



CITY OF

NEWPORT BEACH

City Council Staff Report

October 12, 2021
Agenda Item No. 15

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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TITLE: Ordinance No. 2021-22: Zoning Code Amendment Related to Setback Map Corrections (PA2020-006)

ABSTRACT:

For the City Council's consideration are amendments to Newport Beach Municipal Code (NBMC) Title 20 (Planning and Zoning) and NBMC Title 21 (Local Coastal Program Implementation Plan) to correct identified errors in setback maps. The amendments were initiated by the City Council on April 23, 2019, and were recommended for approval by the Planning Commission on July 22, 2021.

RECOMMENDATION:

- a) Conduct a public hearing;
- b) Find this amendment statutorily 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 proposed action 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;
- c) Waive full reading, direct the City Clerk to read by title only, introduce Ordinance No. 2021-22, *An Ordinance of the City Council of the City of Newport Beach, California, Adopting Zoning Code Amendment No. CA2020-001 to Amend Title 20 (Planning and Zoning) of the City of Newport Beach Municipal Code Correcting Setback Map Errors (PA2020-006)*, and pass to second reading on October 26, 2021; and
- d) Adopt Resolution No. 2021-97, *A Resolution of the City Council of the City of Newport Beach, California, Authorizing Submittal of Local Coastal Program Amendment No. LC2020-001 to the California Coastal Commission to Amend Title 21 (Local Coastal Program Implementation Plan) of the City of Newport Beach Municipal Code Correcting Setback Map Errors (PA2020-006)*.

DISCUSSION:

Setback Map Background

The City of Newport Beach (City) Planning and Zoning Code (Title 20) and Local Coastal Program Implementation Plan (Title 21) of the Newport Beach Municipal Code (NBMC) have a series of maps that provide minimum setbacks for various, but not all, blocks throughout the City (setback maps). The practice began in 1943 as a way to recognize existing and varying conditions that did not match the citywide, default, front yard setback standard of 20 feet. These maps provide the minimum distance a primary residential structure must be set back from a property line or other identified line such as a bulkhead or abandoned right-of-way line.

These setback maps also serve to illustrate which setback areas should be treated as front yard setback areas for the purposes of regulating accessory structures. For example, the height of fences, hedges and walls within side and rear setbacks are typically allowed up to a height of 6 feet; however, if a side or rear setback area is designated as a front yard by virtue of being depicted on a setback map, the maximum height of such structures would be limited to 42 inches. Some properties may be illustrated on the setback maps with multiple setbacks to be treated as front setbacks.

Currently, the 33 citywide and 26 coastal zone setback maps are the descendants of the original 1943 maps (previously called districting maps), and several of them contain errors and omissions that should be corrected. These errors occurred when the districting maps were converted into the current setback maps as part of the 2010 comprehensive update to Title 20. In 2017, the California Coastal Commission certified Title 21, which incorporated the same setback maps for properties located within the coastal zone. Since the adoption of the 2010 update to Title 20 and certification of Title 21, staff has encountered a number of maps requiring correction.

Initiation of Amendments

Zoning Code Section 20.66.020 (Initiation of Amendment) provides that a Title 20 code amendment may be initiated by the City Council, with or without a recommendation from the Planning Commission. City Council Policy K-1 (General Plan and Local Coastal Program) provides that a City-sponsored amendment to the certified Local Coastal Program (LCP) shall be initiated by the City Council. The subject amendments were initiated by the City Council on April 23, 2019 (Attachment C).

Planning Commission Approval

On July 22, 2021, the Planning Commission considered the proposed amendments and adopted Resolution Nos. PC2021-020 and PC2021-021 (Attachments D and E) by a unanimous vote (4- 0), recommending approval of Code Amendment No. CA2020-001 to the City Council and recommending the City Council authorize submittal of Local Coastal Program Amendment No. LC2020-001 to the California Coastal Commission. The meeting minutes are included as Attachment F.

California Coastal Commission Review (Title 21)

Any amendments to the LCP, including Title 21, must 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. The Coastal Commission is the final decision-making authority on amendments to the certified LCP; however, the City retains the ability to reject an LCP amendment in its entirety if the Coastal Commission includes suggested modifications.

Upon approval of the proposed LCP Amendment by the California Coastal Commission, staff will return to the City Council with an ordinance formally adopting the Title 21 amendment to the setback maps.

Proposed Map Changes

Application of the incorrect setbacks results in development standards that are inconsistent with the existing pattern of development and several homes being considered nonconforming. A nonconforming status would subject these homes to additional development regulations affecting additions and remodels and a loss of buildable area. There was no intent to make these homes nonconforming to setback standards with the 2010 update to Title 20. In some cases, the amendments serve to clarify the correct location these setbacks are measured from, such as a vacated right-of-way line or bulkhead line, to maintain the existing pattern of development on a block. Therefore, these amendments are needed to correct the identified errors in the setback maps and re-establish setbacks consistent with the original districting maps and existing pattern of development.

To illustrate the proposed corrections, Attachment G includes a table and exhibits summarizing the corrections or clarifications needed to each affected Setback Map, including the affected property or properties. For each affected setback map, the exhibits include the proposed setback map, existing setback, historical districting map, and highlighted changes. Setback maps included in Title 21 mirror the Title 20 maps, with the exception that Title 21 maps only illustrate setbacks for properties located within the coastal zone. With the exception of Setback Map S5-A which affects property completely outside the coastal zone, all setback maps affect both Title 20 and Title 21.

The various changes to the setback maps will correct errors and resolve ambiguities to reflect the original intent of the prior districting maps. The changes do not affect the buildable area or floor area of the affected lots. Once the maps are adopted by the City Council, the City will seek approval from the California Coastal Commission for the setback maps within Title 21 (Local Coastal Program Implementation Plan).

FISCAL IMPACT:

There is no fiscal impact related to this item.

ENVIRONMENTAL REVIEW:

The action proposed herein is not a project subject to CEQA in accordance with Section 21065 of CEQA and State CEQA Guidelines Sections 15060(c)(2), 15060(c)(3) and 15378. The proposed action 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. 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 Amendments themselves do not authorize development that would directly result in physical change to the environment.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item). In addition, notice of this amendment was published in the Daily Pilot as an eighth-page advertisement, consistent with the provisions of the Municipal Code and State law.

Pursuant to Section 13515 of the California Code of Regulations, a review draft of the LCP Amendment was made available and a Notice of Availability was distributed on July 9, 2021, to all persons and agencies on the Notice of Availability mailing list.

Lastly, a courtesy letter and public hearing notice were mailed to all affected property owners.

ATTACHMENTS:

Attachment A – Ordinance No. 2021-22 (Title 20 Amendment)
Attachment B – Resolution No. 2021-97 (Title 21 Amendment)
Attachment C – Resolution No. 2019-41 (Initiation)
Attachment D – Planning Commission Resolution No. PC2021-020 (Title 20)
Attachment E – Planning Commission Resolution No. PC2021-021 (Title 21)
Attachment F – July 22, 2021 Planning Commission Minutes
Attachment G – Table and Exhibit of Setback Map Corrections
Attachment H – Director's Determination No. DD2021-002 (PA2021-115)