times proposed expansions are related to expanding the size of existing rooms, such as kitchens, living rooms, and bedrooms to modernize them and enhance their livability, which do not necessarily increase parking demand. Another factor to consider is that many new developments that maximize the building envelope may contain a ratio of more bedrooms to parking than what an expanded cottage would provide.

Staff believes applying the overall 500-square-foot cap limitation will ensure that nonconforming cottages are not excessively enlarged, thereby reducing potential impacts related to increased parking demands resulting from these projects.

### *Deed Restriction*

It is important to emphasize that this is a voluntary program that affords property owners increased opportunity to remodel and expand their cottage properties in exchange for preserving the cottage building envelope and overall form of the development of the property. To ensure this building envelope is retained and the property owner doesn't subsequently add additional floor area that violates the prescribed building envelope, a deed restriction would be required. However, the deed restriction would not require that the cottage be preserved indefinitely. Should a property owner desire to redevelop the property in future, the deed restriction would allow redevelopment of the property in compliance with development standards in effect at the time, including providing code-required parking.

### *Prohibition of 2<sup>nd</sup> Floor Decks*

A comment raised suggested that second floor decks should also be prohibited.. However, roof decks are common amenities and it is not uncommon for older cottages to provide a second level deck above the first floor living area. Figure 3 illustrates an example of a traditional cottage located in Balboa Island with a second level deck. The deck does not detract from the cottage character or impose on the street elevation. Staff believes allowing second level decks remains appropriate provided they comply with the proposed cottage building envelope of one-story in the front half of the lot at a maximum height of 16 feet and two stories in the rear half of lot at a maximum height of 24 feet. The draft amendments would prohibit third floors and third floor decks

*Figure 3- Examples of Traditional Cottage with 2<sup>nd</sup> Level Deck*





### *Community Outreach*

As detailed in the October 17, 2019, Planning Commission staff report, Community Development Department staff hosted a community meeting on August 19, 2019. Notice of the meeting was distributed to affected homeowners associations, distributed as a News Splash (email notification) to interested members of the community whom have requested notice of important planning and land use activities in the City, and distributed to a list of known designers and architects that work in Newport Beach. The meeting was well attended by 64 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.

Furthermore, on September 10, 2019, staff held a study session with the City Council to share the results of the August Community Meeting and proposed code amendments addressing residential design standards and efforts to reduce bulk and mass of new residential developments. At the conclusion of the study session, City Council directed staff to continue refining amendments related to third floor mass and open space, but directed staff to proceed with the cottage preservation amendments as proposed.

### 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. Although not required, the notice has also been posted online.

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 Correspondence Received
- PC 4 October 17, 2019, Planning Commission Staff Report
- PC 5 October 17, 2019, Draft Planning Commission Meeting Minutes
- PC 6 Case Study Comparison

## **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.
3. At the conclusion of the October 17, 2019, hearing, the Planning Commission voted to continue the item to allow staff additional time to revise certain aspects of the amendments. Requested changes included clarifying the applicability, prohibiting short-term rentals, and reducing the amount of expansion permitted.
4. A public hearing was held by the Planning Commission on November 21, 2019, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act 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 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 21ST DAY OF NOVEMBER, 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. 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.
3. 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.

**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)(b) and (A)(2)(b) of this section, additions of up to fifty (50) percent of the existing floor area of the structure, but no more than 500 square feet, are permitted for projects that remodel and expand a smaller residential dwelling, duplex, or triplex that is 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;

<b>Required Parking</b>	<b>Maximum Excluded Area</b>
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;

f. Dwellings within the residential development shall not be rented for periods of less than thirty (30) days; and

g. 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 and the restrictions on short-term lodging. 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 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.
7. At the conclusion of the October 17, 2019, hearing, the Planning Commission voted to continue the item to allow staff additional time to revise certain aspects of the

amendments. Requested changes included clarifying the applicability, prohibiting short-term rentals, and reducing the amount of expansion permitted.

8. A public hearing was held by the Planning Commission on November 21, 2019, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act 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. 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, 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 21ST DAY OF NOVEMBER, 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)(b) and (A)(2)(b) 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, duplex, or triplex that is 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;

<b>Required Parking</b>	<b>Maximum Excluded Area</b>
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;
- f. Dwellings within the residential development shall not be rented for periods of less than thirty (30) days; and
- g. The addition complies with the limitations of Section 21.38.040(G)(1).

## **Attachment No. PC 3**

Correspondence Received

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October 15, 2019

To: Planning Commissioners, City Council, City Planning Department

Ref. Planning Commission Public Hearing October 17, 2019  
Cottage Preservation Code and LCP Amendments (PA2019-181)  
Code Amendment No. CA2019-006  
Local Coastal Program Amendment No. LC2019-004

Subject: Comments to Staff Report and Proposed Amendments

Planning Commissioners, et al,

Regarding the proposed Cottage Preservation Code and LCP Amendments (PA2019-181), hereafter called the "Amendments", the Staff Report seems insufficient as it does not address the consequences of implementing the proposed Amendments in detail. Street parking in the areas in question (Balboa Island, Corona Del Mar, Balboa Peninsula, etc) is already severely impacted as result of grandfathered on-site parking inadequacy and already granted local business parking waivers. To better understand the parking impact to the local communities the evaluation should provide a comprehensive list of all the properties that could qualify as a Cottage Preservation project under the proposed Amendments including the off-street parking availability for each and all the properties and the cumulative parking impact for the specific areas.

Additionally, in reaching out to the Public, it should be done separately for each local community. **If, for example, the Balboa Island residents strongly support the Amendments but the Balboa Peninsula residents do not then the Amendments should be approved just for Balboa Island and not for the other local communities.**

I have several concerns regarding the proposed Amendments as follows:

**1. Cottage Definition and Establishing a Related Maximum Square Footage**

From Oxford, a Cottage is a "**small** simple house". So what is considered small by Newport Beach coastal community standards?

In Corona Del Mar, for the last two decades, many lots have been developed into two-unit dwellings (condos). Most of them have a 3 BRs, 2-1/2 BAs "Front Unit" of about 1,800~1,900 sq ft (plus a 200 sq ft single car garage and a carport) and a 2 BRs, 2-1/2 BAs "Back Unit" of about 1,150~1,250 sq ft (plus a 200 sq ft single car garage and a carport).

In the Balboa Peninsula, many 25' wide lots have been developed into two-unit dwelling, which can be around 1,650 sq ft (plus a 200 sq ft single car garage and a carport) each and typically have 3 BRs, 2-1/2 BAs. And they are, per coastal Newport Beach standards, very nice in size and very livable.

Page 5 of the Staff Report states that, "*for example, a one-story dwelling on a typical Corona Del Mar lot (30'x118') may measure approximately 2,200 square feet in area*". That means said dwelling would be allowed to add 1,100 sq ft in area on a second floor (50% of the existing dwelling area) resulting in a final 3,300 sq ft dwelling after the Cottage Preservation project is completed. Such a dwelling size, by "beach cottage" standards is not small... in fact it is huge! (please refer to previous paragraphs above). Why should we allow this property owner to increase their property size to 3,300 sq ft and not have them provide the off-street parking requirement for two vehicles?

