

From: [Max Gardner](#)
To: [Planning Commissioners](#)
Subject: 5/7/2020 Commission meeting, item 2
Date: Monday, May 4, 2020 5:56:41 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

As a resident of Balboa Island, and a recently retired real estate developer, I am very much in support of the recommendations of staff regarding item 2 on your agenda for this week. It is very clear that the staff has been thoughtful in regards to the community, and yet very considerate of the needs of developers and contractors. My wife and I have watched with some significant level of concern as third floors have expanded on the island, and I believe strongly that these modifications will help preserve the character of Balboa Island.

Thank you for your careful consideration of this item.

Max Gardner
201 Emerald Avenue

Sent from Max's iPad
Please excuse typos



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David P. Waite
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File No. 084639

May 5, 2020

VIA EMAIL

City of Newport Beach Planning Commission
100 Civic Center Drive
Newport Beach, CA 92660

Re: **Item 2 – Residential Design Standards Code and LCP Amendments
(PA2019-070): Martin Family Trust Opposition to Proposed Changes to
Development Standards**

Dear Chair Koetting and Members of the Planning Commission:

We write on behalf of the Martin Family Trust, owner of the property located at 1824 West Ocean Front (“Property”), to urge you to reconsider the proposed amendments to the Residential Design Standards (“Proposed Amendments”). While the Martin Family is sensitive to protecting and enhancing the aesthetics of districts such as the RM zoning district, the Proposed Amendments raise serious legal questions and would create more harm than good.

The Proposed Amendments not only run afoul of recently enacted state law, they present a poor land use policy. First, the Housing Crisis Act of 2019 explicitly forbids the very changes that the Proposed Amendments would make. Second, the Proposed Amendments would result in spotty, inconsistent development in breach of well-established planning principles and laws against spot zoning. Finally, the Proposed Amendments would have an unfair and detrimental impact on the value of the Property and other underdeveloped properties in affected zoning districts compared to properties that have already been redeveloped. **In light of these considerations, we respectfully request that the Planning Commission reject the Proposed Amendments.**

A. The Property and the block

The Property is a single-family home situated on three separate lots that directly front the adjacent beach and the Pacific Ocean. Carol and Bill Martin have lived at the Property for the last 55+ years, and it has been in their family since 1937. The Property is located in the RM zoning district, which is intended to “provide for areas appropriate for multi-unit residential developments containing attached or detached dwelling units.” *Newport Beach Municipal Code §20.18.010(E)*.

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The 1800 block of West Ocean Front, on which the Property is located, has seen a wave of development in recent years. Property owners have availed themselves of the development opportunities available to RM zoning district properties by redeveloping their lots to their full potential. At least 10 of the 14 lots on the 1800 block of West Ocean Front have either fully developed their properties or have expressed an intention to do so. As an example, we have included as Exhibit A photographs of development occurring directly next to the Property. This type of development is representative of the recent building trend that has occurred on the 1800 block of West Ocean Front.

The Martin family has always intended to similarly redevelop the Property. Given the fact that the Property is located on three separate lots that face the beach and the ocean, and the opportunities for development in the RM zoning district, the Martin Family has been keenly aware of the potential value of its Property and has planned accordingly for several years. Other property owners on the block have similarly planned for redevelopment pursuant to current RM zoning district regulations.

B. Proposed Amendments to the Residential Design Standards

The City has drafted the Proposed Amendments in response to concerns about perceived residential massing in several of the City's zoning districts. In an attempt to address such concerns, the Proposed Amendments would apply the City's proposed Residential Development Standards to those districts.¹⁻² In doing so, the Proposed Amendments would impose several new restrictions on certain residential development in subject districts, including front, back, and side setbacks for third floors, maximum gross floor area for third floors, and open volume area requirements. In addition to subjecting additional zoning districts to the new development Standards, the Proposed Amendments also intensify those Residential Development Standards, further restricting development.³

Instead of narrowly tailored design standards specific to the needs of the RM and R-BI zoning districts, the Proposed Amendments simply import the R1 and R2 zoning district

¹ In addition to subjecting properties in the RM and R-BI zoning districts to the Residential Development Standards, the Proposed Amendments would also apply the third-floor setback requirements of the Residential Development Standards to lots twenty-five feet wide or less in the R-2 zoning district.

² The Residential Development Standards would not apply to the development of three-unit properties in the RM zoning district. Although as many as three units are permitted to be developed on RM zoning district lots, building three units is frequently infeasible due to parking requirements and other site-specific limitations. In many instances, the best and highest use of a property in the RM zoning district is as a one- or two-unit property.

³ For example, the Proposed Amendments would amend the Residential Development Standards to impose additional two foot side setback requirements on the third floor of one- and two-unit properties that are *30 feet in width or greater*, whereas current standards only apply to properties that are *greater than 30 feet*. This is a new development restriction that would newly limit buildable area on the third floor for properties already subject to the current Residential Development Standards. The Proposed Amendments also expand the definition of "gross floor area," which could serve to reduce habitable space by including in its definition items such as covered decks, balconies or patios above the first floor and covered parking spaces.

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development standards and apply them to other districts, without regard for each district's individual circumstances. This broad, one-size-fits-all approach disregards the impact that such standards could have on development in these zoning districts and is unworkable on many levels.

C. The Proposed Amendments are prohibited by the Housing Crisis Act of 2019.

In 2019, California passed Senate Bill 330 (the Housing Crisis Act of 2019) (“HCA”). This bill was passed to help address California’s severe housing shortage by making it easier to build housing.

Among other things, the intent of the HCA is to “suspend certain restrictions on the development of new housing” until January 1, 2025. (Senate Bill 330, Section 2(c)(1).) Specifically, the HCA prohibits any affected city⁴ from enacting any “development policy, standard, or condition” that would result in a less intensive housing use than was permitted on January 1, 2018 in any given zone. *Govt. Code* §66300(b)(1). The HCA does not only limit restrictions that would reduce or otherwise hamper the number of housing *units* that could be built. In fact, the prohibition defines “less intensive use” broadly, including “**reductions to height, density, or floor area ratio**, new or increased open space or lot size requirements, or **new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, or anything that would lessen the intensity of housing.**” *Id.* (emphasis added).

The Martin family appreciates that staff is not proposing to reduce height limitations in the RM zoning district, and it is imperative that the current height restrictions and standards remain unchanged. Even without a height limit change, however, the Proposed Amendments do exactly what the HCA prohibits: introduce new development restrictions and standards that will lessen the intensity of housing and habitable floor area in a residential zone. The Proposed Amendments do this in at least two ways. First, the Proposed Amendments intensify the restrictions set forth in the Residential Development Standards, including expanded setback restrictions for 30 feet wide lots in subject zoning districts. Second, the Proposed Amendments will subject properties in the RM and R-BI zoning districts to the existing Residential Development Standards, which require, among other things, new front, back, and side setbacks on the third floor, limits on allowable floor area on the third floor (20% of total buildable area for lots 30 feet wide or less) and open volume area requirements. These types of development restrictions are explicitly referenced as prohibitions in the text of the HCA.

