



CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

September 17, 2020
Agenda Item No. 3

SUBJECT: Residential Design Standards Code and LCP Amendments (PA2019-070)

- Code Amendment No. CA2019-004
- Local Coastal Program Amendment No. LC2019-006

SITE LOCATION: Citywide

APPLICANT: City of Newport Beach

PLANNER: Jaime Murillo, Principal Planner
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PROJECT SUMMARY

The City is proposing amendments to Title 20 (Zoning Code) and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (NBMC) revising development standards applicable to single- and two-unit residential development. The proposed amendments were previously considered by the Planning Commission on May 7, 2020. Due to concerns related to compliance with recent changes in State law (Senate Bill 330; Housing Crisis Act of 2019), the Planning Commission voted to remove the item from calendar and directed staff to seek guidance from the State of California Housing and Community Development Department (HCD) to address the concerns. On July 31, 2020, HCD issued a letter to the City indicating adoption of the proposed amendments would not violate State law.

Generally, the proposed amendments would reduce bulk and mass associated with future residential development by clarifying the definition of gross floor area, regulating covered third floor decks, and expanding the application of third floor and open volume standards to all single-unit and two-unit residential developments constructed in the R-BI zoning district. Third floor step backs (front and rear) would apply to lots 25 feet wide or less in the R-2 zoning district and third floor step backs (front, sides, and rear) would apply to single- and two-unit dwellings in Multiple Residential (RM) zones. The amendments would not result in the reduction of allowable density on a lot. Furthermore, no changes in overall height limits, allowable floor area, lot coverage, or setbacks are proposed that would lessen the intensity of housing on a site.

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RECOMMENDATION

- 1) Conduct a public hearing;
- 2) Find this 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 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; and
- 3) Adopt Resolution No. PC2020-031 (Attachment No. PC 1) recommending the City Council approve Amendment No. CA2019-004; and of the proposed amendments to the City Council; and
- 4) Adopt Resolution No. PC2020-032 (Attachment No. PC 2) recommending the City Council authorize staff to submit Local Coastal Program Amendment No. LC2019-006 to the California Coastal Commission.

DISCUSSION

May 7, 2020, Planning Commission Hearing

On May 7, 2020, the proposed amendments were considered by the Planning Commission. At the hearing, approximately 12 members of the public spoke in support of the proposed amendments and 9 spoke in opposition. A summary of public comments is provided in Table 1 below. Many members of the public also commented that they did not like the telephonic format of the meeting. Minutes from the hearing are included as Attachment No. PC 3.

Table 1 - Summary of Public Testimony	
Support	Opposed
<ul style="list-style-type: none"> • 3rd floors too large and should be further regulated to control mass and scale • Current designs negatively impacting charm and character of neighborhoods • Large homes devalue and negatively impact adjoining homes due to incompatible scale and shadows created • Needed to eliminate loopholes 	<ul style="list-style-type: none"> • Negatively affects property rights and values • Violates SB330 by reducing intensity • Opposed to a one-size-fits-all approach • Not a citywide problem; different neighborhoods should be exempt

At the conclusion of the hearing, the general consensus of the Planning Commission was that adequate public outreach had been provided; however, there remained concerns related to compliance with Senate Bill 330 (SB330) and the potential for litigation. With a majority vote of 4 ayes and 2 noes, the Commission voted to continue the item to a future date to allow staff time to attempt to obtain feedback from the State related to compliance with SB330 and to consider comments from the community and Commission.

Summary of Proposed Code Amendment

The May 7, 2020, Planning Commission staff report includes a detailed and illustrative explanation of each component of the proposed code amendment (Attachment No. PC 4). As discussed in this report, two revisions to the proposed amendment have been made since the May 7, 2020, meeting. The most current redline/strikeout version of the proposed amendment is included as Attachment No. PC 5 and incorporates the following components:

Revisions to Third Floor Standards

- Third floor step backs would apply to covered deck areas (currently applies only to enclosed floor area). *[No change from May 7, 2020, version.]*
- Third floor side step backs would apply to lots 30 feet wide or greater (currently applies to lots wider than 30 feet). *[No change from May 7, 2020, version.]*
- Maximum covered third floor area (enclosed or unenclosed) limited to 50 percent of buildable area. Uncovered deck area would remain unrestricted. *[This standard has been revised from the May 7, 2020, version for clarification of intent.]*
- Third floor step back standards (front and rear) would apply to 25-foot-wide or less lots zoned R-2 (currently exempt). *[No change from May 7, 2020, version.]*
- Third floor step back standards (front, sides, and rear) would apply to single- and two-unit dwellings in RM zones (currently exempt). *[The May 7, 2020, version also recommended applying third floor area limits and maximum covered area limits to RM lots, but that component has since been eliminated to address loss of intensity concerns.]*

Clarification of Gross Floor Area

- Unfinished attics with a ceiling height of 6 feet or higher would count as floor area (currently only finished attics count). *[No change from May 7, 2020, version.]*
- Covered patios, decks, and balconies above the first floor would count as floor area unless completely open on at least two sides, rather than one side. *[No change from May 7, 2020, version.]*
- Carports only open on one side would count as floor area. *[No change from May 7, 2020, version.]*

Single-Unit and Two-Unit Dwellings in the R-BI Zoning District

Third floor and open volume standards applicable to R-1 and R-2 zones would now apply to all single- and two-unit dwellings in R-BI. *[No change from May 7, 2020, version.]*

The following table clarifies which components of the residential design standards apply to the various zoning districts:

Summary of Residential Design Standards Applicability Based on Zoning District					
Residential Design Standard	R-1	R-2 (lots wider than 25')	R-2 (25' wide lots or less)	R-BI	RM
3rd Floor Front & Rear Step Backs	C	C	P	P	P
3rd Floor Side Step Backs (lots 30' wide or greater) ¹	C	C	X	P	P
3rd Floor Area Limit	C	C	X	P	X
3rd Floor Coverage Limit	P	P	X	P	X
Open Volume	C	C	X	P	C

C- Current Applicability, P- Proposed Applicability, X- Exempt
¹ Applicability of side step back standard proposed to change from "lots wider than 30 feet" to "lots 30 feet wide or greater"

Revisions to Code Language

Subsequent to the May 7, 2020, Planning Commission hearing, staff has discussed the proposed amendments with design professionals working on preliminary designs for new residences and the need for two revisions to the proposed standards were identified and incorporated into the draft resolution (Attachment No. PC 1).

Revisions to Third Floor Coverage Standard

The proposed amendment establishes a maximum 50 percent third floor coverage limit for new residential development in the R-1, R-2, and R-BI zoning districts. The coverage limit would be calculated as 50 percent of the buildable area¹ of the lot and would include both enclosed area (green shading, Fig. 1) and unenclosed covered third floor deck area (blue shading, Fig. 1). Currently, only enclosed floor area is subject to an area limit on third floors (20 percent of the buildable area for lots 30 feet wide or less; and 15 percent of the buildable area for lots wider than 30 feet). The intent of the 50 percent coverage standard is to limit the amount of additional covered deck area beyond the current allowable third floor enclosed area limits. The standard was revised to clarify that it would not include roof area, including eaves not over decks and roofed area that does not count as gross floor area (e.g., stair and elevator area on upper levels). As revised, the standard is clear that the coverage limit applies to gross floor area and covered deck area only.

¹ The buildable area of a lot is the lot area minus the total area of all required setbacks.

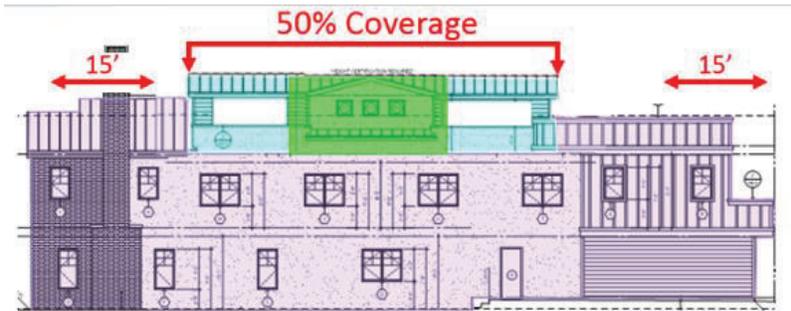


Figure 1. Third Floor Coverage Limit

Table 2- Revised NBMC Section 20.48.180.A.3.b (3 rd Floor Coverage Limit)	
Original Proposed Standard	Allowed Roof Area. The maximum roof area, enclosed and unenclosed, that may be located on a third floor shall not be greater than fifty (50) percent of the total buildable area.
Revised Proposed Standard	Allowed Combined Floor Area and Covered Deck Area. The combined total maximum gross floor area and covered deck area that may be located on a third floor shall not be greater than fifty (50) percent of the total buildable area.

Applicability to RM Lots

In working with a design professional on a preliminary duplex design for an RM zoned lot, it was discovered that there is a unique scenario where the application of the proposed third floor area limits for enclosed floor area could limit the maximum achievable floor area limit afforded to these RM lots. The reason for this is due to the fact that lots within the RM zoning district are provided an additional floor area allowance of 200 square feet per required parking spaces that are enclosed. This additional floor area allowance for enclosed parking is not afforded to lots within the R-1, R-2, or R-BI zoning districts.

For example, a duplex requires a minimum of 2 enclosed garage spaces and two covered parking spaces. In this scenario, an RM lot on the Balboa Peninsula would be subject a floor area limit (FAL) of 1.75 times the buildable area plus an additional allowance of 400 square feet to accommodate the two enclosed garage spaces. Analysis (Figure 1 of Attachment No. PC 6) illustrates that this configuration, in combination with previously proposed third floor area limits and existing open volume requirements, would not be precluded from achieving the maximum allowable floor area. However, should a property choose to develop a duplex with an optional four garage spaces, the property would be entitled to a FAL of 1.75 times the buildable area plus an additional allowance of 800

square feet. Analysis (Figure 2 of Attachment No. PC 6) illustrates that with this optional configuration, in combination with previously proposed third floor area limits and existing open volume requirements, would be impacted from achieving the maximum allowable floor area.

Therefore, to accommodate property owners of RM lots the ability to achieve the maximum allowable floor area, it is recommended that RM lots be excluded from the third floor area and coverage limits. Application of the proposed third floor step backs would still provide needed articulation of the upper levels, but would not impact the potential to achieve maximum allowable floor area.

Additional Newport Heights Analysis

At the May 7, 2020, Planning Commission meeting, public comments were provided by Mr. Christopher Budnik, board member of the Newport Heights Improvements Association (NHIA), recommending the proposed amendments target certain geographical areas where there are increased concerns about massing, such as Balboa Island, but where those concerns are not prevalent, such as Newport Heights, should be exempted. He also requested additional outreach to property owners of Newport Heights. Subsequent to the meeting, staff has discussed the amendments in greater detail with Mr. Budnik and prepared an analysis of the proposed amendments to development in Newport Heights. Mr. Budnik has distributed the analysis to members of the NHIA.

The analysis (Attachment No. PC 7) is not comprehensive but intended to provide an illustrative example of how recent development in Newport Heights would have been affected by these proposed amendments. The analysis includes five properties in the area suggested by Mr. Budnik. The analysis supports staff's position that given the larger lot sizes in Newport Heights, third level designs are less common, and the proposed changes are not expected to have a significant impact on the design of typical new homes in the area. Third story designs are commonly utilized in communities with much smaller lots, such as Corona del Mar, Balboa Island, West Newport, and the Balboa Peninsula, to maximize the development potential of these smaller, yet valuable properties due to their proximity to coast.

Staff does not recommend exempting Newport Heights from the proposed amendments for the following reasons:

- The City's zoning standards, including Residential Design Standards, are already complex. Creating additional exceptions would complicate the Zoning Code further, and in staff's opinion, for little benefit.
- Maintaining as much consistency as possible with the applicability of development standards minimizes staff error in implementing code and affords better communication of standards to public.

- Concerns with third floor massing is not as prevalent from the Newport Heights community given that third floor designs are not common in the area. Three level residential structures typically compromise ceiling heights in exchange for maximizing floor area potential of the lot. Given the larger lot sizes in Newport Heights, the allowable floor area is generally significantly higher than the typical residential designs constructed the area and there is typically not a need or desire to incorporate a third level.
- Should a property owner choose to design a larger three level dwelling, there is more opportunity to accommodate a larger design subject to the proposed amendment due to the larger Newport Heights lots as opposed to a smaller lot.

Compliance with Senate Bill 330 (Housing Crisis Act of 2019)

Senate Bill 330 – also known as the Housing Crisis Act of 2019 – restricts the adoption of zoning amendments that would result in the reduction of allowed density or intensity of land uses than what is allowed under the regulations in effect on January 1, 2018. The law defines “less intensive use” to include, but is not limited to, reductions to height, density, or floor area ratio, new or increased open space or lot size requirements, new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, or anything that would lessen the intensity of housing. To confirm the City’s own analysis of compliance with SB 330, staff consulted with HCD and prepared additional floor area analysis as discussed further below.

State Department of Housing and Community Development (HCD) Review

On May 8, 2020, staff reached out to HCD to review the proposed amendments and obtain a determination of compliance with SB 330. HCD agreed to review the proposed amendments, including the May 7, 2020, Planning Commission agenda materials. On July 31, 2020, they concluded their review and issued a letter to the City finding that upon review of the materials, the pending revisions do not trigger the “less intensive use” provisions under Government Code section 66300, subdivision (b)(1)(A). Their letter also confirms staff’s position that the term “less intensive use” likely refers to reducing the number of allowed units on a site pursuant to their statement that “*HCD understands the revisions do not impact the ability to achieve maximum densities independently or cumulatively in combination with all other development standards.*” A copy of the HCD determination letter and staff email correspondence is included as Attachment No. PC 8.

Intensity Analysis

While HCD confirmed that the proposed amendments would not lessen the intensity of housing, staff has revised the applicability of the standards to RM lots in order to address concerns raised by the public related to any reduction in the allowable floor area.

With this objective in mind, the draft ordinance was revised to exempt lots within the RM zone from the third floor area and coverage limits with the result being: no reduction of allowable density (number of units) on a lot, and no change in overall height limits, allowable floor area, lot coverage, or setbacks. Each lot will maintain the same allowed height limits, building setbacks, and floor area limits as previously entitled, and the application of the applicable third floor step backs and open volume regulations wouldn't preclude the ability for a homeowner to achieve the same development intensity.

To ensure the application of the proposed residential standards to lots previously exempt do not restrict the ability to achieve the maximum allowable floor area or intensity of development, staff has prepared a floor area analysis (Attachment No. PC 9) exhibit for the zoning districts impacted. The analysis illustrates that with the application of the proposed standards, the lots could physically accommodate more floor area than is currently permitted under the existing floor area limits. As a result, there is no loss of allowable floor area and the proposed amendment would be consistent with State law.

Environmental Review

The action proposed herein is not a project subject to the California Environmental Quality Act (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 from the CEQA pursuant to State 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 Amendment itself does not authorize development that would directly result in physical change to the environment.

Public Notice

Pursuant to Section 13515 of the California Code of Regulations, a review draft of the Local Coastal Program (LCP) Amendment was made available and a Notice of Availability was distributed on April 23, 2020, to all persons and agencies on the Notice of Availability mailing list.

In addition, notice of these amendments was published in the Daily Pilot as an eighth-page advertisement, consistent with the provisions of the NBMC. The item also appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Lastly, notice of this hearing was emailed to interested parties that have requested notice and/or attended the community meetings.

Prepared by:



Jaime Murillo
Principal Planner

Submitted by:



Jim Campbell
Deputy Community Development Director

ATTACHMENTS

- PC 1 Draft Resolution - Title 20 Zoning Code Amendments
- PC 2 Draft Resolution - Title 21 LCP Amendment
- PC 3 May 7, 2020, Planning Commission Minutes
- PC 4 May 7, 2020, Planning Commission Staff Report
- PC 5 Current Redline/Strikeout Version of Amendments
- PC 6 RM Intensity Analysis with 3rd Floor Area Limits Applied
- PC 7 Newport Heights Analysis
- PC 8 HCD Letter and Staff Correspondence
- PC 9 Floor Area Intensity Analysis

Attachment No. PC 1

Draft Resolution - Title 20 Zoning Code
Amendments

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RESOLUTION NO. PC2020-031

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, RECOMMENDING CITY COUNCIL ADOPTION OF CODE AMENDMENT NO. CA2019-004 TO AMEND TITLE 20 (PLANNING AND ZONING) OF THE CITY OF NEWPORT BEACH MUNICIPAL CODE RELATED TO RESIDENTIAL DESIGN STANDARDS (PA2019-070)

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

SECTION 1. STATEMENT OF FACTS.

