

ATTACHMENT B

RESOLUTION NO. 2020- 72

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AUTHORIZING SUBMITTAL OF LOCAL COASTAL PROGRAM AMENDMENT NO. LC2019-001 TO THE CALIFORNIA COASTAL COMMISSION TO AMEND TITLE 21 (LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN) OF THE CITY OF NEWPORT BEACH MUNICIPAL CODE CORRECTING AND CLARIFYING PROVISIONS RELATED TO MINIMUM LOT SIZE AND DIMENSIONS, OVERLAYS AND PUBLIC HEARING NOTICE REQUIREMENTS (PA2019-055)

WHEREAS, Section 200 of the City of Newport Beach Charter ("Charter") vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges, or procedures granted or prescribed by any law of the State of California;

WHEREAS, Section 30500 of the California Public Resources Code requires each county and city to prepare a local coastal program for that portion of the coastal zone within its jurisdiction;

WHEREAS, in 2005, the City of Newport Beach ("City") adopted the City of Newport Beach Local Coastal Program Coastal Land Use Plan as amended from time to time including most recently on February 12, 2019, via Resolution No. 2019-16;

WHEREAS, 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) to the City of Newport Beach Municipal Code ("NBMC") whereby the City assumed coastal development permit-issuing authority on January 30, 2017;

WHEREAS, an amendment to Title 21 (Local Coastal Program Implementation Plan) ("LCP Amendment") is necessary to provide clarification and corrections, and to resolve inconsistencies between Title 21 and Title 20 (Planning and Zoning) of the NBMC;

WHEREAS, on April 23, 2019, the City Council adopted Resolution No. 2019-41 initiating the LCP Amendment;

WHEREAS, both Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) include minimum lot size standards for newly created residential lots for new residential subdivisions, however, many of the lots of the older communities in the City (e.g., Balboa Peninsula, Corona del Mar, Balboa Island, etc.) were developed in the early and mid-1900's prior to the City adopting Title 19 (Subdivisions);

WHEREAS, many of the lots do not meet current minimum lot sizes and dimensions and over time, some lots have been combined or reconfigured from their original subdivision pattern;

WHEREAS, Title 20 (Planning and Zoning) currently includes an exception that allows residential lots to be subdivided with smaller sizes and dimensions than required by that zone, provided the lot size and dimensions are not less than the original underlying lots on the same block face and in the same zoning district, however, this provision was inadvertently left out of Title 21 (Local Coastal Program Implementation Plan);

WHEREAS, Section 21.28.10 (Purposes of Overlay Coastal Zoning Districts) of the NBMC inadvertently states that the more restrictive standard of the underlying coastal zoning district or applicable overlay apply, however, overlays may apply which allow a different standard that might be less restrictive than the underlying zone;

WHEREAS, for instance, the Height Overlay District allows a greater building height that is less restrictive if certain conditions are met;

WHEREAS, additionally, the Parking Management Overlay authorizes the establishment of a Parking Management District that allows reduced parking requirements than that of the base zoning standards;

WHEREAS, the amendment to Title 21 (Local Coastal Program Implementation Plan) will clarify that in cases where standards conflict between base zone and an overlay district, the standards of the overlay district will control;

WHEREAS, Section 21.62.020 (Notice of Public Hearing) of the NBMC provides noticing requirements for project applications requiring a public hearing including: publication in a newspaper of general circulation, mailing to affected property owner, local agencies, nearby property owners and residents, persons requesting notice, and the California Coastal Commission, and posting of notice on or near the subject property;

WHEREAS, in lieu of mailed notice, Subsection 21.62.020(B)(4) (Method of Notice Distribution) of the NBMC authorizes the Community Development Director to choose an alternative notice procedure, as specified by State law;

WHEREAS, to eliminate ambiguity and provide clarification of the alternative afforded by State law, the LCP Amendment will clearly specify that the alternative is to publish a one-eighth page display advertisement in a newspaper of general circulation within the City;