Practically, these changes could result in less buildable area, which could translate directly to fewer bedrooms and significant reductions in other habitable spaces—particularly on

⁴“Affected city” means a city, including a charter city, that the Department of Housing and Community Development determines...is in an urbanized area or urban cluster, as designated by the United States Census Bureau.” (*Govt. Code* § 66300.) The Department of Housing and Community Development has identified Newport Beach as affected city subject to the HCA. <https://www.hcd.ca.gov/community-development/accountability-enforcement/statutory-determinations.shtml>

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the third floor. By definition, this would lessen the intensity of housing in subject zoning districts. It is for this exact reason that introducing these types of development restrictions is explicitly prohibited by the HCA.

In its Staff Report, staff concludes that the Proposed Amendments would not violate the HCA because the Proposed Amendments would not “preclude the ability of a homeowner to achieve the same development intensity.” *Newport Beach Planning Commission Staff Report (May 7, 2020)*, p. 17. Staff does not explain why this would be the case for properties that will be subject to the more restrictive Residential Development Standards. Instead, the City suggests, without further explanation, that the “difference [with the Proposed Amendments] is that the third floors will now be required to be articulated and covered patios designed to be more transparent.” *Id.* This is simply not true. The newly applied third floor setbacks will impact development intensity when combined with the other development restrictions. Simply put, property owners will be required to build less habitable and occupiable space within the otherwise permissible building envelope than they otherwise would be able to if the Proposed Amendments are approved, in violation of the HCA.⁵

The HCA was passed amidst an acute statewide housing crisis caused at least in part by decades of underbuilding across the state, including in Newport Beach.⁶ In the most recent draft of the Regional Housing Needs Assessment (RHNA) allocation, Newport Beach is expected to build approximately 4,800 housing units from 2021 – 2029.⁷ Even putting aside the rules of the HCA (of which the Proposed Amendments are clearly in violation), the City cannot afford to impose new development restrictions that risk stifling and disincentivizing housing development in the City.

D. The Proposed Amendments would create the effect of spot zoning, which is prohibited by state law and widely acknowledged as bad policy.

A majority of the properties on the 1800 block of West Ocean Front have been redeveloped pursuant to the current RM zoning district development standards. Those existing buildings would not be subject to the Proposed Amendment. Only the Property and other similarly underdeveloped properties on the block (which comprise a distinct minority) will be directly impacted by the Proposed Amendments when property owners attempt to redevelop

⁵ The Staff Report also suggests that the Proposed Amendments result in no “changes in total allowed floor area.” Staff Report, p. 17. While this may be true for the *allowable* total floor area, the HCA reach is more expansive. It prohibits new development restrictions and standards commonly implemented which have the practical effect of reducing development potential (including new setbacks) regardless of whether the “allowable” floor area is reduced or not.

⁶ According to the City’s own Annual Progress Report, the City approved only 123 housing units in 2018.

⁷ See Southern California Association of Governments Regional Council Meeting No. 616 Agenda http://www.scag.ca.gov/committees/CommitteeDocLibrary/RC_fullagn_110719.pdf. See also “Potential housing mandates take coastal cities by surprise.” Accessed at <https://www.latimes.com/socal/daily-pilot/news/story/2019-11-16/potential-housing-mandates-take-coastal-cities-by-surprise> on January 9, 2020.

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those lots. As such, the block will be developed in an inconsistent manner, and the Proposed Amendments will have the effect of spot zoning the Property and properties like it.

Spot zoning occurs when one parcel “is restricted and given less rights than the surrounding property.” *Wilkins v. City of San Bernardino* (1946) 29 Cal. 2d. 332, 340. Well-established law restricts spot zoning. Specifically, a zoning ordinance cannot “unfairly discriminate against a particular parcel of land.” *Reynolds v. Barrett* (1938) 12 Cal. 2d. 244, 251. Spot zoning can form the basis of an equal protection violation in favor of property owners whose properties have been downzoned. See *Ross v. City of Yorba Linda* (1991) 1 Cal. App. 4th 954 (holding that an equal protection violation occurred when the city council denied rezoning that would have allowed property owners to develop their land at a higher density *equivalent to surrounding parcels*.)

Further, the basic principles of consistent zoning and development practices within a given zone are well-established. As explained by the California Court of Appeal (Fourth District), although “cities and counties may create rules and they may create zones; the rules should be the same for each parcel within a zone...” *Neighbors in Support of Appropriate Land Use v. County of Tuolumne* (2007) 157 Cal. App. 4th 997, 1008. The court further explains that in a zoning scheme, each property owner “forgoes the rights to use its land as it wishes in return for the assurance that the use of the neighboring property will be similarly restricted...” *Id* at 1009 (citing *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal. 3d. 506, 517-518). The opposite is true here. If the Proposed Amendments are adopted, then redevelopment of the Property will be subject to different development standards than completed redevelopment of properties that line the 1800 block of West Ocean Front. Moreover, a significant portion of the redeveloped properties on the block will immediately become nonconforming, which will create a burden on property owners and the City alike. This result runs counter to laws restricting spot zoning and best practice planning principles.

E. The Proposed Amendments would unfairly diminish the value of underdeveloped properties in subject zoning districts.

The Proposed Amendments would unfairly and disproportionately impact property owners in subject zoning districts that have not yet redeveloped their properties. These amendments would limit the flexibility and overall development potential of the Property and similarly underdeveloped properties in subject zoning districts, which would undoubtedly impact the value of the properties.

As previously discussed, numerous property owners on the Property’s block have taken full advantage of the development potential currently available in the RM zoning district. However, several properties on the block (including the Property) remain underdeveloped. If the Proposed Amendments are passed, these property owners will not be able to realize the full potential of their property simply because their redevelopments came too late. The decision to now impose new restrictions on properties that have not yet taken full advantage of the zone in which their properties are located is arbitrary and unfair.

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The Proposed Amendments raise significant property and due process rights concerns for owners of underdeveloped land in affected zoning districts. As discussed, the Proposed Amendments would severely limit the amount of development that property owners can build on their third floors. In the case of the Property, this could mean at least several hundred square feet less of buildable area with maximum ocean views than the Property's owners have for years been expecting. The economic impact of the limitations is not insignificant. The Proposed Amendments directly threaten property owners' investment-backed expectations for their properties.

F. The City could adopt less restrictive alternatives to the Proposed Amendments that would achieve the desired result.

We believe there are less harmful (and legally valid) design measures that would achieve the desired results intended by the Proposed Amendments. In fact, these design criteria already exist as applied to other zoning districts. For example, Newport Beach Municipal Code section 20.48.180(B)(2) indicates that "long, unarticulated exterior walls are discouraged on all structures." Instead, it suggests reducing visual massing by "variation in the wall plane, building modulation, openings, recesses, vertical elements, varied textures, and design accents." These design standards could be expanded upon and would achieve aesthetic improvement without improperly reducing the intensity of use or otherwise devaluing properties in subject zoning districts. The City has not sufficiently demonstrated why the Proposed Amendments are needed to achieve the desired improvements.