1. As a result of growing community concerns related to the loss of small residential cottages and the bulk and mass associated with new single- and two-unit dwelling developments in the City, the City Council held a study session on April 23, 2019.
2. An amendment to Title 20 (Planning and Zoning) ("Code Amendment") of the City of Newport Beach Municipal Code ("NBMC") is necessary to minimize bulk and mass associated with recent development trends.
3. 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- and two-unit developments.
4. 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- and two-unit dwellings developed on lots zoned for Multiple Residential (RM) to the development standards applicable to the standards of the Two-Unit Residential (R-2) Zoning District.
5. On August 19, 2019, Community Development Department staff hosted a community meeting attended by 64 interested members of the public, including design professionals. The intent of the meeting was to share proposed changes to residential design standards and receive community feedback.
6. On September 10, 2019, the City Council held a study session to receive a staff update regarding the status of the amendment proposals, summary of the comments received at the August 19, 2019, community meeting, and to provide staff further direction.
7. On March 9, 2020, Community Development Department staff hosted a second community meeting attended by 25 interested members of the public, including design professionals. The intent of the meeting was to share current refinements to the residential design standards and receive further community feedback.
8. 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 20.62 (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 voted to remove the item from calendar to allow staff time to seek guidance from the State regarding compliance with Housing Crisis Act of 2019 (Senate Bill 330).

9. At the request of the City, the California Department of Housing and Community Development (HCD) reviewed the proposed amendments, including the May 7, 2020, Planning Commission agenda materials, for compliance with the Housing Crisis Act of 2019. The Housing Crisis Act 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. Specifically, Government Code section 66300, subdivision (b)(1)(A) does not allow a locality to enact requirements that result in less intensive use. 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).
10. 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 California Government Code Section 54950 *et seq.* (“Ralph M. Brown Act”) and Chapter 20.62 (Public Hearings) of the NBMC. 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 action proposed herein 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 proposed action 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 Amendment itself does not authorize development that would directly result in physical change to the environment.

SECTION 3. FINDINGS.

1. With the adoption of the revisions to Title 20 (Planning and Zoning) in 2010 (“2010 Zoning Code Update”), changes to development standards were intended 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. However, changes to height measurement standards and definition of gross floor area have inadvertently resulted in proliferation of covered third level decks.

2. The 2010 Zoning Code Update attempted to regulate third floor mass and bulk through the use of NBMC Section 20.48.180 (Residential Development Standards and Design Criteria), which includes third floor area limits, third floor step backs for enclosed floor area, and open volume area standards to increase building modulation. However, the third floor limits do not apply to unenclosed covered deck areas or unfinished attics, resulting in building designs with third levels (enclosed and unenclosed) that visually appear larger and bulkier than the code intended.
3. As currently defined, gross floor area excludes unfinished attics with a ceiling height of 6 feet or greater and is not clear with respect to the threshold of what constitutes an enclosed deck or patio. As a result, the bulk and scale of new residential developments appear larger than what the applicable floor area limits intend. In some cases, attics are illegally finished without permits and partially enclosed decks and patios are illegally fully enclosed with windows resulting in structures exceeding allowable floor area limits. Revisions to the definition are necessary to appropriately regulate large attics and partially enclosed covered patios and decks. The proposed changes will also help to discourage unpermitted conversions of these spaces by increasing the visibility and difficulty of modifying these spaces for use as living area.
4. Revisions to the NBMC Section 20.48.180 are necessary to implement the design principles identified in General Plan Land Use Policies LU 5.1.5 (Character and Quality of Single-Family Residential Dwellings) and LU 5.1.9 (Character and Quality of Multi-Family Residential). Applying additional step backs to covered third floor decks and requiring additional openings will help articulate the building masses and avoid the appearance of “box-like” buildings. The changes will also improve the architectural treatment visible from public places and improve compatibility of new development with the density, scale, and street elevations of existing communities. Lastly, the changes will help modulate roof profiles to reduce the apparent scale of large structures and to provide visual interest and variety.
5. NBMC Section 20.48.180 (Residential Development Standards and Design Criteria) currently only applies to R-1 and R-2 Zoning Districts, but excludes residential dwellings constructed in the RM and R-BI Zoning Districts. As a result, third floor and open volume area standards are not being applied in the Balboa Island residential community nor to single- and two-unit dwellings constructed on RM lots Citywide. Application of these standards, including proposed revisions, to these communities and zoning districts is essential to preserve community character and uniformly regulate bulk and scale. Lots zoned R-2 that are 25 feet wide or less are also exempt. Application of the front and rear third floor step back requirements to these narrow lots will provide improve building scale as viewed from streets and alleys.
6. The amendments would impose new objective standards that regulate bulk and articulation of new single-unit and two-unit dwellings and are in compliance with recent changes in state law (Housing Crisis Act of 2019). The amendments would not result in the reduction of allowable

density on a lot. Furthermore, no changes in overall height limits, allowable floor area, lot coverage, or setbacks are proposed that would lessen the allowable intensity of housing site. Each lot will maintain the same allowed height limits, building setbacks, and floor area limits as previously entitled, and the application of third floor and open volume regulations would not preclude the ability for a homeowner to achieve the same development intensity. Furthermore, on July 31, 2020, HCD issued a letter to the City confirming the proposed amendments would not violate the provisions of the Housing Crisis Act.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission finds the proposed code amendments are not a project subject to CEQA pursuant to Section 21065 of Public Resources Code and the CEQA Guidelines Sections 15060(c)(2), 15060(c)(3), and 15378. The proposed action is also statutorily exempt pursuant to 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 approval of Code Amendment No. CA2019-004 as set forth in Exhibit "A," which is attached hereto and incorporated herein by reference.

PASSED, APPROVED, AND ADOPTED THIS 17TH DAY OF SEPTEMBER 2020.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
 Erik Weigand, Chairman

BY: _____
 Lauren Kleiman, Secretary

EXHIBIT “A”

Proposed Code Amendment No. CA2019-004 Related to Residential Design Standards

Section 1: Amend Table 2-3 of Section 20.18.020 (Residential Zoning Districts Land Uses and Permit Regulations) of Chapter 20.18 (Residential Zoning Districts (R-A, R-1, R-BI, R-2, RM, RMD)) of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code, revising the “Open Space” row and adding a “Residential Development Standards” row as follows:

TABLE 2-3

DEVELOPMENT STANDARDS FOR TWO-UNIT AND MULTI-UNIT RESIDENTIAL ZONING DISTRICTS

Development Feature	RM	RMD	RM-6,000	Additional Requirements
Open Space	Minimum required open space (applicable to 3 or more units).			
	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.	N/A	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.	Single-unit and two-unit dwellings developed on a single site shall comply with Open Volume Area standards of Section <u>20.48.180</u> (Residential Development Standards and Design Criteria). The minimum dimension is for length and width.
Residential Development Standards	See Section <u>20.48.180</u> .			

Section 2: Amend Subsection A of Section 20.48.180 (Residential Development Standards and Design Criteria) of Chapter 20.48 (Standards for Specific Land Uses) of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code, as follows:

20.48.180 Residential Development Standards and Design Criteria.

A. Development Standards.

1. **Applicability.** The development standards in this subsection shall apply to all R-1 Zoning Districts, R-BI Zoning District, all R-2 Zoning Districts, and to all RM Zoning Districts Citywide, except as provided below:

a. **Exceptions.** This subsection shall not apply to:

- i. R-1-6,000, R-1-7,200, R-1-10,000, RMD, and RM-6000 Zoning Districts;
- ii. Planned community zoning districts; or
- iii. Residential developments consisting of three or more units in the RM Zoning District.

b. **Limited Application.** This subsection shall be limited in its application below:

- i. For lots twenty-five (25) feet wide or less in the R-2 Zoning District, only subsection (A)(2)(c) shall apply.
- ii. Residential developments consisting of one or two units in the RM Zoning District, only subsections (A)(2)(c) and (A)(3) shall apply.

2. **Third Floor Limitations.**

a. **Allowed Floor Area.** The maximum gross floor area that may be located on a third floor shall not be greater than either of the following:

- i. Fifteen (15) percent of the total buildable area for lots wider than thirty (30) feet; or
- ii. Twenty (20) percent of the total buildable area for lots thirty (30) feet wide or less.

On sloping lots, if the slope of the grade on which the structure is located is greater than five percent, subject to Section [20.30.050\(B\)\(3\)](#), the Director shall determine which story is the third story for the purpose of implementing this requirement.

For example, on a thirty (30) foot wide lot, if the total buildable area of the lot is two thousand five hundred fifty (2,550) square feet, then the maximum square footage that may be located on the

third floor is five hundred ten (510) square feet (two thousand five hundred fifty (2,550) sq. ft. x twenty percent (20%) = five hundred ten (510) sq. ft.).

b. Allowed Combined Floor Area and Covered Deck Area. The combined total maximum gross floor area and covered deck area that may be located on a third floor shall not be greater than fifty (50) percent of the total buildable area.

c. Location of Third Floor Structure. Enclosed floor area and covered deck area located on the third floor shall be set back a minimum of fifteen (15) feet from the front and rear setback lines and for lots thirty (30) feet in width or greater a minimum of two feet from each side setback line, including bay windows.

3. Open Volume Area Required.

a. Calculation. Open volume area shall be provided in addition to the required setback areas and shall be a minimum area equal to fifteen (15) percent of the buildable area of the lot.

b. Location. The open volume area may be provided anywhere on the lot within the buildable area and below twenty-four (24) feet from grade. The open air space volume may be provided on any level or combination of levels and may extend across the entire structure or any portion thereof.

c. Minimum Dimensions. The open volume area shall meet the following standards:

i. Have a minimum dimension of at least five feet in depth from the wall plane on which it is located and a minimum clear vertical dimension of at least seven and one-half feet; and

ii. Be open to the outdoors on at least one side.

Section 3: Amend the definition of “Floor Area, Gross” of Section 20.70.020 (Definitions of Specialized Terms and Phrases) of Chapter 20.70 (Definitions) of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code, 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 finished 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 area within surrounding exterior walls; and
- ii. Any interior portion of a structure that is accessible and that measures more than four feet from finished 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.

Attachment No. PC 2

Draft Resolution- Title 21 LCP Amendment

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RESOLUTION NO. PC2020-032

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

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 (“LCP”) for the 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 (“Local Coastal Program”) 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) (“Title 21”) to the Newport Beach Municipal Code (“NBMC”) whereby the City assumed coastal development permit-issuing authority as of January 30, 2017.
4. The City is considering revisions to Title 20 (Planning and Zoning) development standards to minimize the bulk and mass associated with recent residential developments, including limiting the area of third level covered decks and redefining gross floor area (Code Amendment No. CA2019-004). An amendment to Title 21 (Local Coastal Program Implementation Plan) (“LCP Amendment”) is necessary to ensure consistency with changes in Code Amendment No. CA2019-004 affecting Title 20 (Planning and Zoning).
5. 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.
6. 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”), 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. At the conclusion of the hearing, the Planning Commission voted to remove the item from calendar to allow staff time to seek guidance from the State regarding compliance with Housing Crisis Act of 2019 (Senate Bill 330).

7. At the request of the City, the California Department of Housing and Community Development (HCD) reviewed the proposed amendments, including the May 7, 2020, Planning Commission agenda materials, for compliance with the Housing Crisis Act of 2019. The Housing Crisis Act 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. Specifically, Government Code section 66300, subdivision (b)(1)(A) does not allow a locality to enact requirements that result in less intensive use. 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).
8. 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 California Government Code Section 54950 *et seq.* (“Ralph M. Brown Act”) and Chapter 20.62 (Public Hearings) of the NBMC. 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 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 3. FINDINGS.

1. With the adoption of the revisions to Title 20 (Planning and Zoning) in 2010 (“2010 Zoning Code Update”), changes to development standards were intended 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. Many of these development standards were incorporated into Title 21 (Local Coastal Program Implementation Plan).

2. One change that occurred was related to the definition of gross floor area. As currently defined, gross floor area excludes unfinished attics with a ceiling height of six (6) feet or greater and is not clear with respect to the threshold of what constitutes an enclosed deck or patio. As a result, the bulk and scale of new residential developments appear larger than what the applicable floor area limits intend. In some cases, attics are illegally finished without permits and partially enclosed decks and patios are illegally fully enclosed with windows resulting in structures exceeding allowable floor area limits. Revisions to the definition are necessary to avoid a “box-like” appearance and to appropriately regulate large attics and partially enclosed covered patios and decks. The LCP Amendment will also help discourage unpermitted conversions of these spaces by increasing the visibility and difficulty of modifying these spaces for use as living area.
3. A minor clarification is needed to the Open Space row of Table 21.18-4 (Development Standards for Multi-Unit Residential Coastal Zoning Districts) clarifying that common and private open space requirements only apply to multi-unit residential developments of three (3) units or more.
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 LCP Amendment is not a project subject to CEQA pursuant to Section 21065 of CEQA and CEQA Guidelines Sections 15060 (c)(2), 15060 (c)(3), and 15378. The proposed action is also exempt pursuant to CEQA Guidelines Section 15061(b)(3) because it has no potential to have a significant effect on the environment. Finally, the adoption of local coastal programs is statutorily exempt according to Section 15265(a)(1) of the CEQA Guidelines.
2. The Planning Commission of the City of Newport Beach hereby recommends 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 Newport Beach Municipal Code 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 17TH DAY OF SEPTEMBER 2020.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Erik Weigand, Chairman

BY: _____
Lauren Kleiman, Secretary

EXHIBIT “A”

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

Section 1: Amend 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 to read as follows:

	<i>Minimum required open space (applicable to 3 or more unit development).</i>	
Open Space	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: Amend 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, 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 finished 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 finished 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.

Attachment No. PC 3

May 7, 2020, Planning Commission Minutes

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**NEWPORT BEACH PLANNING COMMISSION MINUTES
CITY COUNCIL CHAMBERS – 100 CIVIC CENTER DRIVE
THURSDAY, MAY 7, 2020
REGULAR MEETING – 6:30 P.M.**

I. **CALL TO ORDER** – The meeting was called to order at 6:30 p.m., with most members attending by video conference.

II. **PLEDGE OF ALLEGIANCE** – was led by Community Development Director Jurjis

III. **ROLL CALL**

PRESENT: Chair Peter Koetting, Vice Chair Erik Weigand (remotely), Secretary Lee Lowrey (remotely), Commissioner Curtis Ellmore (remotely), Commissioner Sarah Klaustermeier (remotely), Commissioner Lauren Kleiman (remotely)

ABSENT: Commissioner Mark Rosene

Staff Present: Community Development Director Seimone Jurjis, Deputy Community Development Director Jim Campbell (remotely), Assistant City Attorney Yolanda Summerhill, City Traffic Engineer Tony Brine (remotely), Principal Planner Jaime Murillo (remotely), Administrative Support Specialist Clarivel Rodriguez, Administrative Support Technician Amanda Lee

IV. **PUBLIC COMMENTS**

Jim Mosher expressed his belief that the virtual format of the meeting is not appropriate for the public to address the Commission. Controversial topics should be delayed until in-person meetings can be scheduled.

V. **REQUEST FOR CONTINUANCES**

None

VI. **CONSENT ITEMS**

ITEM NO. 1 MINUTES OF APRIL 23, 2020
Recommended Action: Approve and file

Motion made by Vice Chair Weigand and seconded by Commissioner Klaustermeier to approve the minutes of the April 23, 2020, meeting with the revisions suggested by Mr. Mosher.

AYES: Koetting, Weigand, Lowrey, Ellmore, Klaustermeier, Kleiman
NOES:
ABSTAIN:
ABSENT: Rosene

VII. **PUBLIC HEARING ITEMS**

ITEM NO. 2 RESIDENTIAL DESIGN STANDARDS CODE AND LCP AMENDMENTS (PA2019-070)
Site Location: Citywide

Summary:

Amendments to Title 20 (Zoning Code) and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (NBMC) revising development standards applicable to single- and two-unit residential development. Specifically, the proposed amendments are designed to reduce bulk and mass associated with future residential development as follows:

Revisions to Third Floor Development Standards

- Application of existing third floor front and rear step back requirements to covered deck areas and to narrower lots 25-foot wide or less lots that are zoned R-2 (the narrower lots are currently exempt).
- Application of existing third floor side step-back requirements to lots 30 feet wide or greater.
- Establish a new maximum coverage standard for third floor structures (enclosed or unenclosed) by limiting them to 50 percent of buildable area of a lot. Uncovered deck area would remain unrestricted.

