

# **Attachment I**

Planning Commission Resolution No. PC2020-25

## **RESOLUTION NO. PC2020-025**

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, RECOMMENDING THE CITY COUNCIL AUTHORIZE 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)**

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

#### **SECTION 1. STATEMENT OF FACTS.**

1. Section 30500 of the California Public Resources Code requires each county and city to prepare a local coastal program for that portion of the coastal zone within its jurisdiction.
2. In 2005, the City of Newport Beach ("City") adopted the City of Newport Beach Local Coastal Program Coastal Land Use Plan as amended from time to time including most recently on February 12, 2019, via Resolution No. 2019-16.
3. The California Coastal Commission effectively certified the City's Local Coastal Program Implementation Plan on January 13, 2017, and the City added Title 21 (Local Coastal Program Implementation Plan) to the City of Newport Beach Municipal Code ("NBMC") whereby the City assumed coastal development permit-issuing authority on January 30, 2017.
4. An amendment to Title 21 (Local Coastal Program Implementation Plan) ("LCP Amendment") is necessary to provide clarification and corrections, and to resolve inconsistencies between the Title 21 and Title 20 (Planning and Zoning) of the NBMC.
5. On April 23, 2019, the City Council initiated the LCP Amendment under Resolution No. 2019-41 authorizing staff to modify regulations, including minimum lot size and dimensions, overlay zoning districts, and public hearing notifications.
6. 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 ("Public Participation"), drafts of LCP Amendment No. LC2019-001 were made available and a Notice of Availability was distributed at least six (6) weeks prior to the City Council public hearing.
7. A telephonic public hearing was held 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.* ("Ralph M. Brown Act"), Chapter 21.62 (Public Hearings) of the NBMC, and Section 13515 of the California Code of Regulations. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing.

## SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

The LCP Amendment is not a project subject to the California Environmental Quality Act ("CEQA") in accordance with Section 21065 of the California Public Resources Code and Sections 15060(c)(2), 15060(c)(3), and 15378 of the California Code of Regulations Title 14, Division 6, Chapter 3 ("CEQA Guidelines"). The 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. Lastly, pursuant to CEQA Guidelines Section 15265(a)(1), local governments are exempt from the requirements of CEQA in connection with the adoption of a Local Coastal Program. The LCP Amendment itself does not authorize development that would directly result in physical change to the environment.

## SECTION 3. FINDINGS.

1. Both Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) include minimum lot size standards for newly created residential lots. These minimum lots sizes are intended for new residential subdivision projects. However, many of the lots in 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). As a result, many of the lots are substandard to current minimum lot sizes and dimensions that have been in effect for many decades. Over time, some lots have been combined or reconfigured from their original subdivision pattern. It is common for property owners and developers to re-subdivide previously combined or reconfigured lots within these older established communities, reverting back to a lot size consistent with the original subdivision pattern of the neighborhood. 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. Unfortunately, this provision was inadvertently left out of the Title 21 (Local Coastal Program Implementation Plan) development standards applicable to residential coastal zoning districts. This LCP Amendment would correct the oversight by adding the same exception already allowed in Title 20 to Title 21 (Local Coastal Program Implementation Plan) through a new footnote applicable to the lot size standards in Tables 21.18-2, 21.18-3, and 21.18-4.
2. Section 21.28.10 ("Purposes of Overlay Coastal Zoning Districts") of Title 21 (Local Coastal Program Implementation Plan) inadvertently states that the more restrictive standard of the underlying coastal zoning district or applicable overlay apply; however, overlays can be used to specify a different standard that might be less restrictive than the underlying zone.

For example, the Height Overlay District allows a greater building height (less restrictive) if certain conditions (findings) are met. The Parking Management Overlay authorizes the establishment of a Parking Management District that allows reduced parking requirements than that of the base zoning standards. 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.