Furthermore, if the Proposed Amendments are adopted and structures in impacted zoning districts are required to move more of their enclosed buildable area away from the third floor and onto the first and second floors, this can create an even less attractive result: two solid enclosed floors of living area facing the public right of way, with very little open space to provide design articulation and visual interest, topped with private open space and a smaller enclosed structure perched like the top layer of a wedding cake on the third floor. It is not at all clear that the Proposed Amendments will have any appreciable effect on the perceived problem of residential massing or will otherwise improve the aesthetics of the impacted zoning districts any more than less injurious alternatives.

The Proposed Amendments are problematic for a number of reasons: they run afoul of new state housing law, they violate longstanding law and principles of consistent zoning and development standards, and they deprive the Martin family and other similarly situated property owners of their ability to obtain their expected return on the investments they have made in their properties. We respectfully request that the Planning Commission reject the Proposed Amendments.

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Thank you for your attention to this matter.

Sincerely,



David P. Waite

DPW

Exhibit A



Rodriguez, Clarivel

Subject: FW: Proposed RM Zoning District development standard changes

From: Catherine Wolcott <catherinewolcott@hotmail.com>

Sent: Tuesday, May 5, 2020 4:56 PM

To: Koetting, Peter <pkoetting@newportbeachca.gov>; Weigand, Erik <eweigand@newportbeachca.gov>; Lowrey, Lee <llowrey@newportbeachca.gov>; Ellmore, Curtis <CEllmore@newportbeachca.gov>; Klaustermeier, Sarah <sklaustermeier@newportbeachca.gov>; Kleiman, Lauren <lkleiman@newportbeachca.gov>; Rosene, Mark <mrosene@newportbeachca.gov>

Cc: Jacobs, Carol <cjacobs@newportbeachca.gov>; Jurjis, Seimone <sjurjis@newportbeachca.gov>; Campbell, Jim <JCampbell@newportbeachca.gov>; Murillo, Jaime <JMurillo@newportbeachca.gov>; Waite, David P. <DWaite@coxcastle.com>; Bierman, Adam Z. <ABierman@coxcastle.com>; Carol Martin <candwmartin@sbcglobal.net>; Bill Martin <bmartinworks@sbcglobal.net>; Joni Martin <joniwords@aol.com>; Cindy Martin <cynthiamartin6@hotmail.com>

Subject: Proposed RM Zoning District development standard changes

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

To the Chairman and members of the Newport Beach Planning Commission;

I am writing as one of the representatives and successor beneficiaries of the Martin Family Trust, owner of the property located at 1824 West Ocean Front. The Martin Family Trust objects to some of the proposed changes to the Zoning Code which will be presented to the Planning Commission on May 7, 2020, and will submit its objections in writing due to the unreliable nature of the telephonic public comment process implemented during public meetings during the COVID-19 emergency. In addition to the objections set forth below, I adopt and incorporate by reference any additional objections to the proposed amendments set forth by David Waite of the law firm Cox Castle Nicholson, who serves as the Martin Family Trust's outside counsel in this matter.

As a former deputy city attorney for the City of Newport Beach, I have worked with and have a high degree of respect for the intellect and integrity of the Community Development staff members involved in formulating the proposed changes to the Zoning Code development standards. Our family appreciates that staff has recognized that reducing the height limit in RM zones would blatantly conflict with state law, as acknowledged in the staff report. However, I believe many of the changes staff has been asked to make conflict with state law and good zoning practice.

One of our primary objections is the new third-floor setback requirement on buildings in the RM zoning districts when fewer than three units are built on an RM-zoned property. As you may know, the Housing Crisis Act of 2019 (adopted by the State of California in September 2019) provides, in part:

[A]n affected county or an affected city shall not enact a development policy, standard, or condition that would have any of the following effects:

- A. Changing . . . zoning of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing ... zoning district below what was allowed under the land use designation and zoning ordinances of the affected county or affected city, as applicable, in effect on January 1, 2018 ... For purposes of this subparagraph, “less intensive use” includes, but is not limited to reductions to height, density, or floor area ratio, new or increased open space or lot size requirements, or **new or increased setback requirements** . . .

The language of the Housing Crisis Act could not be clearer. If height limits are reduced, FAR reduced, or third floor setback requirements on structures in the RM zones that do not currently exist in the NBMC are now imposed, this violates the Housing Crisis Act.

It is the Martin Family Trust’s continued position that the City cannot apply development standards from a different residential zone in the RM zoning district. However, even if the City *could* properly import R-1 and R-2 development standards into an RM zoning district for one- and two-unit structures, thus imposing front and rear third floor setbacks, staff’s suggestion to impose the third floor two-foot side setback requirement on RM lots that are **30 feet** or wider would result in imposing a brand new setback requirement on lots such as ours that are 30 feet wide.

Even if our family’s property was located in an R-1 or R-2 zoning district, this would be a violation of the Housing Crisis Act. As the NBMC is currently written, the development standards for R-1 and R-2 zones exempt single- and two-unit structures from the third floor two-foot side setback requirements unless they are **greater than 30 feet in width**. (See NBMC Section 20.48.180(A)(3)(b).) Any reduction of the threshold width for exemption from the third-floor side setback creates a new setback requirement for 30-foot wide lots. That fact that the new setback is proposed for the third floor is not dispositive; the Housing Crisis Act makes no such distinctions.

Furthermore, the staff report’s attempt to characterize the new third-floor setbacks as “step backs” appears to be an attempt to avoid highlighting this clear conflict with state law; NBMC Section 20.48.180(A)(3)(b) (Location of Third Floor Structure) states that, in R-1 and R-2 zoning districts, enclosed square footage located on the third floor shall be “**set back** a minimum of fifteen (15) feet from the front and rear setback lines, and for lots greater than thirty (30) feet in width a minimum of two feet from each side setback line...” (emphasis added)

Rather than adopting the proposed changes, we suggest that imposing some of the design standards currently suggested in NBMC Section 20.48.180(B)(2) could break up portions of long, unarticulated exterior walls where they can be seen by the public without creating a new setback. Variations in a wall plane and partial indentations could create an aesthetic improvement and provide light corridors without violating the Housing Crisis Act.

We also object to covered but unenclosed third-floor decks being counted as part of the buildable area of the third floor, which is already greatly reduced under this proposal. Anyone who has fought skin cancer knows that additional shade in outdoor living spaces is advisable, but staff has informed us that under this proposal the only additional shade they will allow on the uncovered third-floor deck area is an umbrella. An umbrella is insufficient protection, and anyone who has lived near our beach knows that the afternoon wind will make the umbrella’s limited shade even more unreliable. We understand the current covered deck provisions have been abused in the past by homeowners who later enclose the covered decks, but believe that requiring the sides of the covered deck be left open *without* counting the unenclosed shaded area against the third floor buildable area is a more reasonable and medically sound solution in all zoning districts.