Clarification of the Definition of Gross Floor Area

- Currently finished attics with a ceiling height of 6 feet or higher meet the definition and the amendment would change the definition to include unfinished attics.
- Covered patios, decks, and balconies above the first floor would be defined as floor area unless completely open on at least two sides, rather than one side.
- Carports only open on one side would be defined as floor area.

Changes Applicable to Single-Unit and Two-Unit Dwellings in the R-BI and RM Zones

Existing third floor and open volume standards applicable to residences and duplexes in the R-1 (Single-unit Residential) and R-2 (Two-unit Residential) zones would apply to future single- and two-unit dwellings in Two-Unit Residential, Balboa Island (R-BI) and Multiple Residential (RM) zones.

Recommended Action:

1. Conduct a public hearing;
2. Find this 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 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; and
3. Adopt Resolution No. PC2020-013 recommending the City Council approve Amendment No. CA2019-004; and of the proposed amendments to the City Council; and
4. Adopt Resolution No. PC2020-014 recommending the City Council authorize staff to submit Local Coastal Program Amendment No. LC2019-006 to the California Coastal Commission.

Principal Planner Jaime Murillo reported the proposed amendments resulted from complaints to the City Council regarding the bulk and mass of residential developments over the past ten years. In May 2019, the City Council directed staff to propose ways to reduce third-floor massing and the height and bulk of single-unit dwellings and duplexes including those constructed in Multiple Unit Residential (RM) Zoning Districts and to incentivize the preservation of beach cottages. Amendments to the Municipal Code in 2010 retained height limits of 24 feet for a flat roof and 29 feet for a sloped roof, deleted the requirement to measure to the midpoint of a sloped roof, required a 3:12 roof pitch, and required a third story to step back 15 feet from the front and rear setbacks. The 15-foot step-back requirement applies to enclosed floor area only and does not apply to Balboa Island properties, RM Zones, and 25-foot wide or less R-2 lots. The definition of floor area excludes unfinished attics and is silent regarding the openness of patios.

Principal Planner Murillo indicated the intent of the proposed amendments is to address the unintended consequences of the 2010 comprehensive update to the Zoning Code and to provide more consistency in the application of residential design standards. The proposed amendments are not intended to overhaul design standards, change allowed heights, prohibit covered roof decks, or change allowed floor area potential. Public outreach included an August 19, 2019, community meeting, a September 10, 2019, Council Study Session, adoption of the Cottage Preservation Ordinance on February 11, 2020, various staff meetings with community members and designers, and a March 9, 2020, community meeting.

First and second floors are required to comply with front and rear setbacks, but the third floor is required to step back 15 feet from both the front and rear setback lines. The enclosed area of the third floor is limited to either 15% or 20% of the buildable area depending on lot width. Covered unenclosed third-floor area is not restricted by the 15-foot step-back; therefore, the third floor can cover the entire buildable area. The proposed amendments maintain the existing third-floor limits for enclosed floor area, apply the 15-foot step-back to any covered unenclosed area, and limit third-floor covered area to 50% of buildable area (including the 20% enclosed area).

Currently, third floor side step-backs apply to enclosed floor area only and to lots greater than 30 feet in width. The majority of lots in the City, especially in Corona del Mar, Balboa Island and the Peninsula, are 30 feet wide; therefore, the side step-back requirement is not applied. The proposed amendments would apply the side step-back to floor area and covered decks and to lots at least 30 feet in width.

Prior to 2010, a patio was not considered as floor area if two sides were open. Current Code provisions are silent as to this point. In current practice, one side must be completely open or two sides must be substantially open for a patio not to be defined as gross floor area. The proposed amendment requires two sides to be open except for minimal structural supports and guardrails with a minimum 40% open design or made of transparent materials.

The current Zoning Code does not regulate unfinished attics as floor area regardless of the ceiling height. The proposed amendment would regulate an attic as any interior portion of a structure that is accessible and that measures more than 6 feet from finished floor to ceiling. The desired outcome is reduced attic heights, which will minimize the mass and bulk associated with attics.

The proposed amendments would apply the design standards to Balboa Island and one- and two-unit structures in RM Zones. In addition, the proposed amendments would apply front and rear step-backs to R-2 lots measuring 25 feet or less in width; however, the lots would remain exempt from the third-floor area, side step-back, and the open volume requirements.

Principal Planner Murillo further stated that Senate Bill (SB) 330 expedites housing development applications, increases tenant protections, attempts to prevent the loss of housing, suspends downzoning, and suspends changes in development standards that result in less intense use. Any new development standard cannot reduce density or reduce the intensity of development. Staff is confident the proposed amendments will not result in a change in achievable height, setbacks, floor area, or density and will incentivize more density in RM Zones. The proposed third-floor step-backs are not setbacks as defined in the Zoning Code. The proposed open volume requirement does not impact the potential floor area of a dwelling. If the proposed amendments are adopted, staff proposes discretionary applications deemed completed and projects submitted for plan check prior to the effective date of the ordinance not be subject to the proposed amendments.

In response to Secretary Lowrey's questions, Principal Planner Murillo advised that several projects have been submitted and, if the proposed amendments are adopted, would not be subject to the new standards. The original intent of the RM Zone was to provide flexibility in development. R-2 lots are already constrained by their small size. The intent was not to change the standards for Balboa Island in 2010.

In reply to Commissioner Klaustermeier's inquiries, Principal Planner Murillo indicated enforcement of unpermitted enclosed areas relies on complaints and tips from the public, discovery by building inspectors, and the residential building report process for homes in escrow.

In answer to Chair Koetting's query, Principal Planner Murillo explained that the enforcement process includes notice of the unpermitted enclosure to the property owner and requirement to comply. If the property owner does not comply with a deadline to return the enclosed area to an open area, the property owner is issued a citation and further enforcement can be taken.

At Vice Chair Weigand's request, Principal Planner Murillo reiterated public outreach including a newsplash and emails sent to parties who have requested notice. Based on public comments during outreach and comments provided by the development community, staff developed the proposed amendments.

In response to Commissioner Kleiman's questions, Principal Planner Murillo stated staff believes the proposed amendments comply with SB 330 and implement the intent of 2010 Zoning Code update changes while preserving existing property rights. The Code includes a number of subjective design standards that are difficult to enforce because of their subjectivity. SB 330 requires any new design standards to be objective. Assistant City Attorney Yolanda Summerhill referred to the legislative intent of SB 330. The proposed amendments will not compromise the housing supply as public comments have suggested. Principal Planner Murillo explained that residential design standards related to third-story massing and open volume are contained in the Zoning Code, not the Local

Coastal Program (LCP). Proposed amendments defining gross floor area and clarifying the application of open space for RM properties will affect the LCP.

Chair Koetting opened the public hearing.

Mark Becker, 410 Belvue Lane, supported the proposed amendments. Third-story massing has been a problem, and most people would eliminate third floors. Third floors reduce air circulation, increase shading on properties and increase the use of heating and cooling devices, which is contrary to efforts to reduce global warming. Properties have been devalued as a result of third-story guidelines, and proposed amendments will not affect the value because they do not address square footage.

Jim Mosher supported restrictions on massing and felt the proposed amendments could be stricter. The virtual format is not appropriate for public hearings and controversial topics. He expressed concerns about the legality of the proposed amendments under SB 330 and staff's consideration of accessory dwelling units in the calculation of gross floor area. The proposed amendments inconsistently apply standards to lots measuring 30 feet in width.

Christopher Budnik, Newport Heights, encouraged the Commission to look at the problem and to consider a targeted approach. He suggested the Commission exempt Newport Heights from all proposed amendments and requested staff send formal notice to all Newport Heights property owners if the proposed amendments apply to Newport Heights.

Lee Pearl, a resident from Balboa Island, indicated residents support the staff recommendation and the realtors' notices appear to misstate the issues.

Jim Moloney, Balboa Island, remarked that three-story homes create shadows, block views, and devalue surrounding properties. The purpose of SB 330 is to create housing, but three-story homes displace residents.

Joni Martin, 1824 West Ocean Front, explained that the original intent of not applying the standards to RM Zones was to allow a mixture of single-family and multifamily dwellings. The virtual format is not a good format for hearings. The March 2020 community meeting was not well attended because the coronavirus outbreak was just beginning. She spoke with a staff person in SB 330's sponsor's office, and he indicated the proposed amendments could violate SB 330.

Mike Mack, Corona del Mar, requested the percentage of undeveloped properties in zoning areas that would be affected by the proposed amendments.

Principal Planner Murillo indicated that he did not have that information at hand. Properties in Corona del Mar are subject to existing standards for enclosed third-floor area and would be subject to new proposed standards for covered decks.

John Davies, a resident from Balboa Island, supported the proposed amendments and stated third-floor massing is too much.

Nancy Scarbrough supported the proposed amendments and closing the loopholes created by the 2010 amendments.

Andrew Goetz, Corona del Mar, was in favor of the proposed amendments, but suggested the Commission continue the item for more deliberation.

Don Abrams, from Balboa Island, opposed the proposed amendments. The title of third-floor massing is inflammatory and pejorative. The proposed amendments do not favor homeowners. Balboa Island is less dense and homes are less massive than in other areas of the City. Allowing third-floor roof decks on Balboa Island would balance the floor area allowed in other areas of the City.

Wallace Rodecker, 328 Poppy, liked the virtual format. Step-backs for third floors may dramatically restrict the feasibility of development on a small lot.

Randy Black, Bay Front, supported the proposed amendments because they would maintain property values and the charm and character of neighborhoods. All City planning, zoning and development regulations could be said to restrict the rights of property owners.

Art Pease, Corona del Mar, opposed the proposed amendments. RM Zones are unique and special zoning and were created with the specific intent of increasing density. The proposed amendments should not apply to RM Zones.

Charles Klobe agreed with comments about the awkwardness of the forum and supported the staff recommendation with no changes.

David Waite, the Martin Family Trust attorney, advised that the proposed amendments directly conflict with the Housing Crisis Act of 2019, result in spot zoning, and are not fair to property owners planning to redevelop properties to their full potential. The proposed amendments will result in less buildable area and less habitable space on third floors.

Jim Kasuba opposed the proposed amendments because they could adversely affect small lots.

Jodi Bole, Balboa Island Preservation Association, commented that the current regulations allow construction of massive homes, which has changed the history, ambience, and character of Balboa Island. She encouraged the Commission to adopt the proposed amendments.

Erin Walsh Moloney, Balboa Island, supported the proposed amendments, which would restore the requirements of 2010.

Ryan Gunderson related that the proposed amendments could be detrimental to property values and limit future construction.

Shirley Golnick, a resident at 106 Pearl, supported the proposed amendments as she is opposed to McMansions.

Seeing no further speakers, Chair Koetting closed the public hearing.

In reply to Commissioner Ellmore's questions, Principal Planner Murillo advised that, in drafting the proposed amendments, staff focused on smaller lots to ensure the proposed standards would not reduce the ability to construct floor area to which a property owner is entitled. He did not view the proposed standards as constraints on larger lots. Three-story homes are rare in Newport Heights because lot sizes are larger than elsewhere in the City.

In answer to Chair Koetting's queries, Assistant City Attorney Summerhill believed the proposed amendments comply with SB 330. Staff is not changing the setbacks but requiring articulation of the third floor. Principal Planner Murillo related that any plans currently under review would be subject to existing standards.

In answer to Commissioner Ellmore's inquiry, Community Development Director Jurjis indicated staff seeks a recommendation to the City Council, but the Planning Commission may continue the item.

Vice Chair Weigand proposed continuing the item so that a community discussion could be held with an ad hoc committee composed of a Council Member, a Commissioner, representatives from the Balboa Island Improvement Association (BIIA) or the Corona del Mar Residents' Association (CdMRA), realtors, and architects.

Commissioner Ellmore preferred to make a recommendation because the March 9, 2020, community meeting was well attended and interactive and staff has vetted the proposed amendments thoroughly.

Commissioner Kleiman did not believe additional community engagement is needed but suggested staff submit the proposed amendments to the State for review prior to the Commission making a recommendation to the Council. As she interpreted SB 330, the proposed amendments could be in conflict with SB 330.

Secretary Lowrey agreed with continuing the item and forming an ad hoc committee. He had some concern about property rights and the potential for litigation.

Commissioner Klaustermeier expressed some concern that the State would not accept the proposed amendments because of SB 330 provisions. Staff did a good job of addressing loopholes. She wanted to move forward with a recommendation given the amount of public outreach staff conducted.

Chair Koetting expressed concern about the proposed amendments complying with SB 330 and agreed with continuing the item.

In reply to Chair Koetting's inquiry, Community Development Director Jurjis advised that staff sent questions to the legislative counsel approximately a month prior but has not received a response. He did not know if staff would receive any direction from either legislative counsel or the California Department of Housing and Community Development (HCD).

Vice Chair Weigand felt staff probably would not receive a response from the State legislative counsel's office.

Motion made by Chair Koetting and seconded by Secretary Lowrey to continue the item to a future date with staff to attempt to obtain feedback from the State and to consider comments from Commissioners.

Commissioner Kleiman noted SB 330 imposes a penalty for violation. Her main concern is the ability to enact an amendment that may conflict with State law.

In answer to Commissioner Klaustermeier's query, Community Development Director Jurjis understood the item would return to the Planning Commission in 30-45 days.

AYES: Koetting, Weigand, Lowrey, Kleiman
NOES: Ellmore, Klaustermeier
ABSTAIN:
ABSENT: Rosene

The Planning Commission recessed for a short break.

ITEM NO. 3 EXTENSION OF AN AMORTIZATION PERIOD FOR NONCONFORMING SIGNS (PA2019-184)
Site Location: Citywide

Summary:

Amendments to Section 20.42.140(A) of Title 20 (Planning and Zoning) and Section 21.30.065(E) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (NBMC) to extend an amortization period for nonconforming signs. NBMC currently requires nonconforming signs to be removed by October 27, 2020. These amendments would extend the deadline for the removal to October 27, 2025.

Recommended Action:

1. Conduct a public hearing;
2. Find this project 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;
3. Adopt Resolution No. PC2020-015 recommending the City Council approve Zoning Code Amendment No. CA2019-007 to amend Section 20.42.140(A) (Nonconforming Signs) of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code; and
4. Adopt Resolution No. PC2020-016 recommending the City Council approve Local Coastal Program Amendment No. LC2019-005 and authorize staff to submit the amendment to the California Coastal Commission to amend Section 21.30.065(E) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code.

Attachment No. PC 4

May 7, 2020, Planning Commission Staff
Report

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CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

May 7, 2020
Agenda Item No. 2

SUBJECT: Residential Design Standards Code and LCP Amendments (PA2019-070)

- Code Amendment No. CA2019-004
- Local Coastal Program Amendment No. LC2019-006

SITE LOCATION: Citywide

APPLICANT: City of Newport Beach

PLANNER: Jaime Murillo, Principal Planner
949-644-3209 or jmurillo@newportbeachca.gov

PROJECT SUMMARY

The City is proposing amendments to Title 20 (Zoning Code) and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (NBMC) revising development standards applicable to single- and two-unit residential development. Generally, the proposed amendments would reduce bulk and mass associated with future residential development by clarifying the definition of gross floor area, regulating covered third floor decks, and expanding the application of third floor and open volume standards to all single-unit and two-unit residential developments constructed in the R-BI and RM zoning districts. Third floor step backs (front and rear) would also apply to lots 25 feet wide or less in the R-2 zoning district. The amendments would not result in the reduction of allowable density on a lot. Furthermore, no changes in overall height limits, allowable floor area, lot coverage, or setbacks are proposed that would lessen the intensity of housing on a site.

RECOMMENDATION

- 1) Conduct a public hearing;
- 2) Find this 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 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; and
- 3) Adopt Resolution No. PC2020-013 (Attachment No. PC 1) recommending the City Council approve Amendment No. CA2019-004; and of the proposed amendments to the City Council; and

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- 4) Adopt Resolution No. PC2020-014 (Attachment No. PC 2) recommending the City Council authorize staff to submit Local Coastal Program Amendment No. LC2019-006 to the California Coastal Commission.

INTRODUCTION

Background

With the adoption of the 2010 Zoning Code Update, changes to residential development standards were made with the intent to streamline the review process while maintaining allowable building envelopes and preserving the character of existing communities.

However, changes to height measurement standards and definition of gross floor area have inadvertently resulted in proliferation of covered third level decks and bulkier building designs. Despite measuring the same in terms of enclosed gross floor area, newer development appears larger and at times out of scale with the pre-2010 development. Staff believes it is due in part to unarticulated third floor decks, minimal covered deck openings, and manipulation of attic floor area exceptions.