WHEREAS, in addition, the Code Amendment will specify that the Community Development Director may choose to provide additional notice of a hearing in any other manner deemed necessary;

WHEREAS, a telephonic public hearing was held by the Planning Commission on June 18, 2020, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California, due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19. A notice of time, place and purpose of the public hearing was given in accordance with the California Government Code Section 54950 *et seq.* the ("Ralph M. Brown Act") and Chapter 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing;

WHEREAS, at the hearing, the Planning Commission adopted Resolution No. PC2020-025 (6 ayes, 0 nays) recommending to the City Council adoption of LCP Amendment No. LC2019-001;

WHEREAS, a telephonic public hearing was held by the City Council on July 28, 2020, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19. A notice of time, place and purpose of the public hearing was given in accordance with the California Government Code Section 54950 *et seq.* the ("Ralph M. Brown Act") and Chapter 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing; and

WHEREAS, pursuant to Section 13515 (Public Participation and Agency Coordination Procedures) of the California Code of Regulations Title 14, Division 5.5, Chapter 8, Subchapter 2, Article 5, drafts of LCP Amendment No. LC2019-001 were made available and a notice of availability was distributed at least six weeks prior to the City Council public hearing.

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

Section 1: The City Council does hereby authorize City staff to submit LCP Amendment No. LC2019-001 to the California Coast Commission for review and approval, as set forth in Exhibit "A", which is attached hereto and incorporated herein by reference.

Section 2: The Local Coastal Program including the proposed LCP Amendment No. LC2019-001, will be carried out in full conformance with the California Coastal Act of 1976 as set forth in the California Public Resources Code Section 30000 *et seq.*

Section 3: LCP Amendment No. LC2019-001 shall not become effective until approved and adopted by the California Coastal Commission, including any modifications suggested by the California Coastal Commission, by resolution(s) and/or ordinance(s) of the City Council.

Section 4: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 5: 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 6: The City Council finds the adoption of this resolution is exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to 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 LCP Amendment 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 LCP Amendment itself does not authorize development that would directly result in physical change to the environment.

Section 7: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 28th day of July 2020.

WILL O'NEILL
Mayor

ATTEST:

Leilani I. Brown
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

Attachment: Exhibit A - Proposed Amendment to the City of Newport Beach Local Coastal Program Related to Provisions Related to Minimum Lot Size and Dimensions, Overlays and Public Hearing Notice Requirements (LC2019-001)

Proposed Local Coastal Program
Amendment No. LC2019-001 to Clarify Provisions related to Minimum Lot Size and Dimensions, Overlays and Public Hearing Notice Requirements (LC2019-001)

Section 1: Add Note 6 and amend the Lot Area row of Table 21.18-2 of Section 21.18.030 (Residential Coastal Zoning Districts General Development Standards) of Chapter 21.18 (Residential Coastal Zoning Districts (R-A, R-1, R-BI, R-2, and RM)) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code to read as follows:

Development Feature	R-A	R-1	R-1-6,000	Additional Requirements
Lot Area (1) (6):				
Corner lot	87,120 sq. ft.	6,000 sq. ft.	6,000 sq. ft.	
Interior lot	87,120 sq. ft.	5,000 sq. ft.	6,000 sq. ft.	

(6) Lots may be subdivided so that the resulting lot area and dimensions for each new lot are less than that identified in this table in compliance with the provisions of Title 19 (Subdivisions). The minimum lot size shall not be less than the original underlying lots on the same block face and in the same coastal zoning district. Lot width and length may vary according to the width and depth of the original underlying lots. New subdivisions that would result in additional dwelling units beyond what the original underlying lots would allow are not permitted unless authorized by an amendment of the General Plan (GPA).