An existing 2,200 sq ft dwelling is already larger than many typical dwellings in Corona Del Mar or the Balboa Peninsula so it is “livable” already. For said reason, I respectfully **recommend the proposed Amendments to be applied only to existing dwellings of smaller square footage. For example, existing dwellings with a maximum size of 1,500 sq ft in area.** That would allow the dwellings area to be increased to a total of 2,250 sq ft, which is more than livable. The additional 750 sq ft area is more than enough to accommodate a master bedroom with a master bathroom, a hallway and stairs to reach a second floor.

As an option, for existing dwellings larger than 1,500 sq ft in area instead of using a 50% maximum development limit, a specific maximum square footage limit of, for example, 2,250 sq ft could be used. In this case, an existing 1,700 sq ft dwelling could only build an addition of up to 550 sq ft (or 32.35% of the existing dwelling area). An existing 1,900 sq ft dwelling could only build an addition of up to 350 sq ft (or 18.42% of the existing dwelling area). And so on. Existing dwellings larger than ~2,045 sq ft would then be allowed to build up to 10% of the existing dwelling area under the current codes without qualifying for the Cottage Preservation Amendments.

## 2. **Amendments Scope of Application – Single Unit versus Two Unit Dwellings per Lot**

During the September 10, 2019 City Council Study Session, it was stated by a Council Member that the proposed Amendments are meant to help, for example, a young small family afford a property in the area (as their primary residence) and for them to be able to increase the dwelling size to make it livable.

First of all, for those of us – residents – who did not inherit a property in Newport Beach, we could not afford to buy our first home in the coastal communities of Newport Beach 30 years ago so the difficulty for young families to be able to afford a property in said areas of our city is not something new.

I can see the scenario described by the Council Member as possible, but the Amendments do not address other possible scenarios. The Amendments are silent about the Cottage Conversion projects to be applied to single-unit dwellings versus two-unit dwellings.

For two-unit dwellings the required off-street parking is for four vehicles total so with the proposed Amendments implementation two-unit dwellings will be allowed to increase their dwelling size by 50% without proper parking spaces. Why? In this case we are not talking about a family remodeling their primary residence; once you have two units you certainly have a **rental business** at the property.

For the same example provided in Page 5 of the Staff Report, a one-story dwelling of 2,200 sq ft would be allowed to increase size by 1,100 sq ft (50% of the existing dwelling area). Such area increase is a lot more than what is needed to add a “master bedroom”. An unscrupulous property owner looking to maximize their rental income could easily add four (4) bedrooms (i.e. 14’x12’, at ~170 sq ft each), a 70 sq ft bathroom plus a hallway and stairs to the second floor – with no extra off-street parking for the additional tenants the dwelling would accommodate. For a two-unit dwelling we very much know one of the units is going to be a rental unit. This is another reason to curtail the size of the qualifying existing dwellings as addressed on Section 1 of this letter.

Due to the above described scenarios, I respectfully **recommend the proposed Amendments to be applied only to existing single-unit dwellings (to be kept as single-unit after the remodel) and NOT to two-unit dwellings.**

## 3. **Amendments Deed Restriction – No Short Term Lodging Permit**

Referring back to the “unscrupulous property owner” described in Section 2 of this letter, who could add 4 BRs and 1 BA to an existing dwelling without adding the normally required off-street parking spaces,

the street parking impact could be worse if the dwelling has a Short Term Lodging Permit (STLP). Once the extra bedrooms are added to a “vacation rental” then the local community will have extra people (i.e. in this case at least 8 additional people) coming and going causing additional parking issues, etc.

Page 6 of the Staff Report states a Revocable Deed Restriction is to be recorded as a legal measure for the current property owner, and future owners, to agree to “*maintain the property consistent with the limitations specified for cottage preservation*”.

An additional restriction that I consider extremely important, and I respectfully **recommend** herein, is for the **Revocable Deed Restriction to include the current property owner, and future owners, agreement to not operate the property as a vacation rental. No STLP should be issued for a property that is redeveloped as part of the proposed Amendments. If the existing dwelling has a current STLP then as part of the Cottage Preservation qualification process said STLP should be revoked.**

#### 4. Further Clarification of “Front half of lot: one story and 16 feet”

Page 4 of the Staff Report shows “*Front half of lot limited to one story and a maximum height of 16 feet*” as one of the building envelope limits for cottage preservation eligibility.

My interpretation of such statement is that, in the front half of the lot, since it is labeled as one story then a second floor deck will not be allowed. It would be best if the Amendments clearly stated/added, after “*The residential structure shall not include third floor deck*”, the following wording “*and shall not include a second floor deck in the front half of lot*”. Such statement would leave no room for interpretation.

Additionally, I have seen properties with a steep roof pitch that – from the outside - appear to be a single level. However, when you walk inside the dwelling it has an extensive loft inside creating significant additional living space (on a second floor). These are dwellings with a 16 foot roof ridge/line. This scenario is even more plausible when the roof line has dormers. Consequently, how is this potential scenario addressed as part of the proposed Amendments?

I truly hope the concerns raised in this letter are seriously considered for incorporation into the final draft of the proposed Amendments prior to their approval. If you have any questions about this letter please do not hesitate to contact me.

Sincerely,

Carmen Rawson  
Resident Balboa Peninsula

949-278-2447 Cell  
[carmen\\_rawson@att.net](mailto:carmen_rawson@att.net)

**From:** [Murillo, Jaime](#)  
**To:** [Lee, Amanda](#); [Rodriguez, Clarivel](#)  
**Subject:** FW: Planning Commission Public Hearing October 17, 2019 - Cottage Preservation Code and LCP Amendments (PA2019-181)  
**Date:** Wednesday, October 16, 2019 1:50:35 PM

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**From:** dan.j.burt@gmail.com <dan.j.burt@gmail.com>  
**Sent:** Wednesday, October 16, 2019 12:15 PM  
**To:** 'Carmen Rawson' <carmen\_rawson@att.net>; Zak, Peter <pzak@newportbeachca.gov>; Weigand, Erik <eweigand@newportbeachca.gov>; Lowrey, Lee <llorey@newportbeachca.gov>  
**Cc:** Dept - City Council <CityCouncil@newportbeachca.gov>; Murillo, Jaime <JMurillo@newportbeachca.gov>; Campbell, Jim <JCampbell@newportbeachca.gov>; Jurjis, Seimone <sjurjis@newportbeachca.gov>; 'Fred Levine' <fredric.mark.levine@gmail.com>; 'Denys Oberman' <dho@obermanassociates.com>; 'Maureen Cotton' <mcotton@integrated8a.com>; cbatley@burrwhite.com; 'Joan Burt' <quinnburt@aol.com>; 'Dr. Peter G. Anderson' <peteermid@roadrunner.com>  
**Subject:** RE: Planning Commission Public Hearing October 17, 2019 - Cottage Preservation Code and LCP Amendments (PA2019-181)

Dear Planning Commissioners,

As a resident of the Balboa Peninsula, 1713 W Balboa Blvd., I fully support Carmen Rawson's letter's recommendations on the proposed Amendments. I am particularly concerned that expanding the property to a two family unit or short (or long) term rental is a real risk and must be prevented. Make sure the cottage remains a single family home. Also the 1500 sq ft limit on "cottage" makes much more sense.

