

Attachment I

Planning Commission Resolution No. PC2020-015

RESOLUTION NO. PC2020-015

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA RECOMMENDING CITY COUNCIL ADOPTION OF ZONING CODE AMENDMENT NO. CA2019-007 TO AMEND SECTION 20.42.140 (NONCONFORMING SIGNS) OF TITLE 20 (PLANNING AND ZONING) OF THE NEWPORT BEACH MUNICIPAL CODE (PA2019-184)

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

SECTION 1. STATEMENT OF FACTS.

1. In October 2005, the City of Newport Beach ("City") comprehensively updated its sign regulations. Sign standards changed and certain previously allowed signs were prohibited. Newport Beach Municipal Code ("NBMC") Sections 20.42.140 (Nonconforming Signs) and 21.30.065 (Signs) 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.
2. The Amortization Period is set to expire on October 27, 2020, at which time all nonconforming signs must be removed. On October 22, 2019, the City Council of the City of Newport Beach adopted Resolution 2019-92 initiating an amendment to Title 20 (Planning and Zoning) ("Title 20") related to signs including extending the Amortization Period ("Zoning Code Amendment").
3. On March 15, 2020, the City proclaimed a local emergency due to the COVID-19 global pandemic. Due to the extreme peril upon personal safety that is based on the existence or threatened existence of COVID-19 within and/or around the City, many businesses have been forced to reduce services or temporarily close.
4. A public hearing was held on May 7, 2020, 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 Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and NBMC Chapter 20.62 (Public Hearings). 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.

1. This Zoning 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, because elimination of the

Amortization Period has no potential to have a significant effect on the environment.

2. The 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. This Zoning Code amendment will provide for a minor change by eliminating the Amortization Period. No new signs are authorized and there is no alteration to the conforming status to any sign.
3. The exceptions to this categorical exemption under Section 15300.2 of the CEQA Guidelines are not applicable. The elimination of the Amortization Period does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

1. This Zoning Code amendment is consistent with the following Land Use and Natural Resources policies of the City of Newport Beach General Plan ("General Plan"). This Zoning Code amendment will eliminate an existing Amortization Period on nonconforming signs. General Plan Policy No. LU 1.5 (Economic Health), 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. By eliminating the requirement for nonconforming signs to be removed, the Zoning Code amendment is consistent with this General Plan policy, as it will reduce the financial burden on businesses during the COVID-19 crisis and assist in the recovery of the local economy.

General Plan Policy No. NR21.2 (Illegal Signs and Legal Nonconforming Signs) states the policy goal of, "Implement[ing] programs to remove illegal signs and amortize legal nonconforming signs." Nevertheless, as part of the Vision Statement of the General Plan, in order to provide a responsive government, "Elected officials and City staff listen and respond to the interests of residents and the business community." The overwhelming testimony provided by the business community during the public hearing has shown that these signs are a critical component to achieving and maintaining economic vitality. Eliminating the amortization period will meet the needs of the businesses and community by providing a consistent means to communicate which businesses are operating at specific sites to the community. Furthermore, the natural attrition of nonconforming signs will ultimately achieve the goal of General Plan Policy No. NR21.2.

However, staff is recommending an amendment to the General Plan in order to ensure full conformity with the General Plan.

2. The Zoning Code amendment to eliminate the Amortization Period for removal of nonconforming signs is consistent with Title 20 (Planning and Zoning) of the NBMC. The types of signs that are subject to removal (roof signs, pole signs, internally illuminated signs with translucent faces, and oversized signs) will continue to be prohibited by the code. All nonconforming signs that are proposed to be altered will continued to be reviewed to ensure the changes are compliant with the requirements set forth in Title 20.
3. An amendment to Title 21 (Local Coastal Program Implementation Plan) of the NBMC is also underway. For properties within the Coastal Zone, this Zoning Code amendment shall not become valid until approval of the Local Coastal Program amendment by the California Coastal Commission (“CCC”), including adoption of an ordinance by the City Council that incorporated any changes required by the CCC.
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. This Zoning 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, 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 the City Council approve Zoning Code Amendment No. CA2019-007, thereby deleting and replacing in its entirety Section 20.42.140 (Nonconforming Signs.) of the Newport Beach Municipal Code to read as follows:

20.42.140 Nonconforming Signs.

A. Removal of Nonconforming Signs. Nonconforming signs shall be removed if:

1. The nonconforming sign is more than fifty (50) percent destroyed, and the destruction is other than facial copy replacement. A nonconforming sign shall be deemed to be more than fifty (50) percent destroyed if the estimated cost of reconstruction exceeds fifty (50) percent of the replacement cost as determined by the Building Official;

2. The nonconforming sign is remodeled, unless the sign is remodeled to comply with the provisions of this chapter;

3. The nonconforming sign is located on a building that is enlarged or expanded, if the nonconforming sign is affected by the construction, enlargement, remodel, or expansion. An enlargement, remodel, or expansion of the portion of the building upon which the nonconforming sign is located or that is more than fifty (50) percent of the building area shall be deemed to affect the nonconforming sign; or

4. The nonconforming sign is temporary.

B. Deactivation of Flashing Features. The owner of a sign that contains flashing features shall permanently deactivate the flashing features.

C. Continuance of Nonconforming Signs. Except as provided in subsection (A) of this section, a nonconforming sign may be continued and shall be maintained in good condition as required by these regulations, but it shall not be:

1. Structurally changed to another nonconforming sign, although its copy and pictorial content may be changed.

2. Structurally altered to prolong the life of the sign, except to meet safety requirements.

3. Expanded or altered in any manner that increases the degree of nonconformity.

D. Repairing and Repainting. Nonconforming signs shall only be painted and repaired in place and shall not be removed from their existing location, except for building remodeling, unless removal of the sign for painting or repair is part of the sign's customary maintenance and repair.

E. Change of Business Ownership. Upon a change of ownership, the new owner of a nonconforming sign may change the name or names on the sign so long as there is no change in the structure or configuration of the sign.

PASSED, APPROVED, AND ADOPTED THIS 7th DAY OF MAY 2020.

AYES: Ellmore, Klaustermeier, Kleiman, Koetting, Lowrey, and Weigand

NOES:

ABSTAIN:

ABSENT: Rosene

BY:


Peter Koetting, Chair

BY:


Lee Lowrey, Secretary