3. Section 21.62.020 (Notice of Public Hearing) of Title 21 (Local Coastal Program Implementation Plan) provides noticing requirements for project applications requiring a public hearing. Prescribed methods of notice distribution include: 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. In lieu of mailed notice, NBMC Subsection 21.62.020(B)(4) (Method of Notice Distribution) authorizes the Director to choose alternative notice specified by State law. 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.
4. The LCP Amendment shall not become effective until approval by the California Coastal Commission and adoption, including any modifications suggested by the California Coastal Commission, by resolution and/or ordinance of the City Council of the City of Newport Beach.
5. The Local Coastal Program and Title 21 ("Local Coastal Program Implementation Plan"), including the proposed LCP Amendment, will be carried out fully in conformity with the California Coastal Act.
6. The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

#### SECTION 4. DECISION.

#### **NOW, THEREFORE, BE IT RESOLVED:**

1. The Planning Commission finds the project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 21065 of CEQA and State CEQA Guidelines Sections 15060(c)(2), 15060(c)(3), and 15378. The LCP Amendment is also exempt pursuant to State CEQA Guidelines Section 15061(b)(3) because it has no potential to have a significant effect on the environment.
2. The Planning Commission of the City of Newport Beach hereby recommends submittal of Local Coastal Program Amendment No. LC2019-001, amending Implementation Plan Section 21.18.030, (Residential Coastal Zoning Districts General Development Standards), Tables 21.18-2, 21.18-3, and 21.18-4 adding a new note to the Lot Area row; Section 21.28.010 (Purposes of Overlay Coastal Zoning Districts), clarifying that development standards of Overlay Districts prevail in cases of conflicting code; and Section 21.62.020 (Notice of Public Hearing), clarifying the Alternative Notice procedures allowed pursuant to Government Code

Section 65091 as set forth in Exhibit "A," which is attached hereto and incorporated herein by reference, to the California Coastal Commission.

**PASSED, APPROVED, AND ADOPTED THIS 18TH DAY OF JUNE, 2020.**

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

NOES:

ABSTAIN:

ABSENT: Rosene

DocuSigned by:  
BY: Peter Koetting  
Peter Koetting, Chairman

BY: Lee Lowrey  
Lee Lowrey, Secretary

**EXHIBIT “A”**

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

**Section 1:** Amend Table 21.18-2 of Section 21.18.030 (Residential Coastal Zoning Districts General Development Standards) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code adding Note 6 to the Lot Area row as follows:

<b>Development Feature</b>	<b>R-A</b>	<b>R-1</b>	<b>R-1-6,000</b>	<b>Additional Requirements</b>
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:** Amend Table 21.18-3 of Section 21.18.030 (Residential Coastal Zoning Districts General Development Standards) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code adding Note 6 to the Lot Area row as follows:

<b>Development Feature</b>	<b>R-BI</b>	<b>R-2</b>	<b>R-2-6,000</b>	<b>Additional Requirements</b>
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:** Amend Table 21.18-4 of Section 21.18.030 (Residential Coastal Zoning Districts General Development Standards) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code adding Note 8 to the Lot Area row 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 Section 21.28.010 (Purposes of Overlay Coastal Zoning Districts) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code as follows

#### **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)(4) (Alternative to Mailing) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code to reflect the practical realities involved in posting notice on a large number of properties and to clarify that the noticing process is consistent with the legal requirements of Government Code Section 65091, Public Hearings as follows:

4. Alternative to Mailing. If the number of property owners, residents, and interested persons to whom notice would be mailed in compliance with subsection (B)(2)(c) of 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:** Renumber Subsection 21.62.020(B)(5) to Subsection 21.62.020(B)(6) and add new Subsection 21.62.020(B)(6) (Additional Notice) to Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code as follows:

5. Additional Notice. The Director may provide additional notice of the hearing in any other manner deemed necessary.
6. Failure to Receive Notice. The failure of any person or entity to receive notice given in compliance with this section shall not be grounds to invalidate the actions of the applicable review authority.