Section 2: Add Note 6 and amend the Lot Area row of Table 21.18-3 of Section 21.18.030 (Residential Coastal Zoning Districts General Development Standards) of Chapter 21.18 (Residential Coastal Zoning Districts (R-A, R-1, R-BI, R-2, and RM)) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code to read as follows:

Development Feature	R-BI	R-2	R-2-6,000	Additional Requirements
Lot Area (1)(2)(3)(6):				
Corner lot	2,375 sq. ft.	6,000 sq. ft.	6,000 sq. ft.	
Interior lot	2,375 sq. ft.	5,000 sq. ft.	6,000 sq. ft.	

(6) Lots may be subdivided so that the resulting lot area and dimensions for each new lot are less than that identified in this table in compliance with the provisions of Title 19

(Subdivisions). The minimum lot size shall not be less than the original underlying lots on the same block face and in the same coastal zoning district. Lot width and length may vary according to the width and depth of the original underlying lots. New subdivisions that would result in additional dwelling units beyond what the original underlying lots would allow are not permitted unless authorized by an amendment of the General Plan (GPA).

Section 3: Add Note 8 and amend the Lot Area row of Table 21.18-4 of Section 21.18.030 (Residential Coastal Zoning Districts General Development Standards) of Chapter 21.18 (Residential Coastal Zoning Districts (R-A, R-1, R-BI, R-2, and RM)) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code to read as follows:

Development Feature	RM	RM-6,000	Additional Requirements
Lot Dimensions	Minimum dimensions required for each newly created lot.		
Lot Area (1)(2)(8):			
Corner lot	6,000 sq. ft.	6,000 sq. ft.	
Interior lot	5,000 sq. ft.	6,000 sq. ft.	

(8) Lots may be subdivided so that the resulting lot area and dimensions for each new lot are less than that identified in this table in compliance with the provisions of Title 19 (Subdivisions). The minimum lot size shall not be less than the original underlying lots on the same block face and in the same coastal zoning district. Lot width and length may vary according to the width and depth of the original underlying lots. New subdivisions that would result in additional dwelling units beyond what the original underlying lots would allow are not permitted unless authorized by an amendment of the General Plan (GPA).

Section 4: Amend the introductory paragraph of Section 21.28.010 (Purposes of Overlay Coastal Zoning Districts) of Chapter 21.28 (Overlay Coastal Zoning Districts (MHP, PM, B, C and H)) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code to read as follows. In all other respects, Section 21.28.010 shall remain unchanged:

21.28.010 Purposes of Overlay Coastal Zoning Districts.

The purposes of the individual overlay coastal zoning districts and the manner in which they are applied are outlined below. An overlay district may be initiated as a Coastal Zoning Map amendment in compliance with Chapter 21.14 (Coastal Maps). All development shall comply with the applicable development standards (e.g., setbacks, height) of the underlying coastal zoning district in addition to the standards provided in this chapter, if any. In situations where an inconsistency occurs between the development standards of the underlying coastal zoning district and the standards in this chapter, the standards of the overlay district shall prevail.

Section 5: Amend Subsection 21.62.020(B)(2)(c) (Nearby Property Owners) of Chapter 21.62 (Public Hearing) Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code to read as follows:

c. Nearby Property Owners. All owners of property located within a three hundred (300) foot radius, excluding intervening rights-of-way and waterways, of the exterior boundaries of the subject lot, as shown on the last equalized assessment roll or, alternatively, from other records that contain more recent addresses. It shall be the responsibility of the applicant to obtain and provide to the Department the names and addresses of all owners required by this section. If the number of property owners to whom notice would be mailed in compliance with this section is more than one thousand (1,000), in lieu of mailed notice, the Director may choose to publish a one-eighth page display advertisement in a newspaper of general circulation within the City. However, a mailed notice shall still be provided to those persons who have requested notice, including all persons known to the applicant to be a party interested in the application, including those persons who testified at or submitted written comments for the local hearing(s);

Section 6: Subsection 21.62.020(B)(4) (Alternative to Mailing) is repealed and replaced with a new Subsection 21.62.020(B)(4) (Additional Notice) of Chapter 21.62 (Public Hearings) Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code as follows:

4. Additional Notice. The Director may provide additional notice of the hearing in any other manner deemed necessary.