

Attachment C

Resolution No. 2020-102

RESOLUTION NO. 2020-102

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AUTHORIZING SUBMITTAL OF LOCAL COASTAL PROGRAM AMENDMENT NO. LC2019-006 TO THE CALIFORNIA COASTAL COMMISSION TO AMEND TITLE 21 (LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN) OF THE CITY OF NEWPORT BEACH MUNICIPAL CODE RELATED TO RESIDENTIAL DESIGN STANDARDS (PA2019-070)

WHEREAS, Section 30500 of the California Public Resources Code requires each county and city to prepare a local coastal program ("LCP") for the 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 ("Local Coastal Program") 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) ("Title 21") to the Newport Beach Municipal Code ("NBMC") whereby the City assumed coastal development permit-issuing authority as of January 30, 2017;

WHEREAS, in 2010, the City adopted revisions to Title 20 (Planning and Zoning) ("2010 Zoning Code Update") in order to streamline the review process and simplify the development standards applicable to residential development, while maintaining allowable building envelopes and preserving the character of existing communities which were also incorporated into Title 21 (Local Coastal Program Implementation Plan);

WHEREAS, the City is revising Title 20 (Planning and Zoning) to minimize the bulk and mass associated with recent residential developments ("Zoning Code Amendment") and, as a result, an amendment to Title 21 (Local Coastal Program Implementation Plan) ("LCP Amendment") is necessary to ensure consistency;

WHEREAS, the LCP Amendment revises the definition of gross floor area to capture unfinished attics and open space standards;

WHEREAS, the revision to the definition of gross floor area is appropriate in order to prevent the unpermitted conversion of unfinished attics and decks for use as living area;

WHEREAS, additionally, a minor clarification is needed to the Open Space row of Table 21.18-4 (Development Standards for Multi-Unit Residential Coastal Zoning Districts) of the NBMC, clarifying that common and private open space requirements only apply to multi-unit residential developments of three (3) units or more;

WHEREAS, on May 14, 2019, the City Council initiated portions of the Code Amendment under Resolution No. 2019-43 authorizing staff to investigate code revisions to reduce third floor mass and overall building bulk associated with single-unit and two-unit developments;

WHEREAS, on May 28, 2019, the City Council initiated the remaining portion of the Code Amendment under Resolution No. 2019-45 authorizing staff to initiate code revisions to restrict single-unit and two-unit dwellings developed on lots zoned for RM (Multiple Residential) to the development standards applicable to the standards of the R-2 (Two-Unit Residential) Zoning District;

WHEREAS, on August 19, 2019, the Community Development Department staff hosted a community meeting attended by 64 interested members of the public, including design professionals in order to receive community feedback on the draft Zoning Code and LCP Amendments;

WHEREAS, on September 10, 2019, the City Council held a study session to receive a staff update on comments received at the August 19, 2019 community meeting on the draft Zoning Code and LCP Amendments and to provide staff further direction;

WHEREAS, on March 9, 2020, the Community Development Department staff hosted a second community meeting attended by 25 interested members of the public, including design professionals in order to receive additional community feedback on the refinements to the Zoning Code and LCP Amendments;

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 ("Public Participation"), a draft of Local Coastal Program Amendment No. LC2019-006 was made available and a Notice of Availability was distributed on April 23, 2020, at least six (6) weeks prior to the City Council public hearing;

WHEREAS, a telephonic public hearing was held by the Planning Commission on May 7, 2020, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California, observing restrictions 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") 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 conclusion of the hearing, the Planning Commission recommended staff seek guidance from the California Department of Housing and Community Development ("HCD") as to whether the proposed Zoning Code and LCP Amendments complied with Housing Crisis Act of 2019 (Senate Bill 330), which generally prohibits a locality from enacting a development policy, standard or condition that reduces intensity, imposes moratoriums, enforces subjective design standards or implements any provision that limits approvals or caps population;

WHEREAS, at the request of the City, HCD reviewed the proposed Zoning Code and LCP Amendments, including the May 7, 2020 Planning Commission agenda materials for compliance with the Housing Crisis Act of 2019;

WHEREAS, on July 31, 2020, HCD issued a letter to the City finding that upon review of the materials, the pending revisions do not trigger the Housing Crisis Act "less intensive use" provisions under Government Code section 66300, subdivision (b)(1)(A);

WHEREAS, a telephonic public hearing was held by the Planning Commission on September 17, 2020, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California, observing restrictions 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 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. At the conclusion of the hearing, the Planning Commission adopted Resolution No. PC2020-032 by a majority vote (5 ayes, 2 nays) recommending to the City Council approval of Local Coastal Program Amendment No. LC 2019-006; and

WHEREAS, a telephonic public hearing was held by the City Council on November 24, 2020, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California, observing restrictions 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 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.