Thank you for your consideration,
Catherine Martin Wolcott

From: [Lee Pearl](#)
To: [Planning Commissioners](#); [Dept - City Council](#)
Cc: [Terry Janssen](#); [Ken Yonkers](#); [Tom Houston](#); [Jack Callahan](#)
Subject: Comments from Lee Pearl Item 2 Planning Commission Agenda
Date: Wednesday, May 6, 2020 9:09:38 AM

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May 6, 2020

Planning Commission:

I am writing this email wearing two hats. As a resident of Balboa Island with no plans to ever sell or rebuild my home and as the Balboa Island Improvement Association (BIIA) Local Government Liaison.

Thank you for your review of the changes and for including the Balboa Island Constant Contact in your agenda packet. I have done my job to insure as many residents of Balboa Island as possible are aware of this initiative. The Constant Contact was distributed to 1,200 emails/ Island residents. I promoted City workshops with residents and personally attended most of the meetings. The General Meetings last year held at the Balboa Island fire station included updates too.

Four past President's of the BIIA (included in the cc to this email) support these changes along with the Board of Directors of the BIIA. The President of the Little Balboa Island Property Owners Association was also included as a courtesy. I have corresponded with the two individuals on Balboa Island voicing opposition to the changes with written correspondence and in the recent Constant Contact to residents encouraged those that support and oppose the changes.

I hope the Planning Commission recognizes the importance of fixing the 2010 code revisions that are having a negative impacts on our communities and moving this initiative to the City Council to allow our elected officials to deliberate on this issue with their constituents. I not sure how many of you were on the Commission in 2010 but the attached home on Pearl is an example of the homes currently under constriction on the Island next to a single story with second story on the rear original cottage, an interesting contrast. The third photo is the home on the other side, a modern two story home built pre 2010 code change.

I plan to testify at the Public Hearing but voice my support of the staff recommendations. The staff has done a great job of community outreach and integrating feedback into the final staff report.

Lee Pearl the
316 Onyx Avenue







From: [Jon Remy](#)
To: [Planning Commissioners](#)
Subject: Balboa Island Massing
Date: Wednesday, May 6, 2020 9:22:27 AM

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Dear Newport Beach Planning Commission,

My name is Jon Remy, I've lived at 212 Collins Avenue on Balboa Island since 1975 and have noticed in the past 10 years, the once pleasant, unassuming and quaint homes of Balboa Island being turning into multiple-level sheer-walled mansions rising up like monoliths into the sky blocking the sun and air flow.

My grandfather, Earl Johnson built the house with his own hands in 1926, the wood coming from his Johnson Lumber Yard in Alta Dena, and driven down in his Model T Truck down every weekend until the house was completed a year later. He was one that came down on the Red Car for holiday from Pasadena and was met by the slew of land sales booths at the end of the line in front of the Balboa Pavilion, and he signed on the dotted line for a parcel on the developing Balboa Island. He bought a lot in the center of the island because without the seawall, it was eroding quickly. He figured in a few decades he would have a bay front view.

I currently have a new build next to me (photos attached), which is maximizing it's allowable height with sheer walls, using the entire 30'x 90' footprint, a massive structure. I'm sure I will never have light come through my windows again from the North. Not sure if it's a home or a Mausoleum! I understand I can't do anything about it...it falls into the current allowable parameters set by the City of Newport Beach. I can't afford to build up, so this is my existence the rest of my life I'm afraid. On the 200 block of Collins Avenue, there are no less than 5 new mansion builds in different stages, so construction has been going on for several years, making living life here hard to bear. The street looks like a Ford Truck dealership, and the only benefit I can find is I can barely hear the jets over the hammers and Skil saws. HELP!!

We must put in place some restrictions on designing and building these monstrosities, with some setbacks to allow airflow, or the charm will be lost forever....it will be just another reflection..."Remember When Balboa Island was so cute and historic?"

I'm asking to please restrict the sheer-walled massing that has run rampant on the island and require setbacks and reasonable architecture considerations, also encourage incentives to the owners of the remaining cottages to keep them

intact, so in the future, people can see what the island was at one time, not just described in a photo on the Balboa Island Museum wall.

It's not too late if we act now, the charm and historic community feeling is what Balboa Island was built on, can stay intact.

**PLANNING COMMISSION, PLEASE
KEEP THE CHARM OF BALBOA
ISLAND,
LIMIT THE MASSING! YOU CAN SAVE
THE ISLAND!**

THANK YOU!!

Jon Remy

714-504-9437

jtremy@yahoo.com

From: [Derek Johansson](#)
To: [Planning Commissioners](#)
Subject: Proposed Residential Design Standards Amendments
Date: Wednesday, May 6, 2020 11:10:59 AM

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I am writing to voice my support for the proposed design standards amendments. I believe the reduction in 3rd floor massing is important to prevent unsightly over-building of tall structures out of character with our neighborhoods.

I also support the changes to gross floor area calculations in order to better reflect the true built square footage of the structures.

Thank you,

John Derek Johansson
2337 La Linda Pl
Newport Beach, CA

From: [Andy Lingle](#)
To: [Planning Commissioners](#)
Subject: Setbacks for 3 story Homes
Date: Wednesday, May 6, 2020 11:28:42 AM

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Dear Planning Commissioners,

I support the proposed resolution codifying third floor setbacks for three story homes. This change will help to preserve the character and charm of our neighborhoods. Without these requirements neighboring homes will lose the light, air, and livability that they are entitled to.

Thank you,

Andrea Lingle
2024 Diana Lane,
Newport Beach, CA
92660

From: [Robb Ezzell](#)
To: [Planning Commissioners](#)
Subject: Loopholes???? You think???
Date: Wednesday, May 6, 2020 11:54:32 AM
Attachments: [image.png](#)

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My name is Robb Ezzell, I have lived @419 Heliotrope Ave., CdM since 1963. I attache a Pix of the current /unoccupied (and overgrown w/ weeds) neighboring house @ 417 Heliotrope (corner of First Ave. & Heliotrope Ave, CdM)
Just ponder the 2 pictures for a moment and tell me what has happened to our “Vilage” since the Developers got ahold of it? There once was a Height restriction that prohibited building above a certain height above grade (I believe it was 32” but could be mistaken. But since the LOOPHOLE you acknowledge, the Developers have been taking the height above that old leveel and able to add a 3rd story. I don’t remember a vote either by the electorate / residents OR the City Council to allow for this I’d like to know what happened and put a stop to this UNBELIEVABLE abuse by these out-of-town Developers of what was once a well regulated and consciences Master Plan for building in our City. The 2 Townhomes proposed for the regulation size lot @ 417 Heliotrope looks more like a Hotel that anything else. Put a stop to this!!!!





From: [Carol Lee](#)
To: [Planning Commissioners](#)
Subject: Proposed Building Code Changes
Date: Wednesday, May 6, 2020 12:55:05 PM

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These changes would be devastating to homes in CdM, the islands, Balboa Peninsula and West Newport by lessening the square footage and enjoyment substantially of homes that have carports and decks.

Please vote this down.

Sincerely,

Carol Lee, Principal Agent

Compass Newport Beach
949.395.3994
DRE: 01402855

Please excuse typos, sent w/ my Android.