Parking on the peninsula, as you well know, is a real problem and allowing expansion without adding parking doesn't help. Please be very careful with your "cottage" exemption.  
With kind regards  
Dan Burt

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**From:** Carmen Rawson <[carmen\\_rawson@att.net](mailto:carmen_rawson@att.net)>  
**Sent:** Tuesday, October 15, 2019 10:47 PM  
**To:** Peter <[pzak@newportbeachca.gov](mailto:pzak@newportbeachca.gov)>; Erik <[eweigand@newportbeachca.gov](mailto:eweigand@newportbeachca.gov)>; Lee <[llorey@newportbeachca.gov](mailto:llorey@newportbeachca.gov)>  
**Cc:** Dept - City Council <[citycouncil@newportbeachca.gov](mailto:citycouncil@newportbeachca.gov)>; Jaime Murillo <[jmurillo@newportbeachca.gov](mailto:jmurillo@newportbeachca.gov)>; Jim Campbell <[jcampbell@newportbeachca.gov](mailto:jcampbell@newportbeachca.gov)>; Seimone Jurjis <[sjurjis@newportbeachca.gov](mailto:sjurjis@newportbeachca.gov)>; Fred Levine <[fredric.mark.levine@gmail.com](mailto:fredric.mark.levine@gmail.com)>; Denys Oberman <[dho@obermanassociates.com](mailto:dho@obermanassociates.com)>; Maureen Cotton <[mcotton@integrated8a.com](mailto:mcotton@integrated8a.com)>; cbatley@burrwhite.com; Dan Burt <[dan.j.burt@gmail.com](mailto:dan.j.burt@gmail.com)>; Joan Burt <[quinnburt@aol.com](mailto:quinnburt@aol.com)>; Dr. Peter G. Anderson <[peteermid@roadrunner.com](mailto:peteermid@roadrunner.com)>  
**Subject:** Planning Commission Public Hearing October 17, 2019 - Cottage Preservation Code and LCP Amendments (PA2019-181)

Planning Commissioners,

As a resident of Newport Beach (Balboa Peninsula) I have concerns regarding the proposed subject Amendments. Attached please find a letter detailing my concerns about approving Cottage Preservation projects for already large dwellings (per coastal Newport Beach standards), for two-unit dwellings, and for dwellings with Short Term Lodging Permits.

Please take into consideration my concerns when reviewing the proposed Amendments and hopefully some of the raised issues can be addressed prior to the final draft of the Amendments is approved.

Sincerely,  
Carmen Rawson

**From:** [Murillo, Jaime](#)  
**To:** [Rodriguez, Clarivel](#); [Lee, Amanda](#)  
**Subject:** Fw: Comments re proposed Cottage Preservation plan and Amendments to LCP  
**Date:** Wednesday, October 16, 2019 7:05:13 PM

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**From:** Denys Oberman <dho@obermanassociates.com>  
**Sent:** Wednesday, October 16, 2019 4:18:07 PM  
**To:** Murillo, Jaime; Campbell, Jim  
**Cc:** Denys Oberman; Fred Levine  
**Subject:** Comments re proposed Cottage Preservation plan and Amendments to LCP

PLEASE DISTRIBUTE TO THE PLANNING COMMISSION AND THE CITY COUNCIL, AND ENTER INTO THE PUBLIC RECORD---

Members of the Planning Commission ,

We are writing to comment on the staff proposal regarding Cottage preservation and the LCP Amendment being presented and heard by the Commission. I am on the Board of the Central Peninsula Community Association, and am also an oceanfront homeowner.

We appreciate the City's deserve to "preserve" more modest Cottage type structures. However, the proposed Amendment , if adopted in current form, actually works counterproductive to the stated intent.

The proposal provides for a Cottage to be expanded to 3000 sq ft. , a full 3-4 bedroom residence. It also provides parking exception for a two unit development. This scale of development creates significant intensification---there can be no legitimate justification to except this type of development and intensity of use from requirement to provide Parking On-site. Units of this size will include 3 or more bedrooms, or, in the case of two units, 6 or more bedrooms.

The City is already capacity-stressed in the multiple neighborhoods with narrow , small lots and already- limited Parking. This is not confined to the Balboa Peninsula—it is also the case in Corona del Mar flower street area, Balboa Island, and other Non-subdivision developed residential areas of the City.

As a City, we are approaching the point of interfering with Life Safety vehicle and resident ingress/egress in many of these areas.

Furthermore, to encourage the development of Housing stock without Parking is to ultimately decrease both the value of these properties, and the character of our residential neighborhoods.

The Parking problem is further compounded by the City's push to increase Visitor traffic, and the demand for visitor type accomodations which include STL. ( note- we are in favor of encouraging the City's Visitor-based revenue stream, but not at the expense of our residents or the communities which give this City its brand and long-term traction.)

We are in agreement with the comments of other Penninsular residents. However, we do not agree that mitigation should only be directed to the Balboa Peninsula neighborhoods.

Respectfully, let's call a spade a spade.

Please do not use the "Cottage preservation" concept or intent for the purposes of enabling yet another way around Parking as an integral and essential part of our residential land use development and project approval.

Our General Plan carefully crafted and called out the tenets when it said that, Each Development Project should park itself.

This is already a challenge.

Please do not exacerbate an already-existing challenge.

Do not allow any residential development project increases living area footprint that does not provide a reasonable on-site Parking plan.

The City will have to accommodate its residents somehow if it moves forward with this proposal. This has been a challenge on the plate for many years, and the City has not provided a meaningful solution.

We request that this Proposal not be accepted in its current form or substance, and that the City not take any further action in the name of "Cottages" and "LCP Amendment" until it is adequately thought through.

Thank you,

Denys Oberman and

Fred Levine- Oceanfront resident and Board Member of Central Peninsula Community Association.

Cc: Associations and Residents of the above referenced communities.

.....

NOTE- Please disregard the Confidentiality Notice and preprinted corporate signature below.