The 2010 Zoning Code attempted to regulate third floor mass and bulk through the use of NBMC Section 20.48.180 (Residential Development Standards and Design Criteria), which includes third floor area limits and third floor step backs for enclosed floor area to provide building modulation. It includes a minimum open volume standard to increase building modulation/articulation on the first or second floors. However, the third-floor limits do not apply to unenclosed covered deck areas or unfinished attics, resulting in building designs with third levels (enclosed and unenclosed) that visually appear larger and bulkier than intended. Furthermore, these standards do not currently apply to the Two-Unit Residential, Balboa Island (R-BI) zoning district, the Multiple Residential (RM) zoning district, and to lots 25 feet wide or less located in the Two-Unit Residential (R-2) zoning district.

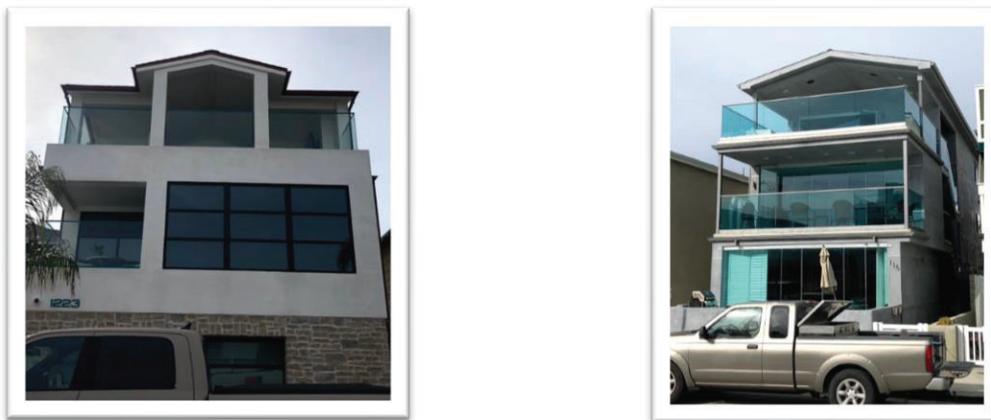


Figure 1. Examples of third floor mass associated with covered decks

As a result of growing community concerns related to the loss of small residential cottages and the bulk and mass associated with new single- and two-unit dwelling developments in the City, the City Council held a study session on April 23, 2019. The City Council directed staff to prepare amendments regulating these concerns (Attachment No. PC3 - Study Session Minutes).

Initiation of Code Amendment

On May 14, 2019, the City Council initiated portions of subject amendment under Resolution No. 2019-043 (Attachment No. PC4) authorizing staff to investigate code revisions to reduce third floor mass and overall building bulk associated with single-unit and two-unit developments.

On May 28, 2019, the City Council initiated the remaining portion of the subject amendment under Resolution No. 2019-045 (Attachment No. PC5) authorizing staff to investigate code revisions to restrict single-unit and two-unit dwellings developed on lots zoned for Multiple Residential (RM) to the development standards applicable to the standards of the Two-Unit Residential (R-2) Zoning District.

DISCUSSION

Summary of Proposed Revisions

The proposed amendments would reduce bulk and mass associated with future residential development as follows and illustrated in more detail further below. A redline/strikeout version of the proposed code revisions is included as Attachment No. PC6.

Revisions to Third Floor Standards

- Third floor step backs¹ would apply to covered deck areas (currently applies only to enclosed floor area).
- Third floor sidestep backs would apply to lots 30 feet wide or greater (currently applies to lots wider than 30 feet).
- Maximum covered third floor area (enclosed or unenclosed) limited to 50 percent of buildable area. Uncovered deck area would remain unrestricted.
- Third floor step back standards (front and rear) would apply to 25-foot wide or less lots zoned R-2 (currently exempt).

Clarification of Gross Floor Area

- *Unfinished* attics with a ceiling height of 6 feet or higher would count as floor area (currently only finished attics count).

¹ A step back is an additional offset of a wall of building feature beyond the minimum setback line.

- Covered patios, decks, and balconies above the first floor would count as floor area unless completely open on at least two sides, rather than one side.
- Carports only open on one side would count as floor area.

Single-Unit and Two-Unit Dwellings in the R-BI and RM Zone

Third floor and open volume standards applicable to R-1 and R-2 zones would now apply to single- and two-unit dwellings in R-BI and RM zones.

Comparison of Pre-2010 and Current Building Height Measurements

Prior to the 2010 Zoning Code Update, there were no third floors regulations; however, third floor designs were limited through the method to measure building height in effect at the time. Within the R-1 and R-2 zoning districts, heights are limited to 24 feet for flat roofs and 29 for sloping roofs, and within the RM zone flat roofs are limited to 28 feet and sloping roofs limited to 33 feet. Pre-2010, sloping roofs were required to maintain a midpoint of no higher than 24 feet, which proved difficult to calculate and was further complicated by an allowance to project imaginary roof lines for the purposes of computing allowable midpoints. Post 2010, the Zoning Code eliminated the midpoint measurement sloped roofs in exchange for a requirement that the sloping roof maintain a minimum pitch of 3:12.

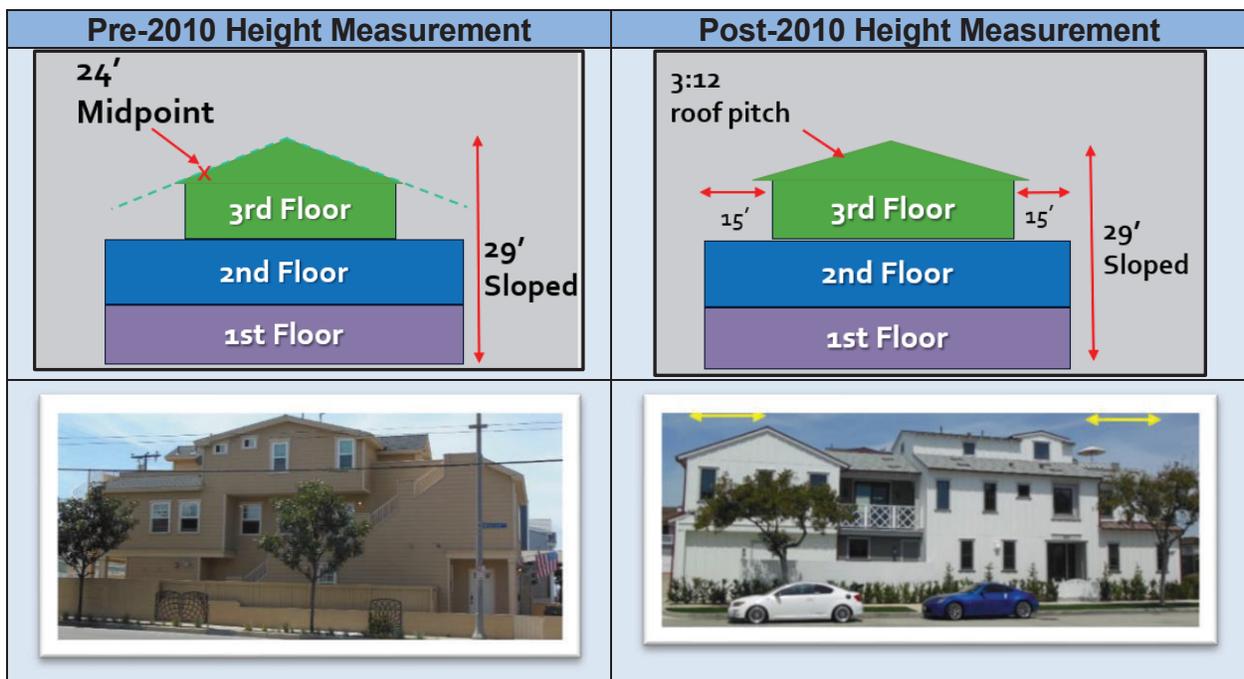


Figure 2. Comparison of building height measurements

In 2010 with a recognition that building bulk may increase, third floor step backs requirements and maximum third floor area limitations were added in most cases, but not all. Specifically, the enclosed third floor area is required to be stepped back an additional 15 feet from the required front and rear setback line. On lots greater than 30 feet in width, the third floor is required to be stepped back an additional 2 feet from the required side setback lines. Furthermore, the maximum enclosed third floor area is limited to either 15 percent or 20 percent (depending on lot width) of the buildable area of a lot. Buildable area is calculated as lot size minus required setback area. Figure 3 below conceptually illustrated how third floor area is regulated.

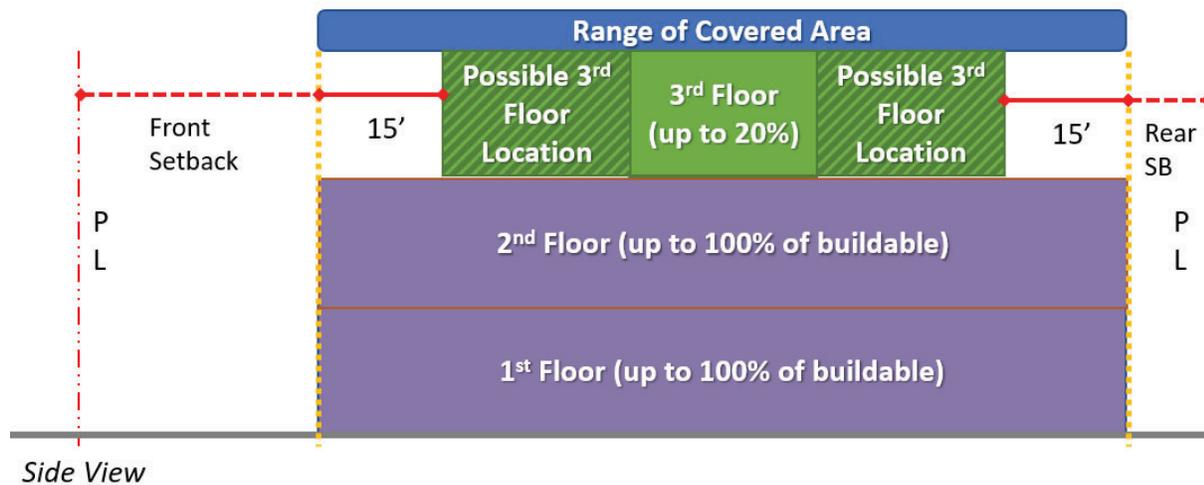


Figure 3. Current third floor regulations

Unfortunately, third floor regulations only apply to enclosed floor area and do not apply to covered unenclosed third floor area. As a result, third floor covered decks, often referred to as loggia or cabanas, have become popular design amenities becoming larger over the years adding to the visual building bulk. These requirements also do not apply to enclosed third floor area within R-BI residential zoning district for Balboa Island, the RM zoning district citywide, or lots 25 feet wide or less within the R-2 zoning district.

Proposed Third Floor Change – Application of step backs and coverage limits to third floor covered decks

The proposed amendment would apply the third-floor step back requirements to both enclosed and unenclosed third floor area to reduce third floor building bulk. As illustrated in Figure 4 below, the allowed third floor enclosed area would remain the same (illustrated in green shading), but the covered deck area (illustrated in shaded light blue) will be required to observe the 15-foot front and rear step backs and be limited to a maximum 50 percent third floor coverage limit. The coverage limit would be calculated as 50 percent of the buildable area of the lot (lot size minus setbacks) and would include both enclosed area and unenclosed covered third floor deck area. The end result is a third-floor mass

that is located closer to the middle of the building farther away from the building edges, reducing the visual mass as viewed from the public streets and alleys.

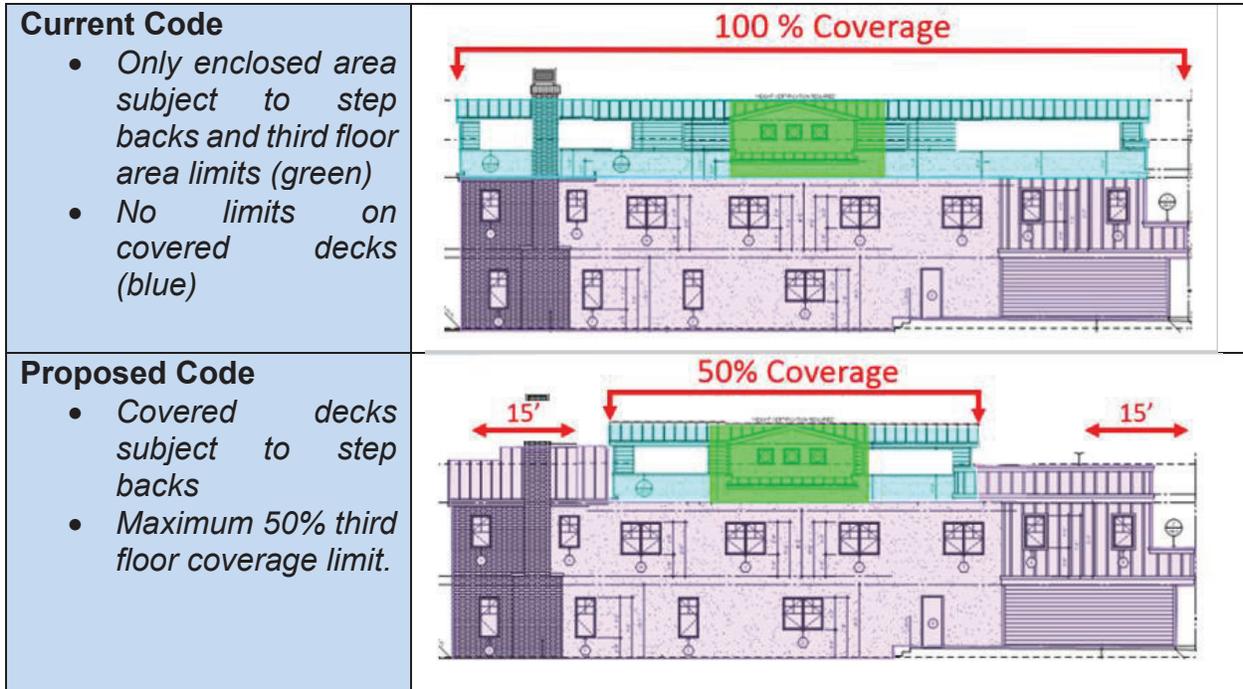


Figure 4. Comparison of current and proposed third floor regulations



Figure 5. Examples of desired outcome

Proposed Third Floor Change – Expanded Applicability to Side Step Backs

In addition to front and rear step backs, current regulations require that development on lots wider than 30 feet provide additional 2-foot step backs from the required side setback lines on third levels. The intent is to articulate and pull the third level mass back away side facades (Figure 6). However, this requirement currently only applies to enclosed floor

area and not covered decks. Also, the standard lot width in Corona del Mar, Balboa Island, and in many neighborhoods within the Balboa Peninsula consist of 30-wide lots; therefore, this side step back requirement is not typically applied in most new developments. As a result, new three level residential developments lack upper level side articulation. When located adjacent to private property, this has the effect of impacting light and air to the narrow side yards between lots. This lack of articulation is more pronounced and visible when located adjacent to a street.

Comparison	Outcome
 <p data-bbox="207 1052 488 1125">No side step back applied</p>	
 <p data-bbox="207 1598 488 1671">2-foot side step back applied</p>	

Figure 6. Application of side step back comparison

The proposed code change would:

- Apply side step back to lots 30 feet wide or greater. With the exception of extremely narrow lots, this would ensure that most new residential development is subject to the side step back requirement.
- Apply side step back to both enclosed and covered decks. This would ensure that the covered third level decks are subject to the same articulation requirement.
- *Exception-* Stairs and elevator shafts do not count as floor area on upper levels and would therefore remain exempt from third floor step back requirements. This also minimizes structural and spatial design impacts associated with accommodating side step backs. A good example of this is seen in the lower picture in Figure 6.



Figure 7. Examples with no third floor side step backs



Figure 8. Examples of desired outcome with side step backs applied

Proposed Gross Floor Area Change- Fix the Attic Loophole

Both the Zoning Code (Title 20) and the Implementation Plan of the Local Coastal Program (Title 21) of the NBMC primarily regulate building bulk and mass through the application of a floor area limit, which is a ratio of gross floor area to the buildable area of the lot. For example, in Corona del Mar, the maximum allowed floor area of a lot is equal

to the buildable area of the lot (lot area minus setbacks) times a factor of 1.5. Gross floor area includes interior finished portion of a structure that is accessible and that measures more than 6 feet from finished floor to ceiling. This is intended to account for large attics that visually add to the bulk and mass of structures. However, since the third-floor regulations only applies to finished areas, the definition does not include unfinished attics, including those with unfinished attics higher than 6 feet. Furthermore, the third-floor step backs previously discussed do not apply to unfinished attics since they are not considered enclosed floor area.

