

Attachment F

May 7, 2020 Planning Commission Staff Report



CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

May 7, 2020
Agenda Item No. 3

SUBJECT: Amortization of Nonconforming Signs (PA2019-184)
▪ Code Amendment No. CA2019-007
▪ Local Coastal Program Amendment No. LC2019-005

SITE LOCATION: Citywide

APPLICANT: City of Newport Beach

PLANNER: David Blumenthal, AICP, Planning Consultant
949-644-3200, dblumenthal@newportbeachca.gov

PROJECT SUMMARY

Amendments to Section 20.42.140(A) of Title 20 (Planning and Zoning) and Section 21.30.065(E) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (NBMC) to extend an amortization period for nonconforming signs. NBMC currently requires nonconforming signs to be removed by October 27, 2020. These amendments would extend the deadline for removal to October 27, 2025.

RECOMMENDATION

- 1) Conduct a public hearing;
- 2) Find this project categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15305 under Class 5 (Minor Alterations in Land Use Limitations) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3;
- 3) Adopt Resolution No. PC2020-015 (Attachment No. PC 1) recommending the City Council approve Zoning Code Amendment No. CA2019-007 to amend Section 20.42.140(A) (Nonconforming Signs) of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code; and
- 4) Adopt Resolution No. PC2020-016 (Attachment No. PC 2) recommending the City Council approve Local Coastal Program Amendment No. LC2019-005 and authorize staff to submit the amendment to the California Coastal Commission to amend Section 21.30.065(E) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code.

INTENTIONALLY BLANK PAGE

DISCUSSION

Background

In October 2005, the City comprehensively updated its sign regulations. Sign standards changed and certain previously allowed signs were prohibited. Newport Beach Municipal Code Sections 20.42.140 and 21.30.065 require certain signs that do not conform to the new regulations to be abated within 15 years (amortization period) from the effective date of the sign code update (October 27, 2005 + 15 years = October 27, 2020). There were approximately 400 legal nonconforming in 2005, of which approximately 140 have either brought into conformance or have been removed.

On October 22, 2019, the City Council adopted Resolution 2019-92, initiating the subject Code Amendment and LCP Amendment directing staff to analyze extending the amortization period. The impetus of initiating the amendment was due to a lack notice to the impacted business and property owners. The consideration of the extension is to give additional time for legal nonconforming signs to be brought into compliance or removed.

On March 15, 2020, the City of Newport Beach proclaimed a local emergency due to the COVID-19 global pandemic. Due to the peril on personal safety that is based on the existence or threatened existence of COVID-19 within and/or around the City of Newport Beach, many businesses have been forced to reduce services or temporarily close, which has place a financial burden on these businesses and property owners.

Proposal

A nonconforming sign is a sign that was legally installed, but as a result of changes to the municipal code are no longer allowed. Not only does this include over-sized signs, but also includes the following sign types:

Pole sign: A sign that is supported by a single pole or similar support structure so that the bottom edge of the sign is one foot or more above grade.



Roof sign: A sign that is erected upon or above a roof of a building



Internally illuminated signs with a translucent face: A sign that is illuminated from an interior light source and more than the actual lettering and/or a registered trademark or logo is illuminated.



Signs are important to businesses, as it provides a form of advertising and assists customers in locating the business. However, maintaining a unified and appropriate appearance of signs has a direct relationship to the character of the community. As sign regulations change, the elimination of older signs helps achieve the community character.

To accomplish this, the use of an amortization period is a common planning tool. The theory behind the amortization period is a nonconforming sign is allowed to remain for a specific period of time, thus allowing the owner to recoup their investment before the sign must be abated. In this case, a 15-year amortization period was set in 2005.

Over the past 15 years, approximately 35 percent of the nonconforming signs have been remedied through natural attrition. The initial intent of this code amendment was to grant additional time for signs to be brought into compliance with the code or be removed. Notwithstanding this, with the onset of the COVID-19 pandemic, an additional financial burden has been placed on many local businesses, as they have been required to reduce services or temporarily close. Since replacing a sign is a capital expense that the business or property owner would be required to undertake, extending the amortization period would provide some financial relief.

Additionally, enforcing the deadline and working with business owners would require significant amount of staff, including code enforcement, planners, and attorneys, dedicated to the efforts. Extending the deadline would allow staff to focus on COVID-19 management and recovery efforts, as well as implementation of higher priority projects.