**From:** Jurjis, Seimone  
**Sent:** Monday, September 23, 2019 8:25 AM  
**To:** Murillo, Jaime  
**Subject:** FW: Comments to City's Proposed Code Amendments - Cottage Preservation



For the file

**SEIMONE JURJIS, P.E., C.B.O.**

**Community Development Department**

Community Development Director

[sjurjis@newportbeachca.gov](mailto:sjurjis@newportbeachca.gov)

949-644-3282

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**From:** Ken & Carmen Rawson [<mailto:ckrawson@att.net>]  
**Sent:** Sunday, September 22, 2019 11:11 AM  
**To:** Avery, Brad <[bavery@newportbeachca.gov](mailto:bavery@newportbeachca.gov)>; Brenner, Joy <[JBrenner@newportbeachca.gov](mailto:JBrenner@newportbeachca.gov)>; Dixon, Diane <[ddixon@newportbeachca.gov](mailto:ddixon@newportbeachca.gov)>; Duffield, Duffy <[dduffield@newportbeachca.gov](mailto:dduffield@newportbeachca.gov)>; Harp, Aaron <[aharp@newportbeachca.gov](mailto:aharp@newportbeachca.gov)>; Herdman, Jeff <[jherdman@newportbeachca.gov](mailto:jherdman@newportbeachca.gov)>; Leung, Grace <[gleung@newportbeachca.gov](mailto:gleung@newportbeachca.gov)>; Muldoon, Kevin <[kmuldoon@newportbeachca.gov](mailto:kmuldoon@newportbeachca.gov)>; Oborny, Shirley <[soborny@newportbeachca.gov](mailto:soborny@newportbeachca.gov)>; O'Neill, William <[woneill@newportbeachca.gov](mailto:woneill@newportbeachca.gov)>; Rieff, Kim <[KRieff@newportbeachca.gov](mailto:KRieff@newportbeachca.gov)>  
**Cc:** Carmen Rawson <[carmen\\_rawson@att.net](mailto:carmen_rawson@att.net)>; Jurjis, Seimone <[sjurjis@newportbeachca.gov](mailto:sjurjis@newportbeachca.gov)>  
**Subject:** Comments to City's Proposed Code Amendments - Cottage Preservation

Mayor and City Council Members,

I am against allowing the addition of a second level to existing one level Cottages without requiring them also to meet the building code for two car parking per unit.

I would like to hear from someone on the City Council why this modification to our existing building code is being considered.

I have done some quick calculations relative to the required money needed to add the second level and all the other code updates the existing building may need.

For example: Assuming a lot sized 25' x 90' (with 3' side setbacks, 15' front setback, 5' alley setback) ,, this would yield a buildable single level house of 1,330 sq ft. Assuming 50% of 1,330 sq ft could be added as a second level would yield an addition of 665 sq ft. with a resulting home of 1,995 sq ft. This is a larger home than most duplexes or condos I know of on the Peninsula!

This addition will require bringing all the following up to current code:

Foundations – The new 2<sup>nd</sup> floor loads may require completely new foundations for that portion.

Additional plumbing

Electrical Panels/Wiring

Seismic loading of the framed structure

Fire sprinklers for the whole house

Etc, Etc.

At \$300/sq ft, to build the second floor would cost a minimum of ~\$200,000 and the existing building may require at least ~\$100,000 in code upgrades. If the Cottage owner can cover these type of costs to upgrade the building why not stick with our current building code requirements and have a carport included so they have an existing single car garage **and** a new carport?

With the cost of most single family cottages (that make sense to modify /upgrade) costing at least \$1.5 million the idea of investing another ~\$300,000 in a cottage that would still have only one parking space makes its resale marketability very questionable.

In these areas near the beach our number one problem is **PARKING**. Please don't add to it by allowing a 50% increase to the existing homes without the appropriate additional off street parking.

Sincerely,  
Ken Rawson - Resident of Balboa Peninsula

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## **Attachment No. PC 4**

October 17, 2019, Planning Commission  
Staff Report

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## **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](mailto:jmurillo@newportbeachca.gov)

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### **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.

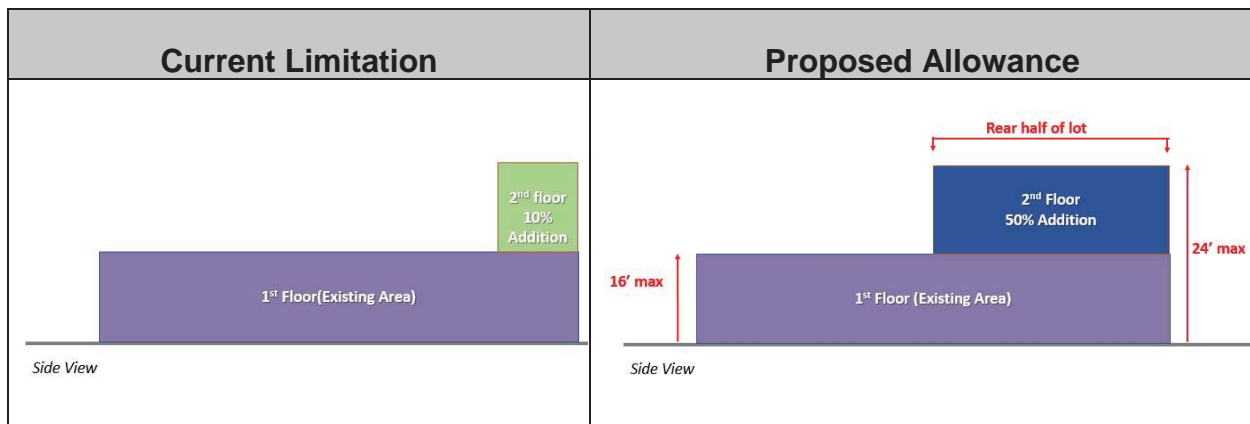
### *What are the proposed changes/incentives?*

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~~

## ~~Attachment No. PC 2~~

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

## **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

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### 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 14<sup>TH</sup> 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 14<sup>th</sup> 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 15<sup>th</sup> 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.

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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.**

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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.**

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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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## **Attachment No. PC 5**

October 17, 2019, Draft Planning  
Commission Meeting Minutes

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**ITEM NO. 4**

**COTTAGE PRESERVATION CODE AND LCP AMENDMENTS (PA2019-181)**

**Site Location: Citywide**

**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.

**Recommended Action:**

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 recommending the City Council approve Code Amendment No. CA2019-006; and
4. Adopt Resolution No. PC2019-034 recommending the City Council authorize staff to submit Local Coastal Program Amendment No. LC2019-004 to the California Coastal Commission.

Principal Planner Jaime Murillo reported in May 2019, the City Council directed staff to prepare Code amendments in response to community concerns about the loss of cottages and developments replacing cottages. The Code amendments pertain to reducing third floor massing; reducing the height and bulk of single- and two-family development projects within the Multiple Unit Residential (RM) Zoning District; and incentives to preserve cottages.

Principal Planner Murillo further reported that staff conducted a community meeting on August 19, 2019, to share proposed amendments. Public comments at the meeting indicated demolishing and building a new home is easier than remodeling a cottage because of existing Code requirements. The community preferred incentives rather than restrictions of property rights to achieve cottage preservation. The community seemed to support allowing increased floor area for nonconforming structures if it resulted in preservation of cottages.

Principal Planner Murillo went on to state that the draft amendment defines cottages as existing smaller residential structures that tend to be one or two units and that are representative of traditional development patterns common in Corona del Mar, the Balboa Peninsula, and Balboa Island. Cottages are typically one story but may have a second story at the rear of the structure. The use of cottages has changed from a second home to a primary residence. Cottages typically are nonconforming because they have zero or one parking space, when two parking spaces are currently required. The Zoning Code limits an addition to an existing nonconforming structure due to parking requirements to 10 percent of existing floor area, which precludes many remodel projects. The Building Code requires a homeowner to bring the entire structure into compliance with the current Building Code if the cost of a project is more than 50 percent of the replacement value of the structure excluding the land value. Often, demolishing and building a new structure is less expensive than remodeling.