As a result, many new developments are designed with large unfinished attics to accommodate mechanical equipment and resident storage needs. Although not intended to be used as habitable floor area, from the street, these structures appear to have large third floors and are visually bulkier than the floor area limits intend (see Figure 9). In some cases, these large attics are illegally converted without permits by future property owners seeking to take advantage of the additional space.

The proposed code change would eliminate the word *finished* from the definition of gross floor area, resulting in any interior portion of a structure with a ceiling height higher than six feet counting towards maximum floor area limits. As illustrated in Figure 10, this would discourage designs with large attics, reducing the visual building bulk of new structures and minimizing future opportunities for illegal attics conversions into livable space.

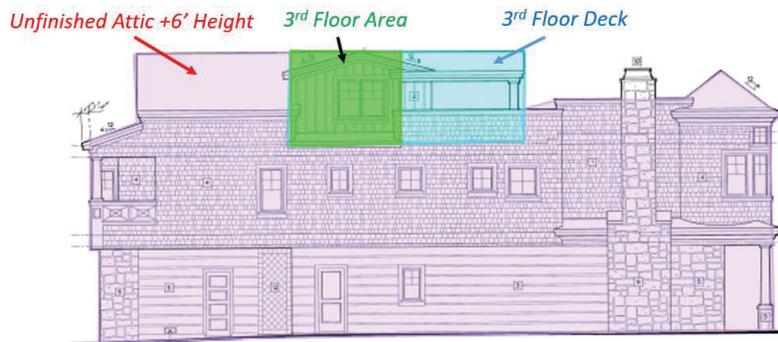


Figure 9 - Bulk associated with large attics

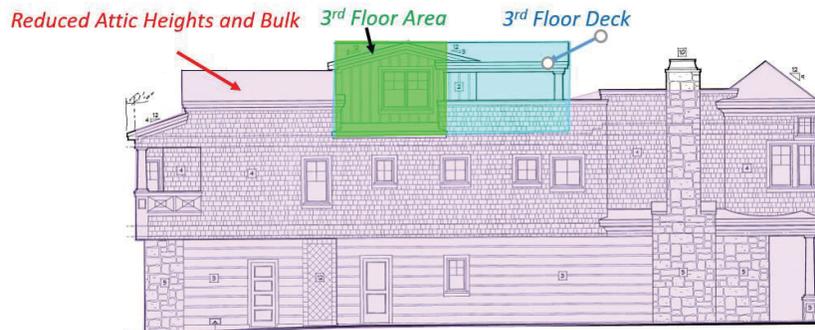


Figure 10 - Desired Outcome of Revised Definition

Proposed Gross Floor Area Change- Application to Covered Decks and Carports

Prior to the 2010 Zoning Code Update, the definition of gross floor area excluded covered decks, patios, and carports provided they were open on at least sides. Unfortunately, the current definition of gross floor area is silent with respect to covered decks, patios, and carports. As a result, it has been interpreted that absent of any clear code language, covered decks, patios, and carports completely open on one side, or substantially open on two sides, do not count towards gross floor area simply because these areas are not enclosed.

The lack of regulation of these features has contributed to increased visual bulk associated with new residential development as follows:

- Visually bulky decks and patios
- Relocation of patios from front and rear of structure to sides where they are less visible to public
- Design is easily enclosed with windows by some owners seeking to increase privacy and comfort by creating an all-weather enclosure.

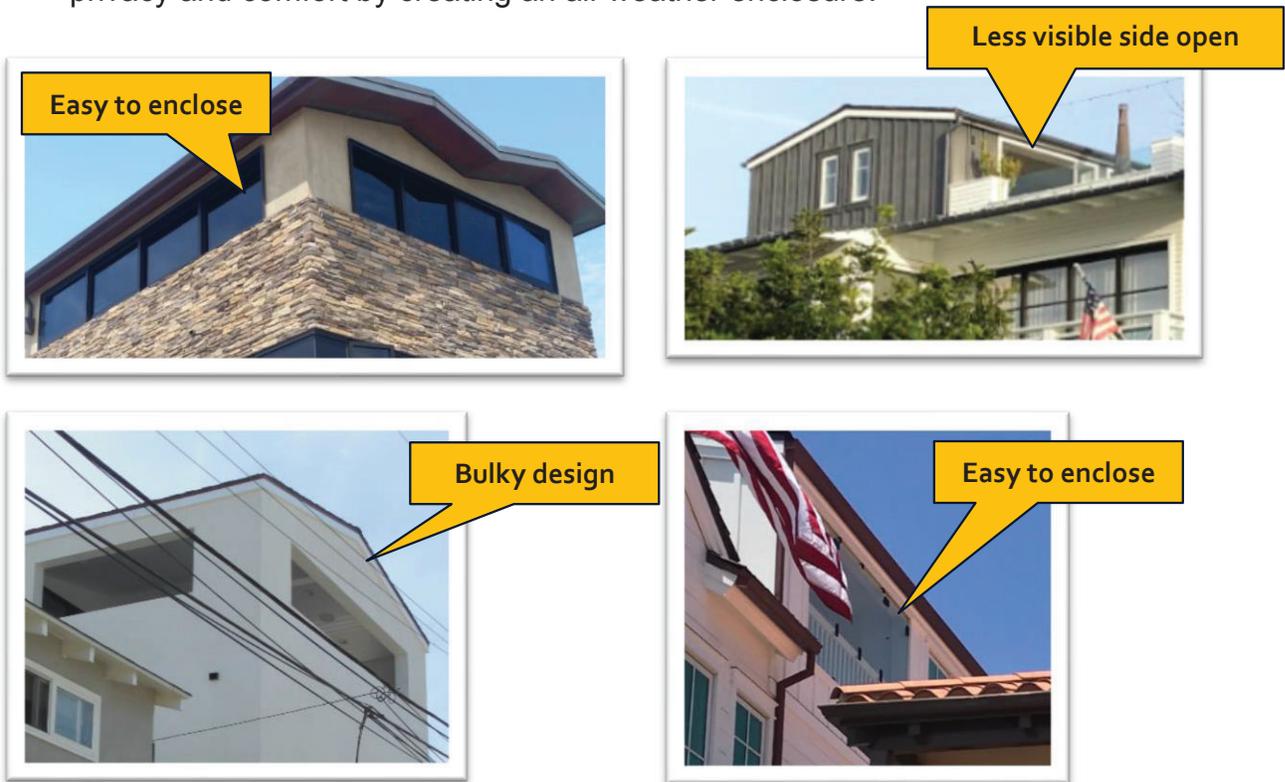


Figure 11. Examples of covered decks and patios designs under current code

The proposed code change would revise the definition of gross floor area requiring covered decks, patios, and carports to be at least open on two sides, similar to the pre-2010 Zoning Code requirements. To ensure that the sides are completely open and not

easily able to be illegally enclosed in the future, the open side of the deck or patio will be required to fully open with the exception of minimal structural supports and required safety railings. The safety railing will need to be constructed of transparent material (except for supports) (e.g., glass, decorative grillwork, wrought iron, latticework, or similar material) so that at least 40 percent of the railing is open with the space between the railing and the structural support above completely open. Examples illustrating compliance with the code revisions are illustrated below. The revised definition would continue to allow first floor outdoor spaces such as patios and foyers to be open only on one side, given they are less visible to the public and in some case required by code for entry ways facing side yards.



Figure 12. Examples of desired openness of covered decks and patios

Proposed Applicability Change- Balboa Island

A majority of residential lots on Balboa Island are zoned *Two-Unit Residential, Balboa Island* (R-BI). The R-BI zone is currently exempt from the third floor and open volume regulations contained in the NBMC Section 20.48.180 (Residential Development Standards and Design Criteria). As a result, the existing and proposed aforementioned third floor limits (i.e., step backs, area, and coverage limits) and open volume requirements do not apply.

The proposed code amendment would revise the applicability of Section 20.28.180 to include the proposed new residential development standards within the R-BI zone so they would apply to all new construction on Balboa Island.

Proposed Applicability Change- Multi-Unit Residential (RM) Zone

The Multiple Residential (RM) zoning district allows for a range of residential density ranging from single-unit dwellings to higher density apartments and condominiums. As a result, the RM zone development standards are designed for higher density development and include a higher height limit of 28 feet for flat roofs and 33 feet for sloped roofs (R-1 and R-2 are limited to 24 feet flat/29 feet sloped) and private and common open space requirements for residents. Typically, RM zoned lots are larger, but there are pockets of RM lots located in Corona del Mar and the Balboa Peninsula that are smaller lots, including 30-foot-wide lots (Attachment No. PC7). On these smaller lots, it is difficult to accommodate current code-required parking (2 spaces/unit + one guest) for a three-unit development, so it is common to see many of these lots developed and redeveloped with single- and two-unit dwellings.

In addition to the height benefit of the RM zone, single-unit and two-unit dwellings developed in the RM zone are currently exempt from the third-floor limitations of Section 20. 48.180 (Residential Development Standards and Design Criteria) described above. In other words, a single- or two-unit dwelling can be constructed with three full levels of living area to a maximum height of 33 feet and not be required to provide front, rear, or side step backs to control mass as would normally be required in the R-2 zone.



Figure 13. Examples of two-unit development in RM zone with no third floor step backs

Initially, the City Council directed staff to prepare amendments that would limit single-unit and two-unit dwellings to the same development standards that would apply in the R-1 and R-2 zones, including the reduced height limit. This potential change resulted in strong opposition from property owners during community outreach. Many of these pockets of smaller RM lots have already been redeveloped, and SB 330 (see expanded SB 330 section of report) precludes the City from changing zoning standards that would reduce

the intensity of residential development. As a result, the suggestion to possibly reduce height limits for single- and two-family development in the RM zones have been eliminated from the proposed amendments.

As currently proposed, the amendments would revise the applicability of Section 20.48.180 (Residential Development Standards and Design Criteria) to only exclude multi-unit developments consisting of 3 or more units within the RM zone. Single- and two-unit dwellings will be required to comply with the aforementioned existing and proposed third floor limitations (i.e., step backs and coverage limits) and open volume requirements in order to enhance third floor building articulation and minimize bulk.

The private and common open space requirements applicable to the RM zone are in place to ensure higher density developments include adequate outdoor spaces for the residents of the development; however, these standards are not practical for single-unit and two-unit dwellings. Based on language in the code, staff has interpreted the private and common open space standards as applying only to developments of three units or more. For developments of two units or less, staff has applied the open volume requirements of Section 20.48.180 (Residential Development Standards and Design Criteria), which are intended to provide building modulation and not necessarily useable outdoor living area. The proposed code amendment would include revisions to clarify and codify this existing practice.

Proposed Applicability Change- Two-Unit Residential (R-2) lots 25 wide or Less

NBMC Section 20.48.180 (Residential Development Standards and Design Criteria) currently exempts lots 25 feet wide or less in the R-2 zone from the third floor and open volume regulations. The rationale was that these lots are already so narrow that the application of additional design limitations would overly constrain the development potential of these lots for two units. Of the 3,791 R-2 lots in the City, 584 of these lots (15%) are 25 feet wide or less. A majority of these lots are located on the Balboa Peninsula and concentrated in between 27th Street and 40th Street (Attachment No. PC8).

As a result of input received from the community meeting and in consultation with members of the City's design community, it has become apparent that new residential development on these lots could benefit from application of the additional 15-foot front and rear third floor step back requirements. Application of these step backs would not constrain the development potential of these lots, but would greatly enhance the aesthetics and visually reduce the upper level bulk.

Therefore, the proposed amendments would revise the applicability of Section 20.48.180 to continue to exempt the 25-foot wide lots from the third-floor area limits and open volume requirements, but will now require the application of the 15-foot front and rear step backs.

Proposed Local Coastal Program Amendment (Title 21)

Properties located in the Coastal Zone (Attachment No. PC 9) of the City are regulated by the Local Coastal Program (LCP), which is comprised of the Coastal Land Use Plan (CLUP), a policy document, and the Implementation Plan (IP or Title 21), a regulatory document. Any amendments to the LCP 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 for review and approval.

Although the third floor and open volume regulations contained within NBMC Section 20.48.180 (Residential Development Standards and Design Criteria) don't exist within the IP of the LCP, the definition of gross floor area does. To ensure that the IP of the LCP maintains the same definition of gross floor area as the zoning code, an amendment to the LCP is necessary. The amendment will also include clarification that the RM coastal zoning district open space standards contained in the IP apply on to multi-unit dwellings consisting of three-units or more. For single-unit or two-unit dwellings constructed in the RM coastal zoning district will still be subject to the third floor and open volume regulations contained in the zoning code (Section 20.48.180).

Community Outreach

On August 19, 2019, the Community Development Department staff hosted a community meeting to share proposed changes to residential design standards. Notice of the meeting was distributed to affected homeowners' associations, distributed as a Newsplash to interested members of community who have requested notice of important planning and land use activities in the City, and distributed to a list of known designers and architects that work in Newport Beach. The meeting was well attended by 64 members of the public, including design professionals.

Included in the discussion were proposed changes to expand third floor step back requirements to covered third floor decks, fix the definition of gross floor area to include finished and unfinished attics measuring more than 6 feet in height, and reducing the height limit of single-unit and two-unit developments constructed in the RM zoning district. The proposed changes related to third floor covered decks were overwhelmingly supported by meeting attendees. The proposal to reduce height limits in the RM zone proved controversial with property owners of RM lots adamantly opposed.

General comments in support and recommendations included:

- Covered patios and decks are not adequately open on sides, resulting in many property owners illegally enclosing these spaces through the addition of windows. These spaces should be required to be more open and increased code enforcement and penalties needed to discourage illegal enclosures.

- Three story development is negatively impacting the character and charm of historic communities. Third levels should be prohibited or further regulated to minimize bulk and mass.
- Third floor limitations should apply to Balboa Island.
- Related to covered decks and patios, the determination of open is subjective; more objective standards should be developed.

General comments in opposition of modifying RM standards included:

- Reducing heights limits for single-unit and two-unit developments in the RM zone would result in unequal application of standards on same blocks.
- Single-unit and two-unit development in RM zone is currently desirable due to increased height limits afforded to RM lots (four additional feet). Changing the height limit would result in a financial penalty to property owners by removing this benefit. Furthermore, changing the height limit now will have little impact in some RM blocks as the have already been redeveloped.
- Consider applying third floor restrictions, but maintain existing height limits in RM zones.

On September 10, 2019, a study session was held with the City Council to share the results of the August 2019 community meeting and proposed code amendments (Attachment No. PC10- Minutes). At the conclusion of the study session, the City Council directed staff to continue working on the amendments, refine the opening requirements for covered decks, and to consider the impacts of SB 330.

On March 9, 2020, Community Development Department staff hosted a second community meeting attended by 25 interested members of the public, including design and real estate professionals. The intent of the meeting was to share refinements to the residential design standards and receive further community feedback. Approximately half the attendees voiced their concerns with the amendment citing loss of property values, creation of nonconformities, and government overreach. The other half voiced support for the proposed amendments indicating that they seem to strike a reasonable balance between property values and community issues concerning bulk.

In addition to the two community meetings and study sessions associated with these amendments, staff has met or consulted with multiple community members and design professionals familiar with the City's zoning regulations. Some of these meetings were formal and others informal over-the-counter discussions. These include, Eric Aust (Eric Aust Architect), Mark Becker (Mark Becker Inc.), Chris Brandon (Brandon Architects, Inc.), William Guidero (Guidero Design), Ian Harrison (Ian Harrison Architect), Brion

Jeannette (Brian Jeannette Architecture), Rod Jeheber (R.A. Jeheber Residential Design, Inc.), (Edward Selich, former Mayor and member of Zoning Code Update/LCP Update Committee), Bradford Smith (Bradford C Smith Architect), Mark Teale (Teale Architecture), and Ron Yeo (Ron Yeo Architect). While there were diverse opinions and thoughts, there was near universal agreement that refinement of the development standards should occur.