From: [Chuck Iverson](#)
To: [Planning Commissioners](#)
Subject: Proposal for 3rd story setbacks
Date: Wednesday, May 6, 2020 1:28:42 PM

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I agree with the proposal that creates a setback to the third story and also makes it more difficult to enclose a third story structure (intended to be an outdoor area) often done after the final approval by the City.

Thank you

Chuck Iverson

Home: 1430 Irvine Ave, Newport Beach, CA 92660

Chuck Iverson

Broker Associate Lic # 01241096

Coldwell Banker Commercial

840 Newport Center Dr Suite 100

Newport Beach, Ca 92660 949-422-6657

www.newportbeachfrontproperty.com

From: [Troya Montgomery](#)
To: [Planning Commissioners](#)
Cc: [Newport Beach AOR](#)
Subject: OPPOSITION for May 7th Public Hearing
Date: Wednesday, May 6, 2020 1:34:24 PM
Attachments: [image001.png](#)
Importance: High

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Attention Newport Beach Planning Commission:

Please accept this email as my personal & professional OPPOSITION to proposed changes to Residential Design Standards Code and LCP Amendments—Title 20 & Title 21—you are set to hear tomorrow night. Proposed changes would erode property rights & values throughout Newport Beach and, as such, should NOT be approved or adopted.

Thank You for Your Attention!

TM

Troya Montgomery

C: 949.412.3048

E: troya@troyamontgomery.com

DRE#01180946

signature_1448168298



From: [Jim Luce](#)
To: [Planning Commissioners](#)
Cc: smartpearl1@hotmail.com
Subject: Comment on Agenda Item #2 for Planning Commission Meeting Thursday, May 7th at 6:30pm
Date: Wednesday, May 6, 2020 2:06:13 PM

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Planning Commission Members...

We live on Balboa Island and have for almost six years now. We love it here and are looking to move to a new home/lot so we can build a home that fully suits our growing family and lifestyle.

Critical to our home selection and design is having the current design standards to remain in place. As it is, there is a huge challenge to have enough living and entertaining space as well as bedroom and bathroom space on these very compact lots. This is particularly true on the first and third floors, which are key design features for virtually everyone who has built a home in the past several years!

We absolutely want the full flexibility to maximize the building on our lot, balancing look and functionality, to make some sense of the exorbitant prices of buying homes/lots on the island! We should be able to build UP however we feel is best for our use.

The cottage homes do bring nice character to the island though it is clear from those of us who have bought here over the past many years, that the preference, for most, is to bring a more up to date look AND to “get the most use of the square footage” to keep some semblance of reasonability on the price/cost per square foot. And, candidly, these revisions, if put in place, will NOT significantly impact the neighbors or the look of the island.

Does it really matter what is done on the third floor? No one will notice from the street, nor will the neighbors, if the third floor is enclosed, open or half and half. And actually, if the third floor were to be fully enclosed, it would be even quieter! The set backs just create additional design challenges yet, more importantly, take away the logical use of precious square footage, on each floor, that is needed for a home with a good size family.

That said, **we strongly urge you to vote down the Revisions to Third Floor Development Standards, vote down the Clarification of the Definition of Gross Floor Area and vote down the Change Applicable to Single-Unit and Two-Unit Dwellings in the R-BI and RM Zones!!** They just create unnecessary restrictions to those of us who want to build a home that will maximize our family lifestyle on Balboa Island.

Jim and Gale Luce
108 Garnet Avenue

Jim Luce
949-432-1389
jimluce34@gmail.com

From: [Stephanie Peterson](#)
To: [Planning Commissioners](#)
Subject: "Residential Design Standards"
Date: Wednesday, May 6, 2020 2:17:02 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

To whom it may concern,

I am against the new proposal for the changes to the third story structures and setbacks in CDM.

This will have a negative affect on our clients' future homes, and future plans for homes. This will also reduce SF allowed, making homes in CDM even smaller !!

Thank you,

--



Stephanie Peterson

Real Estate Professional

949.400.1717

[425 30th Street](#)
[Newport Beach Ca. 92663](#)

stephpetersonagent.com

DRE No. 01984954

From: [Bill](#)
To: [Planning Commissioners](#)
Subject: NO THIRD STORY RESIDENTIAL DESIGN STANDARDS
Date: Wednesday, May 6, 2020 2:31:32 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Please do not allow our community to "grow" up like Miami Beach and other beach communities that have lost their beach atmosphere to high rise development.

Bill Patton

William R. Patton
301 North Star Lane
Newport Beach, CA 92660
Cell: 714-321-0000

From: [Mark Todd](#)
To: [Planning Commissioners](#); [Kimberly Foreman](#)
Subject: Rooftop decks
Date: Wednesday, May 6, 2020 2:39:17 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

With social distancing becoming the new standard having roof-top decks are essential amenities for homes. Not only do they reduce density at the beaches, because people can simply go to their roof instead, but they also increase property values. Rooftop decks are some of the most desired features in homes today. These features drive up home values and thus our property taxes which then allows our local schools and pension funds to be better funded. Keep the rooftops as habitable spaces for our children, teachers, and first responders sakes.

Best regards,

Mark Todd
Broker Associate
CalBRE#: 01168021
1600 Newport Center Drive, Suite 250,
Newport Beach, CA 92660
m: 949.514.0000



Rodriguez, Clarivel

Subject: FW: Planning Commission Meeting

From: Ian Harrison <ian@ianharrisonarchitect.com>

Sent: Wednesday, May 6, 2020 2:48 PM

To: Murillo, Jaime <JMurillo@newportbeachca.gov>; Campbell, Jim <JCampbell@newportbeachca.gov>; Jurjis, Seimone <sjurjis@newportbeachca.gov>

Cc: O'Neill, William <woneill@newportbeachca.gov>; Herdman, Jeff <jherdman@newportbeachca.gov>; Weigand, Erik <eweigand@newportbeachca.gov>; Lowrey, Lee <llowrey@newportbeachca.gov>; Ellmore, Curtis <CEllmore@newportbeachca.gov>; Klaustermeier, Sarah <sklaustermeier@newportbeachca.gov>; Rosene, Mark <mrosene@newportbeachca.gov>

Subject: Planning Commission Meeting

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hello Jaime,

I would like to express my thoughts on the upcoming Planning Commission meeting regarding the proposed zone changes. Balboa Island has become such a desirable destination because of the direction of the new architecture. People are willing to invest a lot to be part of what Balboa Island has to offer, which increases every homeowners property values, even the ones that haven't upgraded their tiny homes. I think it is short sighted to start tinkering with the existing zoning code because of a few homeowners don't like what is happening. Residence who are happy with what they have don't show up to meetings.

I have seen in other parts of this city and other communities outside the city that when future buyer are not willing to invest in that area, no one will make improvements and the area degrades. We should be celebrating the fact that Balboa Island has such a great mixture of old and new, which benefits everyone.

It is my opinion the biggest impact to the heights of the new homes is the FEMA requirements to raise the slab heights not what is happening on the third level of the homes. If the prognosticators are correct about sea-level rise, everyone will eventually need to raise their homes, even the small little bungalows.