Principal Planner Murillo indicated that staff proposes incentives to increase the 10-percent limit to 50 percent for existing nonconforming structures and to exempt cottages from the 50-percent replacement value threshold. The exemption would not apply to structures located in special flood hazard areas. In exchange for the incentives, the front half of the lot would be restricted to a one-story structure no more than 16 feet in height, and the back half of the lot would be restricted to a two-story structure no more than 24 feet in height. Third floors and third-floor decks would not be allowed. A deed restriction would be required for current and subsequent property owners to maintain the cottage; however, if the property owner decided to redevelop the

property in the future consistent with the Zoning Code standards in effect at that time, they would be permitted to demolish the cottage and redevelop the property.

Principal Planner Murillo indicates that staff has received comments expressing concerns about allowing expansions for nonconforming structures when the availability of on-street parking is already limited. The remodel project will have to fit within the form-based building envelope proposed, which will constrain the property owner from over-building a site. A great deal of flexibility is needed to achieve preservation of cottages; however, the 50-percent allowance could be reduced. Alternatively, the 50-percent allowance could be maintained, but an addition could be capped at 750 square feet. The total floor area could also be limited to no more than 75 percent of the maximum allowed. As proposed, the amendment could apply to a 10-unit building. Therefore, staff recommends the amendment apply only to single-family duplexes, duplexes, or triplexes. In addition, staff recommends the amendment prohibit short-term rentals through the required deed restriction. Second-floor decks are common amenities throughout Corona del Mar and Balboa Island and should be allowed. Next steps include City Council review of proposed amendments, submission of proposed amendments to the California Coastal Commission for review and approval, and City Council adoption.

Vice Chair Weigand expressed concern that cottages in each area of the City are slightly different such that a one-size-fits-all approach to preservation may not be appropriate. He suggested continuing the item so that additional outreach can be conducted with stakeholders and the community.

Commissioner Kleiman could not envision a scenario where a property owner would deed restrict his property such that the resale value would be limited. She did not support the amendment as drafted. Presenting the amendment to the Coastal Commission would be a waste of time.

In response to Chair Koetting's inquiry, Principal Planner Murillo advised that the architectural style of existing cottages varies. The form is more important than the style of the cottage. The property owner could employ a Mid-Century Modern style as long as the structure complies with the required form and height limit.

Principal Planner Murillo explained that compliance with the preservation ordinance would be voluntary. If the property owner wants to redevelop the property compliant with the Code, staff would remove the deed restriction. The deed restriction is intended to prevent a property owner from utilizing the incentives and subsequently proposing a second-story addition at the front of the structure. The deed restriction would run for the duration of the structure. Condominiums are prohibited on Balboa Island. The current Code requires compliance with parking requirements in order to convert existing units to condominiums. Cottages typically do not conform to parking requirements.

Chair Koetting opened the public hearing.

Charles Klobe believed there is a market for preserved cottages. The community has made no negative comments about the proposed amendment at community meetings.

Carmen Rawson expressed concern that the amendments would allow a property owner to add two or three bedrooms to a rental cottage such that there would be multiple tenants and no parking. She wanted the amendments to apply to single-family units only.

Ken Rawson related that the primary concern is parking. The proposed amendment will only increase parking congestion. The 50-percent threshold is too much. Parking requirements should be maintained for all but single-family homes.

Jim Mosher expressed confusion about the calculation of the limit on floor area. The third exception in the Building Code amendment should be the second exception. He questioned the waiver of Subsections (A)(1) and (A)(2) in the Local Coastal Program amendment. The City is not complying with Section 13515 of the California Code of Regulations as stated in Section 1.5 of the Statement of Facts.

Chair Koetting closed the public hearing.

In answer to Commissioner Kleiman's question, Principal Planner Murillo indicated approximately half of the target areas on Balboa Island and portions of the Peninsula are located in special flood hazard areas.

**Motion** made by Vice Chair Weigand and seconded by Commissioner Ellmore to continue the item to a later date.

Chair Koetting felt the 50-percent limit is too high.

**Amended Motion** made by Vice Chair Weigand and seconded by Commissioner Ellmore to continue the item so that staff can draft language applicable to specific areas and reconsider waiving parking requirements for duplexes and triplexes.

Vice Chair Weigand recommended staff hold community meetings in each area.

Community Development Director Jurjis clarified that staff held a community meeting and presented the issue as a study session before the City Council. The Council directed staff to carve out requirements for cottages and to proceed.

AYES: Koetting, Weigand, Ellmore, Klaustermeier, Rosene  
NOES: Lowrey, Kleiman  
RECUSED:  
ABSENT:

## **VIII. DISCUSSION ITEMS**

### **ITEM NO. 5 REGIONAL HOUSING NEEDS ASSESSMENT (RHNA)**

**Summary:**

Staff will provide a presentation providing an update regarding the Regional Housing Needs Assessment (RHNA) process. The presentation will include the regional determination made by the State Department of Housing and Community Development and current draft allocation methodology recommended by the Southern California Association of Governments (SCAG).

Chair Koetting announced the item is continued due to the late hour.

## **IX. STAFF AND COMMISSIONER ITEMS**

### **ITEM NO. 6 MOTION FOR RECONSIDERATION**

None

### **ITEM NO. 7 REPORT BY THE COMMUNITY DEVELOPMENT DIRECTOR OR REQUEST FOR MATTERS WHICH A PLANNING COMMISSION MEMBER WOULD LIKE PLACED ON A FUTURE AGENDA.**

Community Development Director Jurjis reported the community fair on October 26 will launch the General Plan Update. The new website for the General Plan Update is now available at [newporttogether.com](http://newporttogether.com).

Deputy Community Development Director Campbell noted one item, review of the Newport Auto Center, is scheduled for the November 7 meeting. He suggested scheduling the item to November 21 and canceling the November 7 meeting. The RHNA presentation and the cottage preservation amendments, if ready, can be scheduled for November 21.

Community Development Director Jurjis indicated the November 7 meeting will be canceled.

Chair Koetting requested a future agenda item to discuss deadlines for submission of documents.