Impact of SB 330 to proposed developments standards

On October 10, 2019, Governor Gavin Newsom signed into law Senate Bill 330 – also known as the Housing Crisis Act of 2019 – aimed to stimulate homebuilding amid the housing shortage in California. The law took effect January 1, 2020, and while it tries to reduce the time it takes to approve housing developments, it also mandated new restrictions further eroding local control of housing. The new law imposes several new restrictions on local agencies, including: 1) suspending the ability to downzone properties, adopt new development standards or change land-use in residential and mixed-use areas if the change results in less-intensive uses; 2) allows developers to request approval of housing developments that exceed density and design controls of the underlying zoning, if the existing zoning is in conflict with the General Plan or a Specific Plan; 3) expedites the permitting process for all housing development and limits the list of application materials that cities can review; and 4) includes increased tenant protections for housing development projects that involve redevelopment of existing residential units, including no net loss in units.

As it relates to the subject code and LCP amendments, the concern is SB 330's restriction on the adoption of zoning amendments that would result in the reduction of allowed density or intensity of land uses than what is allowed under the regulations in effect on January 1, 2018. The law defines "less intensive use" to include, but is not limited to, reductions to height, density, or floor area ratio, new or increased open space or lot size requirements, new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, or anything that would lessen the intensity of housing.

The City Attorney's Office has reviewed the draft code revisions and determined that they do not violate SB 330 in that they would not result in the reduction of allowable density (number of units) on a lot, nor result in any changes in overall height limits, allowable floor area, lot coverage, or setbacks that would lessen the allowable intensity of housing site. Each lot will maintain the same allowed height limits, building setbacks, and floor area limits as previously entitled, and the application of third floor and open volume regulations wouldn't preclude the ability for a homeowner to achieve the same development intensity. For example, a single-unit dwelling constructed in the RM zoning district will retain the ability to develop up to the increased 28-foot flat roof/33-foot sloped roof height limit with no changes in total allowed floor area; however, the difference is that the third floors will now be required to be articulated and covered patios designed to be more transparent. Should a property owner choose to develop a more dense multi-unit development of three units or more on a

RM lot, the project would continue to be exempt from these revised regulations and third floor standards.

Environmental Review

The action proposed herein is not a project subject to the California Environmental Quality Act (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 from the CEQA pursuant to State 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 Amendment itself does not authorize development that would directly result in physical change to the environment.

Public Notice

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 April 23, 2020, to all persons and agencies on the Notice of Availability mailing list.

In addition, notice of these amendments was published in the Daily Pilot as an eighth-page advertisement, consistent with the provisions of the NBMC. The item also appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Lastly, notice of this amendment was emailed to interested parties that attended the community meeting.

Prepared by:



Jaime Murillo
Principal Planner

Submitted by:



Jim Campbell
Deputy Community Development Director

ATTACHMENTS

- ~~PC 1 Draft Resolution - Title 20 Zoning Code Amendments~~
- ~~PC 2 Draft Resolution - Title 21 LCP Amendment~~
- PC 3 April 23, 2019, City Council Study Session Minutes
- PC 4 City Council Resolution No. 2019-43
- PC 5 City Council Resolution No. 2019-45
- PC 6 Redline Strikeout Version of Amendments

- PC 7 Map of Multi-Unit Residential (RM) Lots
- PC 8 Map of Two-Unit (R2) Residential Lots 25 Feet Wide or Less
- PC 9 Coastal Zone Map
- PC 10 September 10, 2019, City Council Minutes
- ~~PC 11 Planning Commission Correspondence~~

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~~**Attachment No. PC 1**~~
~~Draft Resolution - Title 20 Zoning Code~~
~~Amendments~~

~~**Attachment No. PC 2**~~
~~Draft Resolution Title 21 LCP~~
~~Amendment~~

Attachment No. PC 3

April 23, 2019, City Council Study Session
Minutes

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CITY OF NEWPORT BEACH

City Council Minutes Study Session and Regular Meeting April 23, 2019

I. ROLL CALL - 4:00 p.m.

Present: Council Member Brad Avery, Council Member Joy Brenner, Council Member Duffy Duffield, Council Member Jeff Herdman, Council Member Kevin Muldoon, Mayor Pro Tem Will O'Neill, Mayor Diane Dixon

II. CURRENT BUSINESS

SS1. Clarification of Items on the Consent Calendar

Mayor Dixon announced she will be requesting that the minutes (Item 1) be continued to the May 14, 2019 City Council meeting.

In response to Council Member Muldoon's questions, Public Works Director Webb indicated the contract for Item 7 would need to be modified if organics were to be used and there would be no pesticide usage related to Item 8.

Prior to responding to Council Member Brenner's question regarding Item 5, ***Council Member Muldoon recused himself due to property interest conflicts.*** City Manager Leung and Public Works Director Webb noted Item 5 is for playground equipment replacement and only new equipment requests need to be discussed at a Parks, Beaches and Recreation Commission meeting.

SS2. *Poppy Month Proclamation*

Carolyn Whitlinger and Debbie Schubert, American Legion Auxiliary, provided the background on *Poppy Month* and received the proclamation from Mayor Dixon. Council Member Brenner expressed the importance of *Poppy Month*.

SS3. *CASA of Orange County Day Proclamation*

Stefanie Gillett provided Court Appointed Special Advocate's (CASA's) background, gave pinwheels to each of the Council Members, discussed *Foster Care Awareness Month* and the CASA Pinwheel Project (CASAoc.org/events), and received the proclamation from Mayor Dixon.

SS4. Recognition of Ford W. Fairon

Chief Lewis, on behalf of the Police and Fire Departments, commended Ford Fairon for his bravery and heroic actions on January 21, 2019. Ford Fairon thanked the Police and Fire Departments for being our everyday heroes, and received the proclamation from Mayor Dixon.

SS5. Potential Changes to Residential Development Standard to Preserve Cottages and Address 3rd Story Massing

Community Development Director Jurjis and Principal Planner Ramirez utilized a PowerPoint presentation to display the location map and discuss reasons the City is losing beach cottages, cottage sizes, the number of cottages in the City, standards for Council to study, and the amendment process.

Discussion ensued relative to increasing buildable square footage for cottage owners if they maintain a single story, finding incentives to keep the cottages, conducting extensive outreach before any code amendment occurs, streamlining the process, considering amending parking requirements for cottages, and discussed how many cottages have been replaced with larger homes.

41 63

**City of Newport Beach
Study Session and Regular Meeting
April 23, 2019**

Ron Yeo provided a handout, indicated he inventoried the current cottages in Corona del Mar, believed parking is the biggest issue, and expressed hope the City could assist with keeping the cottages in the City.

Jerry Jansen, past President of the Balboa Island Improvement Association, expressed support for retaining cottages and allowing them to rebuild in the same or similar footprint without requiring parking.

Tanya, cottage owner, indicated she would like to expand a little but cannot due to the parking restrictions.

Nancy Arrache expressed concern with setbacks and amending parking standards in high density areas.

Mark Becker expressed support for preserving Balboa Island's uniqueness.

David Tanner believed parking exceptions should be made to preserve the cottages.

Gary Cruz requested and received clarification that redevelopment does not have to be done by the original cottage owner and there is no restriction to the number of people living in a home.

Andrew Goetz believed an owner should be able to fix other parts of the home without triggering a complete teardown.

Karen Tringali expressed support for the cottage community.

Denys Oberman believed parking problems are created by the larger buildings and that this issue should be considered with the City's total housing stock.

Regarding residential height and massing, Senior Planner Ramirez utilized a PowerPoint presentation to display a map of high density neighborhoods and discuss the goals of the 2010 code amendments, R-1 and R-2 height and bulk standards, third story covered decks, issues in the RM Zoning District, changes for Council to consider, and the amendment process.

Discussion ensued relative to how staircases and vaulted ceilings are counted toward the total square footage, setbacks, third story decks, height and floor area standards in RM Zoning Districts, and design articulation.

Ron Yeo discussed third stories and suggested counting covered deck areas as square footage.

Mark Becker believed the large envelopes are destroying the intimacy in neighborhoods and provided his recommendations.

Vicky Swanson indicated she cannot enjoy her home because the houses next to her are too large and she loses light.

Andrew Goetz expressed concern with the wall heights relative to the roof and suggested minimizing the wall area around cabanas or minimizing the amount of ridge area that sits on the lot.

Denys Oberman took issue with the 2010 code changes and highlighted confusing terminology.

David Tanner requested that any change to the code not make areas worse, questioned how height limits will account for sea level rise, and believed single family homes are being rented as duplexes.

Linda Watkins questioned how a large home was built in a gated community and requested the City tighten the zoning codes.

Jim Mosher noted that the code contains a section about ministerial design criteria that applies to all areas of the City and asked how they are being applied.

Karen Tringali indicated the City may adjust the code to preserve the nature and qualities of certain neighborhoods.

Council indicated that potential considerations moving forward include counting two-story vaulted ceilings, all levels of staircases and anything with a roof as square footage; maintaining the setback that was allowed between multiple lots; ensuring property rights are maintained; revisiting how third story decks are handled with preference of having all sides open; and expediting the simpler issues.

With Mayor Pro Tem O'Neill dissenting, the majority of Council requested the City Attorney look into implementing a moratorium on RM Zoning District conversions to single-family homes, believing a standard height limit should be set for all single-family homes.

SS6. On-Street Parking Impacts Due to Construction Activities

Community Development Director Jurjis and Deputy Community Development Director Ghosn utilized a PowerPoint presentation to provide the background and discuss the public outreach meetings, feedback received, and staff suggestions.

Discussion ensued relative to implementing rules only in areas that are most impacted by this issue, not allowing Saturday construction, the importance of code enforcement, determining if all parts of the City would want to utilize the signage, and looking at short term lodging impacts separately.

Council Member Herdman expressed his gratitude to staff for the attempt, but felt it best not to move forward with this effort.

Nancy Orazi expressed concerns with the number of short term lodging on the Peninsula and Balboa Island, and noted that parking issues are also due to other sources, not just contractors.

Jeff Stolrow discussed parking impacts and safety concerns due to construction on Lido Isle.

Gary Cruz expressed concerns regarding parking impacts and disturbances due to construction on Newport Island, and requested notification about meetings regarding this issue.

Vicky Swanson believed the City should require construction management plans.

David Tanner believed short term lodging adds to the parking issues and the City should identify how the code is being gamed.

Mayor Dixon indicated short term lodging issues will be coming before Council at a later date.

Council unanimously concurred to bring back an item to add a parking enforcement person through AmeriPark for seasonal parking enforcement; Mayor Dixon and Council Members Duffield, Herdman and Brenner concurred that no construction should occur on Saturdays; and all Council Members, except for Council Member Avery, concurred that the restrictions should only apply in high density areas.

SS7. City Emergency Council Update

The item was continued to a future meeting.

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Attachment No. PC 4

City Council Resolution No. 2019-43

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RESOLUTION NO. 2019-43

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, INITIATING AMENDMENTS TO TITLE 20 ENTITLED "PLANNING AND ZONING" AND TITLE 21 ENTITLED "LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN" OF THE CITY OF NEWPORT BEACH MUNICIPAL CODE RELATED TO MASSING OF THREE STORY RESIDENTIAL STRUCTURES AND DEVELOPMENT STANDARDS FOR SMALL BEACH COTTAGES (PA2019-070)

WHEREAS, Newport Beach Municipal Code ("NBMC") Section 20.66.020 provides that the City Council of the City of Newport Beach ("City Council") may initiate an amendment to NBMC Title 20 with or without a recommendation from the Planning Commission;

WHEREAS, City Council Policy K-1 entitled "General Plan and Local Coastal Program" requires amendments to the City of Newport Beach certified Local Coastal Program codified in NBMC Title 21 to be initiated by the City Council;

WHEREAS, the City Council desires to modify regulations related to third story residential building massing and provide flexibility in certain development standards that may allow more improvements to smaller beach cottages; and

WHEREAS, in order to implement the aforementioned modifications, amendments to Title 15, Title 20 and Title 21 are required.

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

Section 1: The City Council hereby initiates amendments to NBMC Title 20 "Planning and Zoning" and Title 21 "Local Coastal Program Implementation Plan" to modify regulations relating to nonconforming structures, nonconforming parking, off-street parking spaces required, residential development standards and design criteria and associated definitions of specialized terms and phrases. Modifications to Title 15 may be implemented as authorized by the NBMC.

Section 2: 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 3: The recitals provided in this resolution are true and correct and are incorporated into the substantive portion of this resolution.

Section 4: The City Council finds the adoption of this resolution is categorically exempt pursuant to Title 14, Division 6, Chapter 3, of the California Code of Regulations, Section 15262 (Feasibility and Planning Studies) Guidelines for Implementation of the California Environmental Quality Act ("CEQA"). Section 15262 exempts projects involving feasibility or planning studies for possible future actions which the agency, board, or commission has not approved or adopted.

Section 5: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting this resolution.

ADOPTED this 14TH day of May, 2019.

Diane B. Dixon
Mayor

ATTEST:

Leilani I. Brown
City Clerk



APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

Aaron C. Harp
City Attorney

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. 2019-43 was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 14th day of May, 2019; and the same was so passed and adopted by the following vote, to wit:

AYES: Council Member Brad Avery, Council Member Joy Brenner, Council Member Duffy Duffield, Council Member Jeff Herdman, Council Member Kevin Muldoon, Mayor Pro Tem Will O'Neill, Mayor Diane Dixon

NAYS: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 15th day of May, 2019.



Leilani I. Brown
City Clerk
Newport Beach, California



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Attachment No. PC 5

City Council Resolution No. 2019-45

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RESOLUTION NO. 2019-45

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, INITIATING AMENDMENTS TO TITLE 20 ENTITLED "PLANNING AND ZONING" AND TITLE 21 ENTITLED "LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN" OF THE CITY OF NEWPORT BEACH MUNICIPAL CODE RELATED TO DEVELOPMENT STANDARDS FOR SINGLE AND TWO-UNIT DWELLINGS IN MULTIPLE RESIDENTIAL (RM), MULTIPLE RESIDENTIAL DETACHED (RMD) AND MULTIPLE RESIDENTIAL COASTAL (RM) ZONING DISTRICTS (PA2019-070)

WHEREAS, Newport Beach Municipal Code ("NBMC") Section 20.66.020 provides that the City Council of the City of Newport Beach ("City Council") may initiate an amendment to NBMC Title 20 "Planning and Zoning" with or without a recommendation from the Planning Commission;

WHEREAS, City Council Policy K-1 entitled "General Plan and Local Coastal Program" requires amendments to the City of Newport Beach certified Local Coastal Program codified in NBMC Title 21 "Local Coastal Program Implementation Plan" to be initiated by the City Council; and

WHEREAS, the City Council desires to amend NBMC Title 20 and Title 21 to modify regulations related to single and two-unit development standards in Multiple Residential Zoning (RM), Multiple Residential Detached (RMD) and Multiple Residential Coastal (RM) Zoning Districts to potentially require those developments to comply with the Single-Unit (R-1) and Two-Unit (R-2) Residential Zoning District development standards related to height, third floor setbacks and third floor square footage limitations.

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

Section 1: The City Council hereby initiates amendments to, Title 20 "Planning and Zoning" and Title 21 "Local Coastal Program Implementation Plan" to modify regulations relating to the development of single and two-unit development in the Multiple Residential (RM), Multiple Residential Detached (RMD) and Multiple Residential Coastal (RM) Zoning Districts.

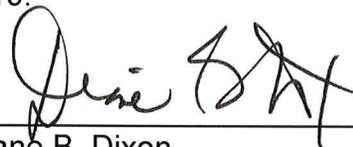
Section 2: If any section, subsection, sentence, clause or phrase of this resolution is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would 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 3: The recitals provided in this resolution are true and correct and are incorporated into the substantive portion of this resolution.

Section 4: The City Council finds the adoption of this resolution is categorically exempt pursuant to Title 14, Division 6, Chapter 3, of California Code of Regulations, Section 15262 (Feasibility and Planning Studies) Guidelines for Implementation of the California Environmental Quality Act ("CEQA"). Section 15262 exempts projects involving feasibility or planning studies for possible future actions which the agency, board, or commission has not approved or adopted.

Section 5: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting this resolution.

ADOPTED this 28TH day of May, 2019.



Diane B. Dixon
Mayor

ATTEST:



Leilani I. Brown
City Clerk



APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

for

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. 2019-45 was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 28th day of May, 2019; and the same was so passed and adopted by the following vote, to wit:

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

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 29th day of May, 2019.