Additionally, I would take exception to the City Attorney's interpretation that the adoption of proposed changes would not result in less intensive use as mandated by SB 330. There are some small lots on Balboa Island, especially Small Balboa Island, where applying the fifteen foot setback from the front and rear would severely restrict or eliminate any enclose space on the third level. This is definitely a less intensive use!

Also, in reading the actual wording of the proposed zoning changes, I think it would be prudent to provide a definition of some of the terms used. Will you be using the Building Code definition for "ceiling height" and "accessible" or will it be just left up to each plan-checker's interpretation, which I've seen can vary throughout the years on other items?

Hopefully, common sense will prevail and not change things that are not broken.

Best regards,

Ian

Ian J.N. Harrison, Architect

220 Newport Center Drive, Suite 11-342

Newport Beach, California 92660

From: [Ron Mazzano](#)
To: [Planning Commissioners](#)
Subject: Modification of building standards
Date: Wednesday, May 6, 2020 2:54:51 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

I am opposed to any change in the building standards as it is related to third floors of structures.
Ronald Mazzano
Realtor Emeritus
Member of the Newport Association of Realtors.

Sent from my iPhone

May 7, 2020, Planning Commission Item 2 Comments

These comments on a Newport Beach Planning Commission agenda item are submitted by:

Jim Mosher (jimmosher@yahoo.com), 2210 Private Road, Newport Beach 92660 (949-548-6229).

Item No. 2. RESIDENTIAL DESIGN STANDARDS CODE AND LCP AMENDMENTS (PA2019-070)

1. On handwritten page 5, the description of the change in height measurement of the staff report is incomplete. While it is true that the pre-2010 codes (back to [Ordinance No. 1454](#) in 1972) had the *additional* requirement that the mid-point of a sloping roof stay below 24 feet, they *also*, as now, required the peak of the roof stay below 29 feet. Depending on how the mid-point requirement was applied, it could have prohibited some designs that could be approved post-2010, but this is not obvious, especially if staff allowed the measurement to the midpoint to be lowered to 24 feet by drawing imaginary extensions of the actual roof as illustrated.¹
2. Also not obvious is the logic at the bottom of handwritten page 13 (and top of 14) of why SB 330 has forced staff to eliminate Council's direction to apply the R-1/R-2 height limits to single- and dual-family development in RM zones. If it is OK to apply the other residential standards (as staff says it is even though they include increased step backs which seem to me a new and increased setback requirement) it would seem the height standard could be applied as well. That is, the existing height limit is not being reduced in the sense the owner has the option to build to it if they build for three families or more.
 - a. Mixed into this same question may be a need to clarify what constitutes "multi-unit development" still eligible for the current, relaxed standards. Does a structure that in an R-1 district would be regarded as a SFR + ADU + ADU count as "multi-unit development" if the same structure is built in an RM district?
 - b. The same uncertainty clouds the applicability of the differing open space/volume requirements.
3. Regarding the proposed **Resolution No. PC2020-013**:
 - a. **Page 23**, paragraph "3.": *"On May 14, 2019, the City Council initiated portions of the subject amendment under Resolution No. 2019-43 ..."*
 - b. **Page 25**, paragraph "5.": *"NBMC Section 20.48.180 (Residential Development Standards and Design Criteria) currently **only** applies to R-1 and R-2 Zoning Districts, but excludes residential dwellings constructed in the RM and R-BI Zoning Districts."* or *"NBMC Section 20.48.180 (Residential Development Standards and*

¹ [Ordinance No. 97-9](#) called for the midpoint to be determined by extending the roof **plane** from the **peak** to the **wall plate**, then finding the midpoint of that. The purpose of this seems to have to prevent artificially lowering the midpoint location (and thereby allowing the rest to be taller) by extending the actual roof beyond the wall. But in the example shown in the staff report, it is not obvious which wall was intended by the pre-2010 code: the first floor wall (as illustrated by staff) or the third floor wall (which seems more likely to me). If the latter standard were used, to be consistent with the 24 foot limit, the pre-2010 third floor would have to be shorter than illustrated.

- Design Criteria) currently only applies to R-1 and R-2 Zoning Districts, ~~but~~ and excludes residential dwellings constructed in the RM and R-BI Zoning Districts."*
- c. **Page 25**, paragraph "5.", last sentence: "Application of the front and rear third floor step back requirements to these narrow lots will provide ~~improve~~ improved building scale as viewed from streets and alleys."
 - d. **Page 25**: Should this resolution include a finding similar to that on page 13 of the Item 3 staff report that LCP amendments regarding some of these issues are pending and the Title 20 recommendations regarding the same matters would not be effective in the Coastal Zone unless the corresponding LCP amendments are approved?
 - e. **Page 28**, Item 3.a: It seems like the "For example, on a thirty (30) foot wide lot, ..." paragraph should go *before* the one beginning "On sloping lots..." rather than after it, since the "For example" paragraph expands on sub-items "i" and "ii" not the "On sloping lots..." comment.
 - f. **Page 29**, Item c: The proposed modification to item "c" at the top of this page has created an inconsistency with the (unmodified) item "3.a" on the previous page regarding the handing of lots that are exactly 30 feet in width (of which the staff report says there are quite a few). Because of the subtle difference in wording, in "3.a" a 30-foot lot falls in the *less* restrictive category (allowing the most third floor area), while in "c" it falls in the *more* restrictive one (requiring side step backs not required of narrower lots). Is there a reason for this? Or should the dividing line be consistent? That is, if a 30-foot lot is subject to the side step back requirements of wider lots, should they not also be subject the same, more stringent floor area limit as those same lots (15% of buildable)?
 - g. **Page 29**, Section 3: As previously mentioned, considering that ADU's and JADU's may now be present, do the current definitions of Single-Unit, Two-Unit and Multi-Unit Dwellings work as intended in determining whether definition 1 or definition 2 applies? Intentionally or not, I believe the current definitions can move an R-1 property into the Multi-Unit category for computation of floor area.
4. Regarding the proposed **Resolution No. PC2020-014**:
- a. **Page 33**, paragraph "2.": The City's CLUP goes back far further than 2005, which was simply a comprehensive revision of already-existing CLUP.
 - b. **Page 36**, Section 1: As illustrated better on page 70, there seems to be a problem with the formatting. It looks like the "*Minimum required open space*" comment should appear below a horizontal line extending across all columns and separating the **open space** standards from the **height** standards (compare pages 27 and 62).

From: [Terry Janssen](#)
To: [Planning Commissioners](#)
Subject: Cottage Propossal
Date: Wednesday, May 6, 2020 3:49:53 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Planning Commission:

I am the President of the Balboa Island Improvement Association. Our Board of Directors and Officers support the Cottage proposal before you. It is our belief that by passing this proposal in the long term we'll enhance the beauty of the Island. We urge you to support this proposal.