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

Section 1: The City Council does hereby authorize submittal of Local Coastal Program Amendment No. LC2019-006 amending Table 21.18-4 of Section 21.18.030 (Residential Coastal Zoning Districts General Development Standards) and Section 21.70.020 (Definitions of Specialized Terms and Phrases) of Title 21 (Local Coastal Program Implementation Plan) of the NBMC as set forth in Exhibit "A," which is attached hereto and incorporated herein by reference, to the California Coastal Commission.

Section 2: 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.

Section 3: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 4: 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.

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 not 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 statutorily 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.

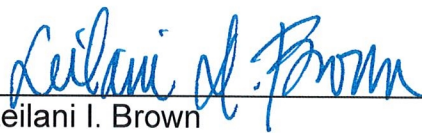
Section 7: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 24th day of November, 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 Local Coastal Program Amendment No. LC2019-006
Related to Residential Design Standards (PA2019-070)

EXHIBIT "A"

Proposed Local Coastal Program Amendment No. LC2019-006 Related to Residential Design Standards (PA2019-070)

Section 1: The Open Space row of Table 21.18-4 of Section 21.18.030 (Development Standards for Multi-Unit Residential Coastal Zoning Districts) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code shall be amended to read as follows:

Open Space	<i>Minimum required open space (applicable to 3 or more unit development).</i>	
	Common: 75 square feet/unit Minimum dimension shall be 15 feet. Private: 5% of the gross floor area for each unit. Minimum dimension shall be 6 feet.	The minimum dimension is for length and width.

Section 2: The definition of "Floor Area, Gross" of Section 21.70.20 (Definitions of Specialized Terms and Phrases) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code, shall be amended to read as follows:

Floor Area, Gross.

1. Single-Unit and Two-Unit Dwellings.
 - a. For single-unit and two-unit dwellings, the following areas shall be included in calculations of gross floor area:
 - i. The area within and including the surrounding exterior walls;
 - ii. Covered decks, balconies or patios above the first floor;
 - iii. Any interior portion of a structure that is accessible and that measures more than six feet from floor to ceiling; and

- iv. Covered parking spaces which are open only on one side.

- b. The following areas shall be excluded:

- i. Stairwells and elevator shafts above the first level; and

- ii. Covered decks, balconies or patios open on at least two sides, with the exception of required safety railings and minimal structural supports. Railings shall be constructed of either transparent material (except for supports) or opaque material (e.g., decorative grillwork, wrought iron, latticework, or similar open materials) so that at least forty (40) percent of the railing is open.

2. Multi-Unit Residential (3+ dwellings), Mixed-Use, and Nonresidential Structures.

- a. For multi-unit residential, mixed-use, and nonresidential structures, the following areas shall be included in calculations of gross floor area:

- i. The surrounding exterior walls; and

- ii. Any interior portion of a structure that is accessible and that measures more than four feet from floor to ceiling.

- b. The following areas shall be excluded:

- i. Stairwells and elevator shafts above the first level;

- ii. Outdoor dining areas associated with an eating and drinking establishment; and

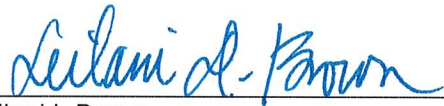
- iii. Parking structures associated with an allowed use within the same development.

STATE OF CALIFORNIA }
COUNTY OF ORANGE }
CITY OF NEWPORT BEACH } ss.

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; the foregoing resolution, being Resolution No. 2020-102 was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 24th day of November, 2020; and the same was so passed and adopted by the following vote, to wit:

AYES: Mayor Will O'Neill, Mayor Pro Tem Brad Avery, Council Member Joy Brenner,
Council Member Diane Dixon, Council Member Kevin Muldoon
NAYS: None
ABSENT: Council Member Duffy Duffield, Council Member Jeff Herdman

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 25th day of November, 2020.



Leilani I. Brown
City Clerk
Newport Beach, California