Leilani I. Brown
City Clerk
Newport Beach, California



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Attachment No. PC 6

Redline Strikeout Version of
Amendments

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Proposed Amendments to Residential Design Standards (PA2019-070)

April 29, 2020 Version -Response to Community Meeting

Revisions illustrated as red underline and deletions as ~~strikeouts~~

Proposed Zoning Code (Title 20) Amendments:

20.18.020 Residential Zoning Districts Land Uses and Permit Requirements.

TABLE 2-3

**DEVELOPMENT STANDARDS FOR TWO-UNIT AND MULTI-UNIT RESIDENTIAL ZONING DISTRICTS
(Continued)**

Development Feature	RM	RMD	RM-6,000	Additional Requirements
Lot Dimensions	Minimum dimensions required for each newly created lot.			
Lot Area (1) (2) (3)				
Corner lot	6,000 sq. ft.	6,000 sq. ft.	6,000 sq. ft.	
Interior lot	5,000 sq. ft.	5,000 sq. ft.	6,000 sq. ft.	
Lot Width				
Corner lot	60 ft.	60 ft.	60 ft.	
Interior lot	50 ft.	50 ft.	60 ft.	
Lot Depth	N/A	N/A	80 ft.	
Site Area per Dwelling Unit	Minimum required site area per dwelling unit based on net area of the lot unless the maximum number of units is shown on the Zoning Map.			
	1,200 sq. ft. (7)	1,000 sq. ft.	1,500 sq. ft.	
Site Coverage	Maximum percentage of the total lot area that may be covered by structures.			

TABLE 2-3

DEVELOPMENT STANDARDS FOR TWO-UNIT AND MULTI-UNIT RESIDENTIAL ZONING DISTRICTS

(Continued)

Development Feature	RM	RMD	RM-6,000	Additional Requirements
	N/A	N/A	60%	
Floor Area Limit (gross floor area)	1.75 (4)	N/A	N/A	
Setbacks	The distances below are minimum setbacks required for primary structures. See Section 20.30.110 (Setback Regulations and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions. The following setbacks shall apply, unless different requirements are identified on the setback maps in which case the setback maps shall control. (See Part 8 of this title.) Side and rear setback areas shown on the setback maps shall be considered front setback areas for the purpose of regulating accessory structures. Also refer to Section 20.48.180 (Residential Development Standards and Design Criteria).			
Front:	20 ft.	20 ft.	20 ft.	
Side (interior, each):				
Lots 40 ft. wide or less	3 ft.	N/A	6 ft.	
Lots 40'1" wide to 49'11" wide	4 ft.	5 ft.	6 ft.	
Lots 50 ft. wide and greater	8% of the average lot width (5)	N/A	6 ft.	
Side (street side):		5 ft.		

TABLE 2-3

DEVELOPMENT STANDARDS FOR TWO-UNIT AND MULTI-UNIT RESIDENTIAL ZONING DISTRICTS

(Continued)

Development Feature	RM	RMD	RM-6,000	Additional Requirements
Lots 40 ft. wide or less	3 ft.		N/A	
Lots 40'1" wide to 49'11" wide	4 ft.		N/A	
Lots 50 ft. wide and greater	8% of the average lot width (5)		6 ft.	
Rear: Abutting Alley	10 ft.	25 ft.	6 ft.	Lots abutting a 10 ft. alley or less that are directly across the alley from the side yard of a lot abutting the alley shall provide a setback for the first floor of at least 10 ft. from the alley.
10 ft. wide or less	N/A	N/A	N/A	
15 ft. wide or less	5 ft.		N/A	
15'1" to 19'11"	3'9"		N/A	
20 ft. wide or more	0		N/A	
Waterfront	10 ft.		N/A	
Bluff edge setback	As provided in Section 20.28.040 (Bluff (B) Overlay District).			
Bulkhead setback	Structures shall be set back a minimum of 10 ft. from the bulkhead in each zoning district.			
Height (6)	Maximum height of structures without discretionary approval. See Section 20.30.060(C) (Increase in Height Limit) for possible increase in height limit.			
Flat roof	28 ft.	28 ft.	28 ft.	

TABLE 2-3

DEVELOPMENT STANDARDS FOR TWO-UNIT AND MULTI-UNIT RESIDENTIAL ZONING DISTRICTS

(Continued)

Development Feature	RM	RMD	RM-6,000	Additional Requirements
Sloped roof; minimum 3/12 pitch	33 ft.	33 ft.	33 ft.	See Section 20.30.060 (C) (Increase in Height Limit)
Open Space	Minimum required open space (applicable to 3 or more units) .			
	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.	N/A	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.	Single-unit and two-unit dwellings developed on a single site shall comply with Open Volume Area standards of Section 20.48.180 (Residential Development Standards and Design Criteria). See Section 20.48.180 (Residential Development Standards and Design Criteria) for R-2 open space standards. The minimum dimension is for length and width.
Bluffs	See Section 20.28.040 (Bluff (B) Overlay District).			
Fencing	See Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls).			
Landscaping	See Chapter 20.36 (Landscaping Standards).			
Lighting	See Section 20.30.070 (Outdoor Lighting).			
Parking	See Chapter 20.40 (Off-Street Parking).			
Satellite Antennas	See Section 20.48.190 (Satellite Antennas and Amateur Radio Facilities).			
Signs	See Chapter 20.42 (Sign Standards).			

TABLE 2-3

DEVELOPMENT STANDARDS FOR TWO-UNIT AND MULTI-UNIT RESIDENTIAL ZONING DISTRICTS

(Continued)

Development Feature	RM	RMD	RM-6,000	Additional Requirements
<u>Residential Development Standards</u>	<u>See Section 20.48.180.</u>			

Notes:

- (1) All development and the subdivision of land shall comply with the requirements of Title [19](#) (Subdivisions).
- (2) 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 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).
- (3) On a site of less than five thousand (5,000) square feet that existed prior to March 10, 1976, a two-family dwelling may be constructed; provided, that there shall be not less than one thousand (1,000) square feet of land area for each dwelling unit.
- (4) The total gross floor area contained in all buildings and structures on a development site shall not exceed 1.75 times the buildable area of the site or 1.5 times the buildable area of the site in Corona del Mar; provided, that up to two hundred (200) square feet of floor area per required parking space devoted to enclosed parking shall not be included in calculations of total gross floor area.

- (5) Interior and street side setback areas are not required to be wider than fifteen (15) feet; however, the side setback area on the street side of a corner lot, where the abutting lot has a reversed frontage, shall not be less than the front setback area required on the abutting reversed frontage.
- (6) On the bluff side of Ocean Boulevard, the maximum height shall not exceed the elevation of the top of the curb abutting the lot.
- (7) Portions of legal lots that have a slope greater than two-to-one (2:1) or that are submerged lands or tidelands shall be excluded from the land area of the lot for the purpose of determining the allowable number of units.
- (8) The floor area of a subterranean basement is not included in the calculation of total gross floor area.
- (9) The maximum gross floor area for a residential structure is determined by multiplying either 1.5 or 2.0 times the buildable area of the lot.

20.48.180 Residential Development Standards and Design Criteria.

A. Development Standards.

1. Applicability. The development standards in this subsection shall apply to all R-1 Zoning Districts, R-BI Zoning District, and to all R-2 Zoning Districts, and to all RM Zoning Districts Citywide, except as provided in subsection (A)(2) of this section.
2. Exceptions. This section does not apply or shall be limited in its application to:
 - a. R-BI, R-1-6,000, R-1-7,200, and R-1-10,000, RMD, and RM-6000 Zoning Districts;
 - b. ~~Lots twenty five (25) feet wide or less in the R-2 Zoning District;~~
 - cb. Planned community zoning districts; or
 - c. Residential developments consisting of three or more units in the RM Zoning District.
 - d. Limited Application. For lots twenty-five (25) feet wide or less in the R-2 Zoning District, application of this section shall be limited to subsection (A)(3)(c).

3. Third Floor Limitations.

a. Allowed Floor Area. The maximum gross floor area ~~of habitable space~~ that may be located on a third floor ~~or above twenty-four (24) feet in height~~ shall not be greater than either of the following:

- i. Fifteen (15) percent of the total buildable area for lots wider than thirty (30) feet; or
- ii. Twenty (20) percent of the total buildable area for lots thirty (30) feet wide or less.

On sloping lots, if the slope of the grade on which the structure is located is greater than five percent, subject to Section [20.30.050\(B\)\(3\)](#), the Director shall determine which story is the third story for the purpose of implementing this requirement.

For example, on a thirty (30) foot wide lot, if the total buildable area of the lot is two thousand five hundred fifty (2,550) square feet, then the maximum square footage ~~of habitable space~~ that may be located on the third floor, ~~or above twenty-four (24) feet in height~~ is five hundred ten (510) square feet (two thousand five hundred fifty (2,550) sq. ft. x twenty percent (20%) = five hundred ten (510) sq. ft.).

b. Allowed Roof Area. The maximum roof area, enclosed and unenclosed, that may be located on a third floor shall not be greater than fifty (50) percent of the total buildable area.

b.c. Location of Third Floor Structure. Enclosed square footage floor area and covered deck area, and enclosed or partially enclosed outdoor living areas, located on the third floor shall be set back a minimum of fifteen (15) feet from the front and rear setback lines and for lots ~~greater than~~ thirty (30) feet in width or greater a minimum of two feet from each side setback line, including bay windows.

4. Open Volume Area Required.

a. Calculation. Open volume area shall be provided in addition to the required setback areas and shall be a minimum area equal to fifteen (15) percent of the buildable area of the lot.

- b. Location. The open volume area may be provided anywhere on the lot within the buildable area and below twenty-four (24) feet from grade. The open air space volume may be provided on any level or combination of levels and may extend across the entire structure or any portion thereof.
- c. Minimum Dimensions. The open volume area shall meet the following standards:
 - i. Have a minimum dimension of at least five feet in depth from the wall plane on which it is located and a minimum clear vertical dimension of at least seven and one-half feet; and
 - ii. Be open to the outdoors on at least one side.

20.70.020 Definitions of Specialized Terms and Phrases.

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; ~~and~~

ii. Covered decks, balconies or patios above the first floor;

iii. Any interior ~~finished~~ portion of a structure that is accessible and that measures more than six feet from finished 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~~

iii. 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 area within and including the surrounding exterior walls; and
- ii. Any interior ~~finished~~ portion of a structure that is accessible and that measures more than four feet from finished 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.

DRAFT

Proposed Local Coastal Program (Title 21) Amendments:

21.18.030 Residential Coastal Zoning Districts General Development Standards

TABLE 21.18-4

DEVELOPMENT STANDARDS FOR MULTI-UNIT RESIDENTIAL COASTAL ZONING DISTRICTS

Development Feature	RM	RM-6,000	Additional Requirements
Lot Dimensions	Minimum dimensions required for each newly created lot.		
Lot Area (1)(2):			
Corner lot	6,000 sq. ft.	6,000 sq. ft.	
Interior lot	5,000 sq. ft.	6,000 sq. ft.	
Lot Width:			
Corner lot	60 ft.	60 ft.	
Interior lot	50 ft.	60 ft.	
Lot Depth	N/A	80 ft.	
Site Area per Dwelling Unit (7)	Minimum required site area per dwelling unit based on net area of the lot unless the maximum number of units is shown on the Coastal Zoning Map.		
	1,200 sq. ft. (6)	1,500 sq. ft.	
Site Coverage	Maximum percentage of the total lot area that may be covered by structures.		
	N/A	60%	
Floor Area Limit (gross floor area)	1.75 (3)	N/A	
Setbacks	The distances below are minimum setbacks required for primary structures. See Section 21.30.110 (Setback Regulations and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions. The following setbacks shall apply, unless different requirements are identified on the setback maps in which case the setback maps shall control. (See Part 8 of this Implementation Plan.) Side and rear setback areas shown		

TABLE 21.18-4

DEVELOPMENT STANDARDS FOR MULTI-UNIT RESIDENTIAL COASTAL ZONING DISTRICTS

Development Feature	RM	RM-6,000	Additional Requirements
	on the setback maps shall be considered front setback areas for the purpose of regulating accessory structures.		
Front	20 ft.	20 ft.	
Side (interior, each):			
Lots 40 ft. wide or less	3 ft.	6 ft.	
Lots 40'1" wide to 49'11" wide	4 ft.	6 ft.	
Lots 50 ft. wide and greater	8% of the average lot width (4)	6 ft.	
Side (street side):			
Lots 40 ft. wide or less	3 ft.	N/A	
Lots 40'1" wide to 49'11" wide	4 ft.	N/A	
Lots 50 ft. wide and greater	8% of the average lot width (4)	6 ft.	
Rear	10 ft.	6 ft.	
Abutting Alley:			Lots abutting a 10 ft. alley or less that are directly across the alley from the side yard of a lot abutting the alley
10 ft. wide or less	N/A	N/A	
15 ft. wide or less	5 ft.	N/A	

TABLE 21.18-4

DEVELOPMENT STANDARDS FOR MULTI-UNIT RESIDENTIAL COASTAL ZONING DISTRICTS

Development Feature	RM	RM-6,000	Additional Requirements
15'1" to 19'11"	3'9"	N/A	shall provide a setback for the first floor of at least 10 ft. from the alley.
20 ft. wide or more	0	N/A	
Waterfront	10 ft.	N/A	
Bluff edge setback	As provided in Section 21.28.040 (Bluff (B) Overlay District).		
Canyon face setback	As provided in Section 21.28.050 (Canyon (C) Overlay District).		
Bulkhead setback	Structures shall be set back a minimum of 10 ft. from the bulkhead in each zoning district.		
Waterfront lots	Setbacks on waterfront lots may be increased to avoid coastal hazards through the approval of a coastal development permit. See Sections 21.30.015(D) (Waterfront Development) and 21.30.015(E) (Development in Shoreline Hazardous Areas).		
Height (5)	Maximum height of structures without discretionary approval. See Section 21.30.060(C) (Increase in Height Limit) for possible increase in height limit.		
Flat roof	28 ft.	28 ft.	See Section 21.30.060(C) (Increase in Height Limit).
Sloped roof; minimum 3/12 pitch	33 ft.	33 ft.	
Open Space	<i>Minimum required open space (applicable to 3 or more unit development).</i>		The minimum dimension is for length and width.
	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.		

TABLE 21.18-4

DEVELOPMENT STANDARDS FOR MULTI-UNIT RESIDENTIAL COASTAL ZONING DISTRICTS

Development Feature	RM	RM-6,000	Additional Requirements
Bluffs	See Section 21.28.040 (Bluff (B) Overlay District).		
Canyons	See Section 21.28.050 (Canyon (C) Overlay District).		
Fencing	See Section 21.30.040 (Fences, Hedges, Walls, and Retaining Walls).		
Landscaping	See Sections 21.30.075 (Landscaping) and 21.30.085 (Water Efficient Landscaping).		
Lighting	See Section 21.30.070 (Outdoor Lighting).		
Parking	See Chapter 21.40 (Off-Street Parking).		
Signs	See Section 21.30.065 (Signs).		

Notes:

- (1) All development and the subdivision of land shall comply with the requirements of Section [21.30.025](#) (Coastal Zone Subdivisions).
- (2) On a site of less than five thousand (5,000) square feet that existed prior to March 10, 1976, a two-family dwelling may be constructed; provided, that there shall be not less than one thousand (1,000) square feet of land area for each dwelling unit.
- (3) The total gross floor area contained in all buildings and structures on a development site shall not exceed 1.75 times the buildable area of the site or 1.5 times the buildable area of the site in Corona del Mar; provided, that up to two hundred (200) square feet of floor area per required parking space devoted to enclosed parking shall not be included in calculations of total gross floor area.
- (4) Interior and street side setback areas are not required to be wider than fifteen (15) feet; however, the side setback area on the street side of a corner lot, where the abutting lot has a reversed frontage, shall not be less than the front setback area required on the abutting reversed frontage.

- (5) On the bluff side of Ocean Boulevard, the maximum height shall not exceed the elevation of the top of the curb abutting the lot.
- (6) Portions of legal lots that have a slope greater than two-to-one (2:1) or that are submerged lands or tidelands shall be excluded from the land area of the lot for the purpose of determining the allowable number of units.
- (7) Density bonuses may be granted for the development of housing that is affordable to lower-, low-, and moderate-income households and senior citizens in compliance with Government Code Sections [65915](#) through [65917](#). Any housing development approved pursuant to Government Code Section [65915](#) shall be consistent, to the maximum extent feasible, and in a manner most protective of coastal resources, with all otherwise applicable Local Coastal Program policies and development standards.

(Ord. 2019-1 § 2, 2019; Ord. 2016-19 § 9 (Exh. A)(part), 2016)

21.70.020 Definitions of Specialized Terms and Phrases.

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; ~~and~~
 - ii. Covered decks, balconies or patios above the first floor;
 - iii. Any interior ~~finished~~ portion of a structure that is accessible and that measures more than six feet from finished 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 ~~finished~~ portion of a structure that is accessible and that measures more than four feet from finished 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.