Respectfully

Terry Janssen

President

Balboa Island Improvement Association

From: [Stacy McCullough](#)
To: [Planning Commissioners](#)
Subject: Residential Design Standards - Newport Beach
Date: Wednesday, May 6, 2020 4:05:36 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

As we know, the Planning Commission has been discussing changes to the Residential Design Standards Code which includes changes to the third floor decks. This has the potential to reduce lot values throughout Newport Beach. The City proposed area limitation would eliminate the covered cabanas on the roof deck.

I'm alarmed that any City's Planning Commission, much less the Newport Beach City's Planning Commission, would take advantage of a crisis - **COVID-19** - in order to make self-serving decisions which can and will affect the value of any person's or family's most important asset - THEIR HOME.

This subject deserves to be addressed at a later date in order for the current Covid-19 situation to calm down, more people and businesses return to the new normal, and people don't need to worry about the value of their most important asset being reduced too quickly to an idea that didn't even exist when their homes were built per the rules, standards, and then current permit processes.

No one respects a person, or a system, who provides one set of rules and promises and then rips them away for who's best interest?Hmm.



STACY McCULLOUGH, REALTOR(®)

949.887.1199 | CalDRE#- 01250385
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Newport Beach, CA 92660

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From: outlook_0BFBA5C09FE76CC5@outlook.com
To: [Planning Commissioners](#)
Subject: Residential Massing Standards - May 7, 2020 Agenda Item No. 2 - (PA2019-070)
Date: Wednesday, May 6, 2020 4:17:14 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Chair Koetting and Members of the Planning Commission,

I have read the Staff report, attachments, and correspondence submitted to date.

I am in full support of Mr. Ian Harrison's April 27, 2020 comment, (Attachment 1, "Planning Commission Correspondence", handwritten page 98) that the Zoom/WebEx video approach to public hearings is gravely compromised. He questions why this item can't wait until an in-person public meeting can be held. He's asking why this is so important right now. I also wonder about that.

To further support my concern, I wholeheartedly agree with Catherine Martin Wollcott's, April 28, 2020 comment (also, Attachment 1, "Planning Commission Correspondence", handwritten page 104) where she states:

"If there is one thing yesterday's City Council special meeting demonstrated, it is that the WebEx platform is at best only a partial substitute for public comment and input in a public hearing. While we are still able to submit written comment to the Planning Commission and staff, neither written comment nor an unreliable electronic public comment period is the functional equivalent of being able to speak in the Council Chambers".

I watched the April 28, CC meeting on cable TV and it was definitely unacceptable and compromised the whole notion of "public participation".

Additionally, having read handwritten Page 14 of the Staff Report, "Proposed Applicability Change-Two-Unit Residential (R-2) lots 25 wide or Less", I became curious as to who the "City's Design Community" members were as follows:

*"As a result of input received from the community meeting and in consultation with members of the **City's design community**, . . .".*

The sentence goes on to say that *" . . . it has become apparent that new residential development on these lots could benefit from application of the additional 15-foot front and rear third floor step back requirements."*

Handwritten Page 16, "Community Outreach", identifies those who make up the City's community design. I believe that some of those "Community Design" members mentioned do not support the proposed amendments given the correspondence they've submitted.

I realize that the City must continue to do its "business" but I've lost count of the number of LCP

amendments staff has put forth since the LCP was certified by the California Coastal Commission in January 2017. Staff refers them as “clean-up”. Anything having to do with sustaining the character of Newport Beach deserves more than a video conferenced meeting.

Thank you for considering my comments.

Sincerely,

Dorothy Kraus

Sent from [Mail](#) for Windows 10

From: [Gordon Henry](#)
To: [Planning Commissioners](#)
Subject: Residential Design Standards and LCP Amendments
Date: Wednesday, May 6, 2020 4:30:39 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Planning Commission –

I just wish to express concern over the contemplated changes to the building codes affecting new development in the Flower Streets and elsewhere around our great city. I am a 60-year-long resident of NB/CDM. I am also a 40-year-long local realtor. I am not wild about the increased population, congestion and other results of our growth over the years but do feel that with few exceptions, new development projects particularly in the Flower Streets, Balboa Island, Lido Island and Peninsula Point are well-done. The cost of land and the resulting finished-product prices have placed a demand on builders to keep building a better product. In the case of the 3rd level decks, roof top decks once rarely used, have now become the favorite and most useable space in the house. While these areas are generally open (but increasingly covered areas), I understand your contemplated changes are intended to reduce “density” by including these spaces into new living area calculations such that one will need to choose between allowable interior space and what had historically been exterior area. (That may be poorly expressed but hopefully you understand my point/concern.) As a property owner and a realtor, it’s my opinion these changes will have a negative impact on property values. The economics of real estate have been very good to our community for generations. I fear the effort to over-regulate development standards that currently and successfully allow attractive and functional product and within a viable economic model would be counterproductive.

Thank you for your consideration.

Respectfully,

Gordon F. Henry
405 Feliz, NB
(949)500-1236

From: [Joe Welke](#)
To: [Planning Commissioners](#)
Subject: Residential design standards
Date: Wednesday, May 6, 2020 4:38:29 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Houses on oceanfront have an incline higher then houses behind them on the same block thus gaining height but with the same limitations and blocks views for all other houses on block.

Houses on oceanfront should not be allowed to a closed in structure on the 3rd floor

Because it takes the views from all the other houses behind on block.

Height Measurements should vary per house because the street needs a decline for flow of rain water and houses are lower.

Sent from my iPad

From: [Randy Black](#)
To: [Planning Commissioners](#)
Subject: Residential Design Standards Amendments
Date: Wednesday, May 6, 2020 4:41:54 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Chairman Koetting, Vice Chairman Weigand, and Commissioners Lowrey, Ellmore, Klaustermeier, Kleiman and Rosene:

My family has owned property in Newport Beach since 1926. As a Newport Beach native and homeowner, and as a real estate broker and investor for over thirty years, I strongly support the proposed amendments to the Residential Design Standards regarding third story massing and definition of gross floor area.

Maintaining Property Values:

The proposed amendments are necessary to maintain property values in the City. The existing charm and character of Balboa Island, Corona del Mar, the Peninsula and the other affected neighborhoods, along with the unparalleled natural environment, support their very high property values. Unfortunately, too many of the newest properties detract from this charm and character by building to the outer limits of the existing design standards and creating unsightly three story boxes that overwhelm their neighborhoods. (Please see the attached photos.) In my experience, a deterioration of property values inevitably follows unregulated, out of control construction and property use. We need to preserve the unique qualities of these neighborhoods that make them a desirable place to live and ultimately preserve and enhance property values in our community.

Protecting Property Rights:

All City planning, zoning and development regulations could be said to restrict the right of a property owner to do exactly as he or she pleases, regardless of the effect on the neighborhood. However, the purpose of such regulations is to, among other things, protect the property rights of adjoining landowners to enjoy their properties by preserving the existing character of an area, and to provide for further development to take place in a manner consistent with existing neighborhood uses. Clever architects have used loopholes in the existing standards to build unsightly three story boxes (similar to the unfortunate “tall skinnies” of Huntington Beach) which overwhelm the adjoining properties and trample upon their neighbors’ light, views and right to use their properties. These amendments are necessary to protect the property rights of these neighbors.