This proposed would amend Sections 20.42.140(A) and 21.30.065(E) of the NBMC. Staff is recommending a five-year extension to the amortization period. The proposed amendments are as follows:

20.42.140 NONCONFORMING SIGNS

A. Abatement of Nonconforming Signs. The following nonconforming signs shall be removed or altered to be conforming within ~~fifteen (15)~~ twenty (20) years from October 27, 2005, unless an earlier removal is required by the provisions of subsection (B) of this section.

1. Roof signs;
2. Pole signs;
3. Internally illuminated signs with a translucent face;
4. Signs with letters, text, logos, or symbols taller than permitted by this chapter; and
5. Signs that exceed seventy-five (75) square feet in total sign area.

21.30.065 SIGNS

E. Removal of Nonconforming Signs. The nonconforming roof and pole signs shall be removed or altered to be conforming by ~~October 27, 2020~~ October 27, 2025, with the exception of signs designated as heritage signs.

Outreach Efforts

On March 12, 2020, staff sent letters to 327 property and business owners for properties and/or businesses that were previously identified as having a nonconforming sign. The intent of the letter was to inform them of the pending code amendment and to elicit feedback. Staff has spoken to and/or received comments from approximately 70 respondents, the consensus of which is the City should extend or eliminate the amortization period. Comment letters are included in Attachment No. PC 3

General Plan Consistency

General Policy No. NR21.2 (Illegal Signs and Legal Nonconforming Signs) states, *“Implement programs to remove illegal signs and amortize legal nonconforming signs.”* While there is already a program to remove nonconforming signs (NBMC Sections 20.42.140 and 21.30.065), the action is consistent with this General Plan Policy since it does not eliminate the amortization of legal nonconforming signs, but rather just extends the deadline for their removal.

The Code Amendment is also consistent with General Plan Policy No. LU 1.5 (Economic Health), which states, *“Encourage a local economy that provides adequate commercial, office, industrial, and marine-oriented opportunities that provide employment and revenue to support high-quality community services.”* Due to the COVID-19 pandemic, many businesses in the City are facing an economic hardship as a result of being required to reduce services or close temporarily. The Code Amendment would reduce the financial burden on businesses during the COVID-19 crisis and assist in the recovery of the local economy.

Local Coastal Plan

This proposal includes amendments to Title 21 (Local Coastal Program Implementation Plan) of the NBMC. Amendments to the LCP must also 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. Coastal Commission review and approval is required for any proposed amendment to the certified LCP.

It is staff's opinion that this amendment would not have an impact to public access or views to coastal resources. The proposal does not authorize new development or additional signs, but rather extends an amortization period for existing legal nonconforming signs.

Alternatives

The Planning Commission may recommend a longer or shorter timeframe for the amortization period. The Commission may also recommend denial of the suggested code

amendment. Should the code amendment be denied by the City Council, all legal nonconforming signs would need to be removed by October 27, 2020.

Environmental Review

The Code Amendment is categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15305 under Class 5 (Minor Alterations in Land Use Limitations) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3. Class 5 exemption applies to minor changes in land use limitations, provided the Property has an average slope that does not exceed 20 percent and the changes does not result in change to the permitted land use or density. The Amortization Period is considered a limitation on a land use. The Code Amendment would provide for a minor change by extending the Amortization Period. No new signs would be authorized and no change to existing sign standards would occur. Lastly, there would be no alteration to the conforming status to any sign.

Public Notice

Notice of this amendment was published in the Daily Pilot as an eighth page advertisement, consistent with the provisions of the Municipal Code. The item also appeared on the agenda for this meeting, which was posted at City Hall and on the City website. Notice was also mailed to all property and business owners for properties and/or businesses that were previously identified as having a nonconforming sign. Additionally, notice was sent to all persons and agencies on the Notice of the Availability mailing list for amendments to the LCP.

Prepared by:



David Blumenthal, AICP
Planning Consultant

Submitted by:



Jim Campbell
Deputy Community Development Director

~~ATTACHMENTS~~

- ~~PC 1 Draft resolution recommending the City Council approve Zoning Code Amendment No. CA2019-007~~
- ~~PC 2 Draft resolution recommending the City Council approve Local Coastal Program Amendment No. LC2019-005 and authorize staff to submit the amendment to the California Coastal Commission~~
- ~~PC 3 Correspondence Received~~