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# **Attachment No. PC 6**

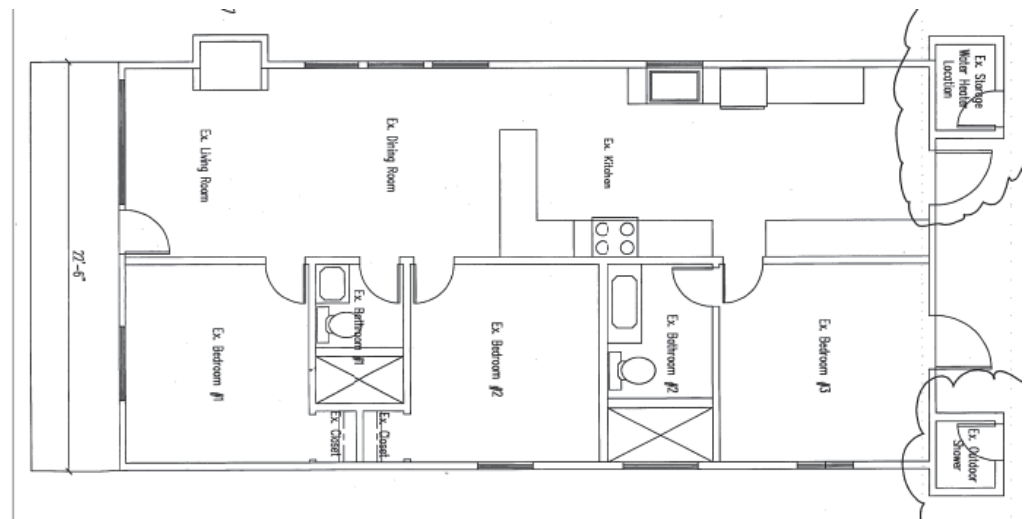
Case Study Comparison

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# Balboa Peninsula

## 306 Alvarado Place (yr. 1912)

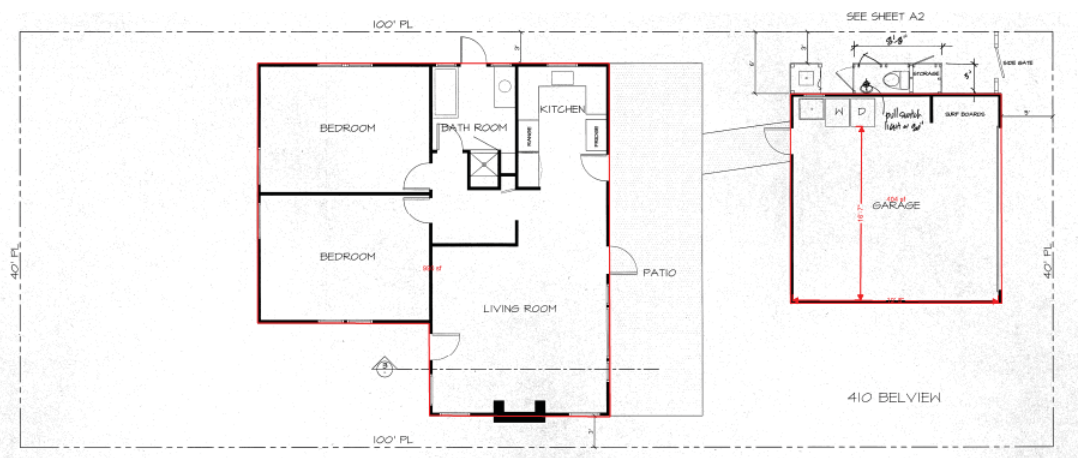
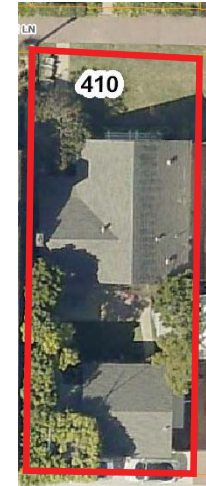
- Single-Family
- Home-1033 SF (3 bedroom 2 bath)
- Nonconforming parking: 2 required/0 provided
- $1033 \text{ sf} \times 50\% = 516.5 \text{ sf}$
- 500 sf limit = 48% addition



# Balboa Peninsula

## 410 Belvue Lane (yr. 1951)

- Single-Family (1430 sf total)
  - Home-990 SF (2 bedroom 1 bath)
  - Garage- 400 SF (2-car)
- Nonconforming parking: size of spaces
- 1430 sf x 50% = 715 sf
- 500 sf limit = 35% addition

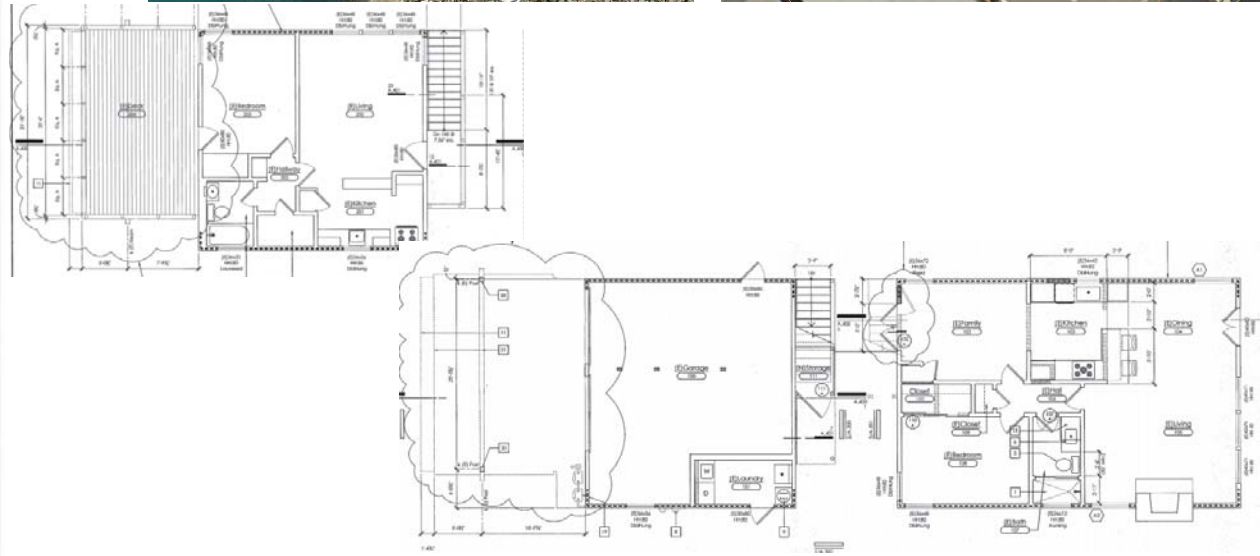
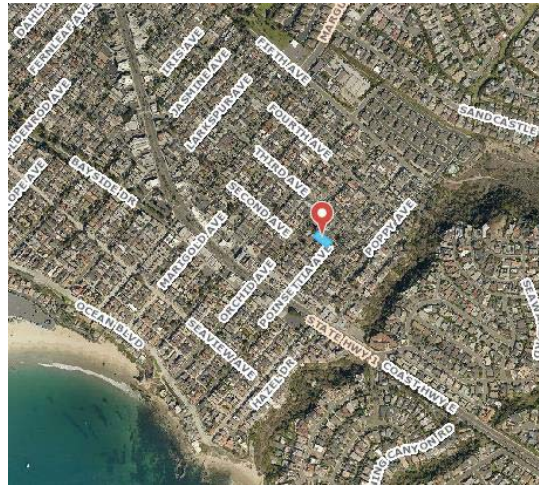