The proposed amendments do not reduce buildable area and are essentially technical corrections to conform the residential design standards to their original intent. These amendments will help maintain property values and property rights in the affected areas. I urge you to adopt them.

Thank you for your kind attention.

Respectfully,

Randy Black
Edgewater Avenue
Newport Beach



From: [Mary Ann Hemphill](#)
To: [Planning Commissioners](#)
Subject: Proposed amendments to standards for 3rd story bulk and mass
Date: Wednesday, May 6, 2020 4:49:29 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear members of the Newport Beach Planning Commission,

I very strongly support the the amendments to mitigate the effects of third-story mass.

These bulky designs are, in my opinion, unattractive and detrimental to their neighborhoods.

These designs deprive neighboring homes of sunlight and block the refreshing sea breezes.
They lessen the charms of neighborhoods such as the islands and Corona del Mar.

Thank you very much for considering my opinion.

Sincerely,
Mary Ann Hemphill
230 Agate Avenue
Balboa Island

From: [John Scudder](#)
To: [Planning Commissioners](#)
Subject: Pease don't allow
Date: Wednesday, May 6, 2020 4:55:43 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Planning Commissioners:

Just a few words. If more three story enclosed homes are allowed on Balboa Island, in due time, we islanders will just be encased in birthday-cake sized houses. Our only view will be looking skyward..... not to mention losing the wonderful charm of this place.

Respectfully,

John Scudder
Resident since 1950

From: [Kirsten Schmieder](#)
To: [Planning Commissioners](#)
Subject: Residential Design Standards
Date: Wednesday, May 6, 2020 4:58:28 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Planning Commission,

As longtime residents/owners of a property on 29th Street, we are deeply opposed to the proposal of maximizing additional space on third stories here on the Peninsula. As it is we see more and more box-like structures being built here. These properties not only take away natural light from neighboring properties but they also impair the peek-a-boo beach views that the old setbacks provided. When did the City of Newport Beach move from the property design rules that had the imaginary line running from the roof peak on the 3rd level to the deck rails and down each level from there? These old building codes allowed neighboring property owners to not feel boxed in. Oceanfront properties could be an exception since those plots are not angled in the same way.

Please set some limits on how future properties are remodeled and built on the 100 & 200 blocks.

Thank you!

Sincerely,
Kirsten Schmieder & Scott Roth

From: [Susan Dvorak](#)
To: [Planning Commissioners](#)
Subject: Massing Code Revisions
Date: Wednesday, May 6, 2020 5:02:27 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Planning Commission Members:

In keeping with the spirit of the recently approved Historic Cottage Incentive Program, I urge the Planning Commission to fix the 2010 code revisions that have unintentionally altered the character of some of our loveliest neighborhoods. I support restricting third story massing and requiring setbacks. I further urge the Commission to move this initiative to the City Council for deliberation with resident input.

Third story massing was never the City's intent when changes were made to the 2010 zoning code, and loopholes in the code have been exploited at an alarming rate by builders and developers to justify erecting structures that are out of scale with the surrounding neighborhoods. In addition, they infringe on adjoining neighbors' access to natural light and ventilation.

These massive buildings do nothing to enhance the beauty of neighborhoods such as Balboa Island, Corona del Mar or the Peninsula; indeed, they overwhelm and overshadow the streets and homes in these areas. I hope the commission recognizes the fact that many visitors come to Newport Beach each year because of the unique charm of these neighborhoods which doesn't exist anywhere else in Southern California.

Please take action to maintain the character of some of our most charming Newport Beach neighborhoods.

Sincerely,

Sue Dvorak

Newport Beach Resident

From: [Jim Moloney](#)
To: [Planning Commissioners](#)
Subject: Planning Commission Meeting (May 7, 2020) -- Third-Story Deck (Massing) regulations / public comment
Date: Wednesday, May 6, 2020 5:09:32 PM
Attachments: [House Comparisons - 2.pptx](#)

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Commissioners:

I write to you today as a long-time (20+ year) resident of Newport Beach. My wife and I own several properties in Newport Beach. All would be characterized as beach cottages (less than 1,000 square foot) built between 1923 and 1942.

The cottages we own and have preserved over the past two decades represent the history and charm of Newport Beach, including Balboa Island and the Balboa Peninsula. Everything this area stands for and what attracts visitors and tourists to Newport Beach.

I understand there are many residents who are outraged at the heights to which the massive three-story homes have become over the last few years. I believe this build to the sky behavior is the result of the recent relaxation of the City Building Codes governing roof-top decks.

It started a few years back with the City giving an inch, and some very aggressive developers taking a mile, driving their new home construction projects (on small lots of (30' x 80') to super great heights, reaching into the sky to catch a glimpse of the sea, only to find a neighbor building a similarly tall home next door, and further casting dark shadows onto the much smaller one and two-story homes in the immediately surrounding area.

It is imperative that the rules regarding roof-top decks and structures be limited in scope and set back as the City Staff has proposed in order to maintain in the quaint style and character of the area, AND to maintain property values.

A handful of real estate agents and property developers are pushing the narrative that these roof top decks help improve property values. While that may be true for the handful of three-story McMansions that have been built in the last few years, such over-sized homes actually hurt the value of the surrounding homes. So at best, they are destroying value to the surrounding homes.

I have attached a PPT (powerpoint) presentation including photos of some of the more egregious examples of new homes in Newport (Balboa Island and Balboa Peninsula) that have been built in the last few years. Some are currently under construction.

As you will see from the attached photos, the homes in these pictures are completely

out of character for the area, they are way too massive and over-bearing. Not to mention, they are very upsetting to long-time residents and visitors (vacationers) alike.

My wife (Erin) and I implore you not to maintain the existing (lax) rules, but rather to proceed with the reasonable restrictions and guidelines proposed by City Staff (who have done excellent work on this topic) and brought you very reasonable and well-considered moderations in restraint from the massive building towers that have sprouted up in our neighborhoods, over-shadowing everyone else in the vicinity.

Allow us to maintain what limited sunlight (and sunsets) we currently have. Don't fuel the massive builder boom. We need restraint before it is too late!

Thank you for your consideration.

Respectfully

Jim & Erin Moloney

314 Diamond Ave.
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From: [Moloney, James](#)
To: [Planning Commissioners](#)
Subject: Planning Commission Meeting (May 7, 2019)
Date: Wednesday, May 6, 2020 5:14:17 PM
Attachments: [House Comparisons - 2.pptx](#)

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Attachment for Jim & Erin Moloney's public comment on City Staff proposals re: third-story roof-top deck set back restrictions and limitations on square footage.

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House 1 – Good

205 Opal Avenue



House 2 - Good



House 3 - Good



House 4 – Good But Approaching Massive

(108 Pearl)



House 5 – Good But Approaching Massive



House 6 – Still Good But Starting Toward Massive



House 7 – Not So Good / Bordering on Massive



House 7 – Not So Good / Bordering on Massive (continued)



House 8 – Bad – Completely Oversized



House 9 - Bad



House 10 – Bad – Way Too Massive

206 Onyx Ave.