# Corona del Mar

## 606 Marguerite Ave (yr. unknown)

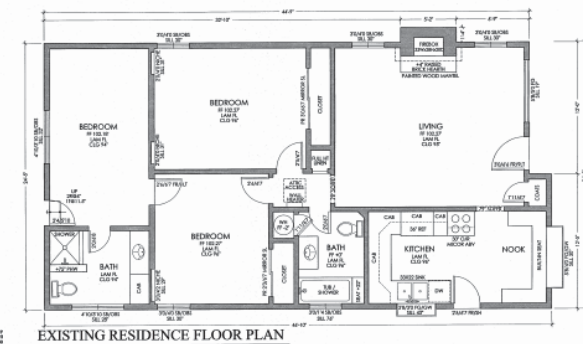
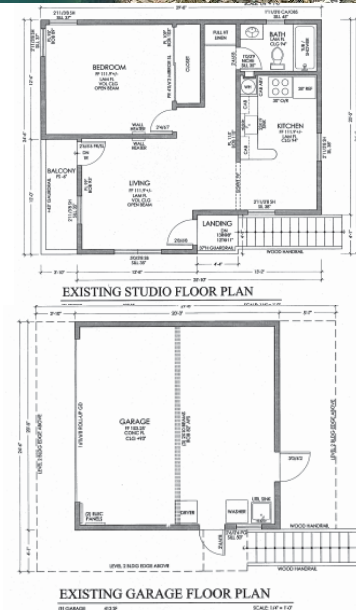
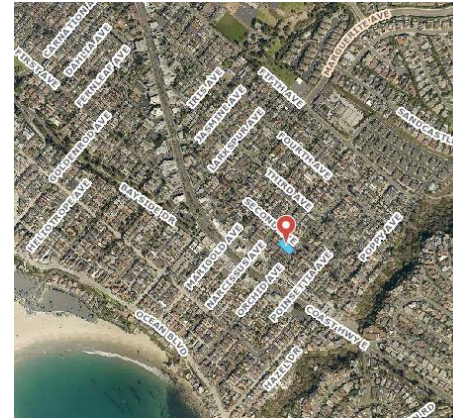
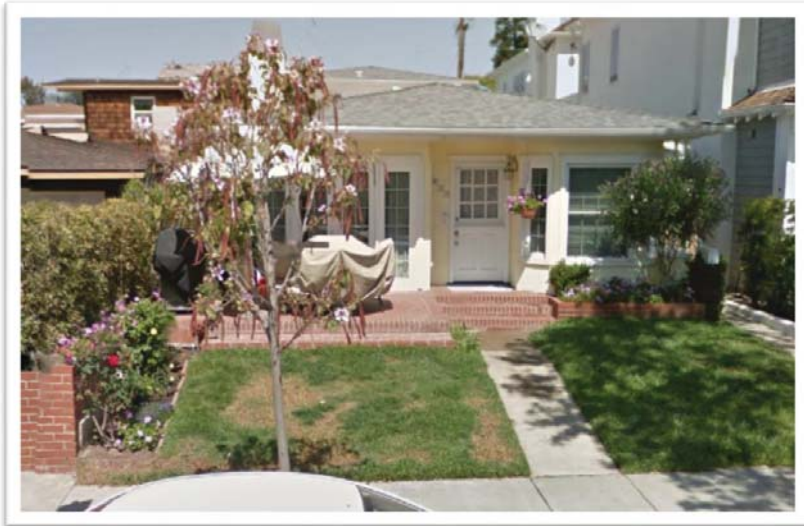
- Duplex (2018 sf total)
  - Unit 1- (2 bedroom 1 bath) 874 sf
  - Unit 2-(1 bedroom 1 bath) 608 sf
  - Garage-536 sf (2-car)
- Nonconforming parking: 4 required/2 provided
- 2018 sf x 50% = 1009 sf
- 500 sf limit = 25% addition



# Corona del Mar

## 425 Orchid Ave (yr. 1948)

- Duplex (2165 sf total)
  - Unit 1- 1125sf (2 bedroom 1 bath)
  - Unit 2-627 sf (1 bedroom 1 bath)
  - Garage- 413 sf (2-car)
- Nonconforming parking: 4 required/2 provided
- $2165 \text{ sf} \times 50\% = 1082.5 \text{ sf}$
- $500 \text{ sf limit} = 23\% \text{ addition}$

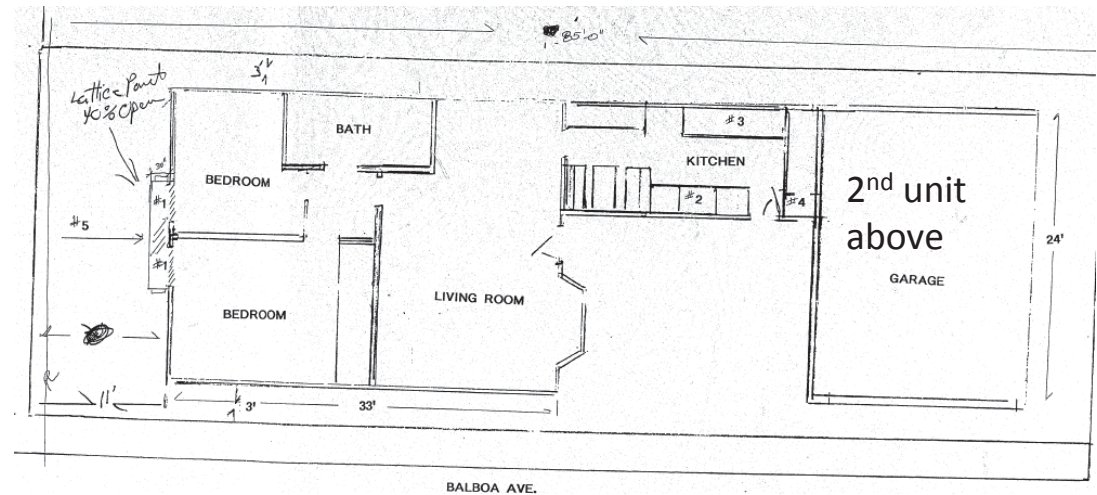
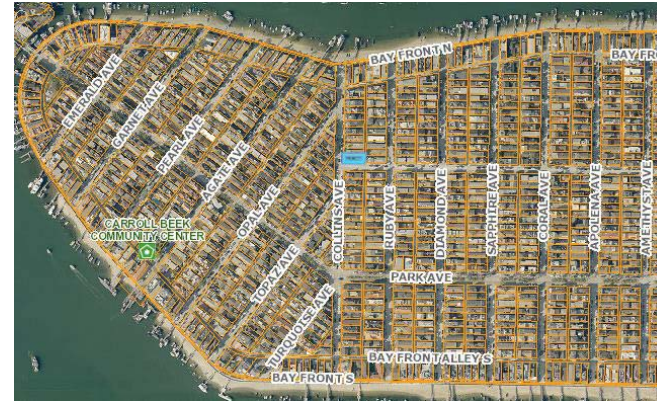




# Balboa Island

## 600 Balboa Ave (yr. 1939)

- Duplex (1756 sf total)
  - Unit 1- 934sf (2 bedroom 1 bath)
  - Unit 2- 411 sf (1 bedroom 1 bath)
  - Garage- 411 sf (2-car)
- Nonconforming parking: 4 required/2 provided
- $1756 \text{ sf} \times 50\% = 878 \text{ sf}$
- $500 \text{ sf limit} = 28\% \text{ addition}$

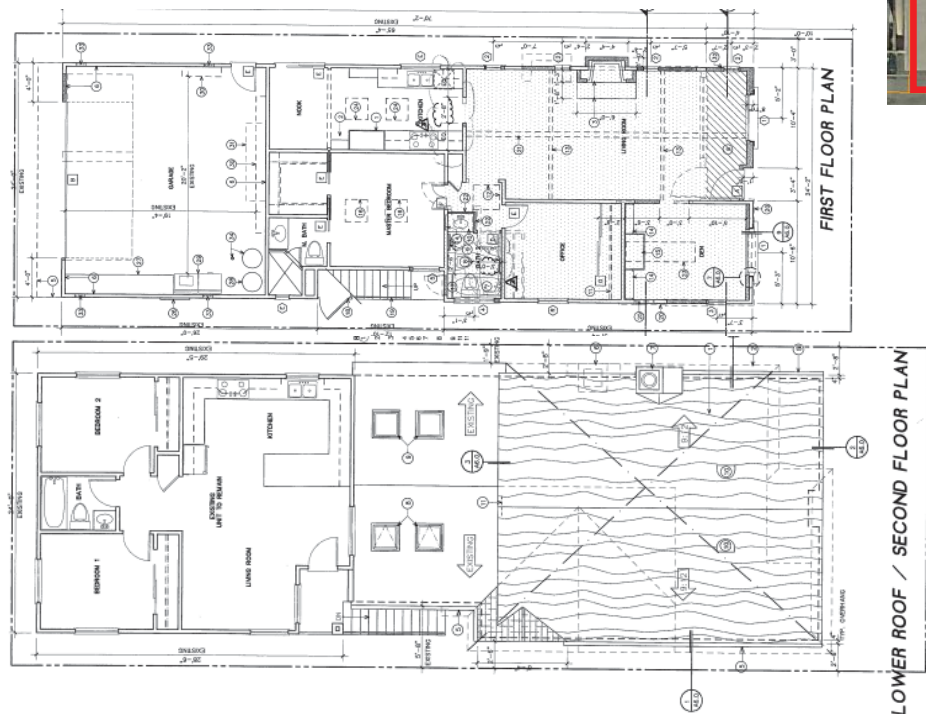




# Balboa Island

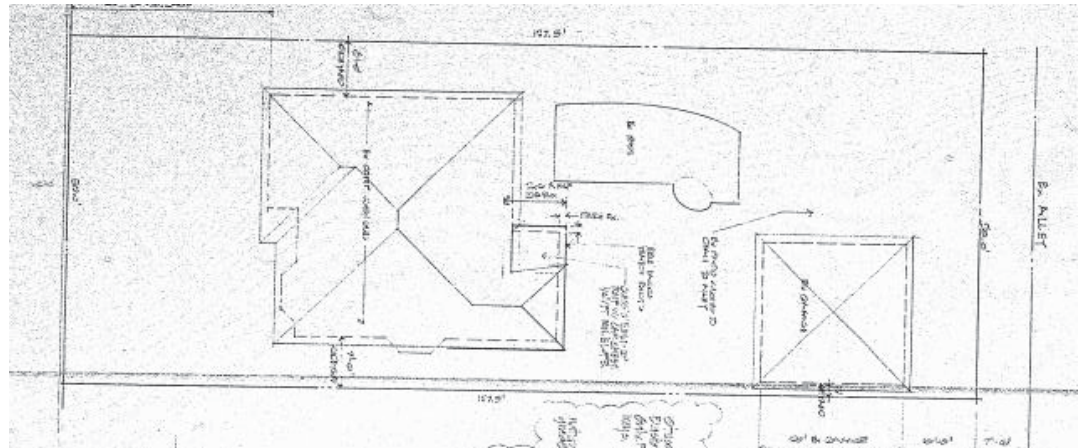
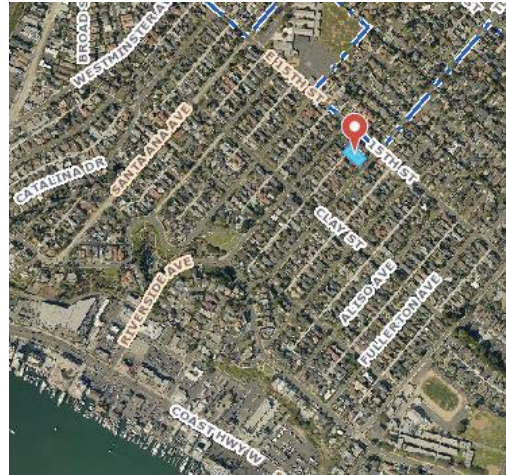
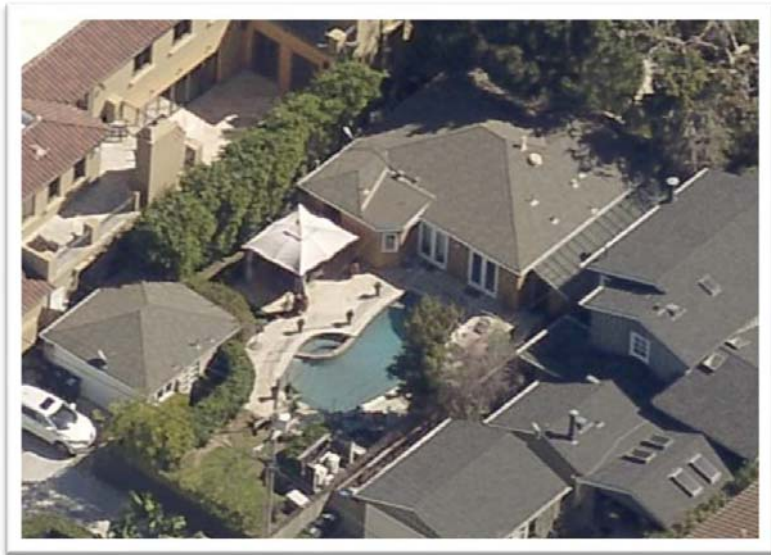
## 314 Sapphire Ave (yr. 1941)

- Duplex (2325 sf total)
  - Unit 1- 1163sf (2 bedroom 2 bath)
  - Unit 2- 676 sf (2 bedroom 1 bath)
  - Garage- 486 sf (2-car)
- Nonconforming parking: 4 required/2 provided
- $2325 \text{ sf} \times 50\% = 1162.5 \text{ sf}$
- $500 \text{ sf limit} = 22\% \text{ addition}$



## 539 Tustin Avenue (yr. 1946)

- Single-Family (1586 sf total)
  - Home- 1191 sf (3 bedroom 2 bath)
  - Garage- 395 sf
- Nonconforming parking: size of spaces
- 1586 sf x 50% = 793 sf
- 500 sf limit = 32% addition





# Newport Heights

## 504 Fullerton Avenue (yr. 1946)

- Single-Family (2612 sf total)
  - Home- 1421 sf (2 bedroom 2 bath)
  - Studio- 368 sf
  - Garage- 393 sf (2-car)
- Nonconforming parking: size of spaces
- 2612 sf x 50% = 1306 sf
- 500 sf limit = 19% addition