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Attachment No. PC 7

Map of Multi-Unit Residential (RM) Lots

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Attachment No. PC 8

Map of Two-Unit (R2) Residential Lots 25
Feet Wide or Less

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PA2019_070 - Lot_Width_25_ft_or_Less.mxd

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Attachment No. PC 9

Coastal Zone Map

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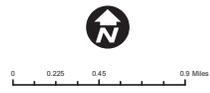


Legend

- Local Coastal Plan Boundary
- City Boundary
- Coastal Zone Area

Coastal Zone
City of Newport Beach, California

Coastal_Zone_Featured_Areas.mxd November/2008



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Attachment No. PC 10

September 10, 2019, City Council Minutes

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CITY OF NEWPORT BEACH

City Council Minutes Study Session and Regular Meeting September 10, 2019

I. ROLL CALL – 4:00 p.m.

Present: Mayor Diane Dixon, Mayor Pro Tem Will O'Neill, Council Member Brad Avery, Council Member Joy Brenner, Council Member Duffy Duffield, Council Member Jeff Herdman (arrived at 4:03 p.m.), Council Member Kevin Muldoon

II. CURRENT BUSINESS

SS1. Clarification of Items on the Consent Calendar - None

In response to Mayor Dixon's question, City Manager Leung explained the purpose of on-call agreements and contracts, reported staff reviewed the process, and believed it has been updated to improve accountability and reduce future amendments.

SS2. Proclamation Designating *International Literacy Day*

Mayor Dixon read the proclamation and presented it to Newport/Mesa ProLiteracy Literacy Coordinator Cherall Weiss and Advisory Board Chair Eve Marie Kuntzman, who provided handouts, invited everyone to attend the *International Literacy Day* Celebration on September 12, 2019, and relayed positive outcomes as a result of the program.

SS3. Check Presentation from the Friends of the Library

Amy Hunt, President of the Newport Beach Friends of the Library, and Wendy Frankel, Book Store Manager, presented a check for \$185,000 to the City, explained how the funds are generated, and indicated the Friends have donated \$3.5 million over the past 14 years.

SS4. Community Outreach by the Federal Bureau of Investigation (FBI)

Diane Gonzalez, Community Outreach Specialist, explained what the FBI does for the community, provided literature, assured they want to build partnerships and community awareness, and indicated the FBI has an office in Orange County.

SS5. Code Amendment Update Related to Residential Design Standards (PA2019-070)

Community Development Director Jurjis and Principal Planner Murillo utilized a PowerPoint presentation to discuss the current regulations and suggestions for third floors and attics, issues associated with the regulations, highlight difficulties associated with beach cottages and proposed incentives and changes, review issues and possible options associated with single-unit and two-unit dwellings in Multi-Residential (RM) zones, and review community input on the three issues.

In response to Council questions, City Attorney Harp clarified SB 330 and its possible implications to the City as it relates to buildable square footage, and staff reviewed how the current regulation for decks have been altered to become livable space after inspections, instead of remaining outdoor space, provided background to the 2010 Zoning Code changes, confirmed converting RM property to a single-family dwelling has always been in the Zoning Code, explained current issues with the conversion, and discussed how current parking regulations affect beach cottages.

Council Member Brenner emphasized the need to be very specific when dealing with decks.

Mayor Dixon believed decks should not be permitted to have walls.

**City of Newport Beach
Study Session and Regular Meeting
September 10, 2019**

Council Member Avery expressed concern about implementing restrictions in RM zones at this point, indicated requiring step backs might assist with the issue, believed massing is happening due to land values, emphasized surrounding neighbors to these properties need to be able to receive air and light, and noted he is in favor of modifications but keeping the height limit.

Council Member Brenner discussed the initial intent and style of buildings in RM zones and emphasized the City has changed the regulations in the past and can do it again since it is the City's job to protect the community.

Council Member Duffield explained how permanent residency versus summer residency has changed the makeup of homes over the decades.

Allan Beek noted a past Council did not adopt Corona del Mar's development standards, stated concerns with mansionization was brought up during the 2006 General Plan meetings and surveys, believed the City needs to review how it deals with non-conforming uses and suggested they only be allowed for a specific amount of time so the City will not have these issues in the future.

Charles Klobe expressed support for all three proposed changes, suggested having local architects advise staff on how to tighten loopholes, and agreed with Jim Mosher's written response to the RM component.

Ron Yeo suggested going back to the average 24-foot roof height to solve the third floor massing issue, took issue that the decks are not compatible with the community, and believed decks should be counted toward the square footage and remain open.

Tom Houston believed the charm of the older parts of the City is changing due to the abuses within building law, and discussed massing and building height issues on Balboa Island.

Lee Pearl noted beach cottages on Balboa Island that have been passed down to family members are being torn down because they had no option to keep them and cannot meet current building standards to improve them; and thanked the City for addressing the massing issue.

Denys Oberman believed decks should remain open with no permanent roof or side pieces, offered to provide Council with the background of the 2010 General Plan, and suggested following the American Planning Association's (APA) principles for heights, setbacks and design standards.

Jim Mosher believed SB 330 states the City would not be able to impose design standards after January 2020 unless they are objective, but does not completely restrict the City's authority, discussed sheer walls and how step backs are measured, expressed concern with building single-family homes in the RM zone due to the upcoming requirements to increase the housing count, and believed the City might need to provide incentives to create multi-family dwellings, possibly by making standards looser for multi-family units and stricter for single-family units.

Ken Rawson believed the ambiance from the 2000 Zoning Code was better, decks should not have roofs, more code enforcement is needed, expressed concerns with beach cottage parking issues, questioned if the City can restrict beach cottages from turning into short-term lodging, and discussed multi-unit height limits versus single-family height limits.

Hoiyin Ip asked if the City could implement sustainability features to create more green buildings, discussed Regional Housing Needs Assessment (RHNA) numbers, and highlighted San Clemente's letter to the Southern California Association of Governments (SCAG) and how they handled public outreach.

Nancy Skinner believed the solution for decks is to not allow any type of enclosure.

Larry Tucker disagreed with counting roofed decks as square footage, requested a better definition of "deck" in the Zoning Code, and emphasized the need for code enforcement.

Art Pease took issue with how the City changed the Floor Area Ratio (FAR) in Corona del Mar, believed property owners have entitlements under the existing Zoning Code, and requested the RM zoning issue be revisited or removed from consideration.

Linda Watkins took issue with over-development and increased traffic, suggested Council conduct several study sessions to determine how the 2006 General Plan turned into the current General Plan and Zoning Code.

Michael Mack expressed his opposition to changing anything in the RM zone and believed changes would be a taking of property when property owners have entitlements.

Joni Martin indicated she does not have a problem with the changes that are occurring in the RM zone around the 1800 block of Ocean Front, noted there is a financial value that comes with RM development standards, believed changing the RM regulations prohibits property owners from building a property that is consistent with the community, noted the small number of properties in RM zones, and indicated 9 of 15 RM property owners she spoke with expressed opposition to changing the regulations and she will be reaching out to as many of the RM property owners as possible.

Catherine Martin Wolcott, representing the Martin Family Trust, expressed opposition to any amendments in the RM zone, as they could significantly affect their property values and property rights, believed amendments would not change massing issues since the problem is with third floor decks, pointed out that it is difficult to pick out a single-family house or a multi-family house in this zone, noted all parcels should be treated equally, expressed support for the beach cottage proposal, and indicated deck shading is helpful for health and safety.

Carmen Rawson took issue with Zoning Code definitions associated with decks since they are subject to interpretation, believed livable spaces on decks should be prohibited, expressed concern for parking spaces and square footage associated with beach cottages, and expressed support for amending the RM zone.

Mark Teale, architect, believed massing should be mitigated in the City and covered decks should comply with setback regulations. He suggested keeping the area open on 50% of the perimeter of roof decks.

Referencing SB 330, Mayor Pro Tem O'Neill believed the City could deal with beach cottage preservation and roof deck issues; however, might be restricted relative to RM zone and buildable square footage issues since SB 330 will look at changes made since January 1, 2018.

Following Council discussion and input, Mayor Dixon summarized that all Council members supported cottage preservation, a majority supported the application of third floor step backs for covered decks, and requested staff bring back options to reduce mass and increase articulation of single-family and multi-unit structures in the RM zone.

Mayor Pro Tem O'Neill indicated he is supportive of third floor step backs for covered decks, but not supportive of the roof deck prohibition. He stated that, if this approach was pursued, he suggested sending postcards about this to Balboa Island and Corona del Mar residents.

Council Members Brenner and Herdman agreed that this needs more community input.

III. PUBLIC COMMENTS

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~~**Attachment No. PC 11**~~
~~Planning Commission Correspondence~~

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Attachment No. PC 5

Current Redline/Strikeout Version of
Amendments

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Proposed Amendments to Residential Design Standards (PA2019-070)

August 6, 2020 Version

Revisions illustrated as red **underline** and deletions as **~~strikeouts~~**

Proposed Zoning Code (Title 20) Amendments:

20.18.020 Residential Zoning Districts Land Uses and Permit Requirements.

TABLE 2-3

**DEVELOPMENT STANDARDS FOR TWO-UNIT AND MULTI-UNIT RESIDENTIAL ZONING DISTRICTS
(Continued)**

Development Feature	RM	RMD	RM-6,000	Additional Requirements
Lot Dimensions	Minimum dimensions required for each newly created lot.			
Lot Area (1) (2) (3)				
Corner lot	6,000 sq. ft.	6,000 sq. ft.	6,000 sq. ft.	
Interior lot	5,000 sq. ft.	5,000 sq. ft.	6,000 sq. ft.	
Lot Width				
Corner lot	60 ft.	60 ft.	60 ft.	
Interior lot	50 ft.	50 ft.	60 ft.	
Lot Depth	N/A	N/A	80 ft.	
Site Area per Dwelling Unit	Minimum required site area per dwelling unit based on net area of the lot unless the maximum number of units is shown on the Zoning Map.			
	1,200 sq. ft. (7)	1,000 sq. ft.	1,500 sq. ft.	
Site Coverage	Maximum percentage of the total lot area that may be covered by structures.			

TABLE 2-3

DEVELOPMENT STANDARDS FOR TWO-UNIT AND MULTI-UNIT RESIDENTIAL ZONING DISTRICTS

(Continued)

Development Feature	RM	RMD	RM-6,000	Additional Requirements
	N/A	N/A	60%	
Floor Area Limit (gross floor area)	1.75 (4)	N/A	N/A	
Setbacks	<p>The distances below are minimum setbacks required for primary structures. See Section 20.30.110 (Setback Regulations and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions. The following setbacks shall apply, unless different requirements are identified on the setback maps in which case the setback maps shall control. (See Part 8 of this title.) Side and rear setback areas shown on the setback maps shall be considered front setback areas for the purpose of regulating accessory structures. Also refer to Section 20.48.180 (Residential Development Standards and Design Criteria).</p>			
Front:	20 ft.	20 ft.	20 ft.	
Side (interior, each):				
Lots 40 ft. wide or less	3 ft.	N/A	6 ft.	
Lots 40'1" wide to 49'11" wide	4 ft.	5 ft.	6 ft.	
Lots 50 ft. wide and greater	8% of the average lot width (5)	N/A	6 ft.	
Side (street side):		5 ft.		

TABLE 2-3

DEVELOPMENT STANDARDS FOR TWO-UNIT AND MULTI-UNIT RESIDENTIAL ZONING DISTRICTS

(Continued)

Development Feature	RM	RMD	RM-6,000	Additional Requirements
Lots 40 ft. wide or less	3 ft.		N/A	
Lots 40'1" wide to 49'11" wide	4 ft.		N/A	
Lots 50 ft. wide and greater	8% of the average lot width (5)		6 ft.	
Rear: Abutting Alley	10 ft.	25 ft.	6 ft.	Lots abutting a 10 ft. alley or less that are directly across the alley from the side yard of a lot abutting the alley shall provide a setback for the first floor of at least 10 ft. from the alley.
10 ft. wide or less	N/A	N/A	N/A	
15 ft. wide or less	5 ft.		N/A	
15'1" to 19'11"	3'9"		N/A	
20 ft. wide or more	0		N/A	
Waterfront	10 ft.		N/A	
Bluff edge setback	As provided in Section 20.28.040 (Bluff (B) Overlay District).			
Bulkhead setback	Structures shall be set back a minimum of 10 ft. from the bulkhead in each zoning district.			
Height (6)	Maximum height of structures without discretionary approval. See Section 20.30.060(C) (Increase in Height Limit) for possible increase in height limit.			
Flat roof	28 ft.	28 ft.	28 ft.	

TABLE 2-3

DEVELOPMENT STANDARDS FOR TWO-UNIT AND MULTI-UNIT RESIDENTIAL ZONING DISTRICTS

(Continued)

Development Feature	RM	RMD	RM-6,000	Additional Requirements
Sloped roof; minimum 3/12 pitch	33 ft.	33 ft.	33 ft.	See Section 20.30.060 (C) (Increase in Height Limit)
Open Space	Minimum required open space (applicable to 3 or more units) .			
	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.	N/A	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.	Single-unit and two-unit dwellings developed on a single site shall comply with Open Volume Area standards of Section 20.48.180 (Residential Development Standards and Design Criteria). See Section 20.48.180 (Residential Development Standards and Design Criteria) for R-2 open space standards. The minimum dimension is for length and width.
Bluffs	See Section 20.28.040 (Bluff (B) Overlay District).			
Fencing	See Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls).			
Landscaping	See Chapter 20.36 (Landscaping Standards).			
Lighting	See Section 20.30.070 (Outdoor Lighting).			
Parking	See Chapter 20.40 (Off-Street Parking).			
Satellite Antennas	See Section 20.48.190 (Satellite Antennas and Amateur Radio Facilities).			
Signs	See Chapter 20.42 (Sign Standards).			

TABLE 2-3

DEVELOPMENT STANDARDS FOR TWO-UNIT AND MULTI-UNIT RESIDENTIAL ZONING DISTRICTS

(Continued)

Development Feature	RM	RMD	RM-6,000	Additional Requirements
<u>Residential Development Standards</u>	<u>See Section 20.48.180.</u>			

Notes:

- (1) All development and the subdivision of land shall comply with the requirements of Title [19](#) (Subdivisions).
- (2) 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 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).
- (3) On a site of less than five thousand (5,000) square feet that existed prior to March 10, 1976, a two-family dwelling may be constructed; provided, that there shall be not less than one thousand (1,000) square feet of land area for each dwelling unit.
- (4) The total gross floor area contained in all buildings and structures on a development site shall not exceed 1.75 times the buildable area of the site or 1.5 times the buildable area of the site in Corona del Mar; provided, that up to two hundred (200) square feet of floor area per required parking space devoted to enclosed parking shall not be included in calculations of total gross floor area.

- (5) Interior and street side setback areas are not required to be wider than fifteen (15) feet; however, the side setback area on the street side of a corner lot, where the abutting lot has a reversed frontage, shall not be less than the front setback area required on the abutting reversed frontage.
- (6) On the bluff side of Ocean Boulevard, the maximum height shall not exceed the elevation of the top of the curb abutting the lot.
- (7) Portions of legal lots that have a slope greater than two-to-one (2:1) or that are submerged lands or tidelands shall be excluded from the land area of the lot for the purpose of determining the allowable number of units.
- (8) The floor area of a subterranean basement is not included in the calculation of total gross floor area.
- (9) The maximum gross floor area for a residential structure is determined by multiplying either 1.5 or 2.0 times the buildable area of the lot.

20.48.180 Residential Development Standards and Design Criteria.

A. Development Standards.

1. Applicability. The development standards in this subsection shall apply to all R-1 Zoning Districts, R-BI Zoning District, and to all R-2 Zoning Districts, and to all RM Zoning Districts Citywide, except as provided as provided below: in subsection (A)(2) of this section.

2a. Exceptions. This subsection shall ~~does~~ not apply to:

ai. ~~R-BI, R-1-6,000, R-1-7,200, and R-1-10,000,~~ RMD, and RM-6000 Zoning Districts;

~~b. Lots twenty-five (25) feet wide or less in the R-2 Zoning District;~~

eii. Planned community zoning districts; or

iii. Residential developments consisting of three or more units in the RM Zoning District.

b. Limited Application. This subsection shall be limited in its application below:

i. For lots twenty-five (25) feet wide or less in the R-2 Zoning District, only subsection (A)(2)(c) shall apply.

ii. Residential developments consisting of one or two units in the RM Zoning District, only subsections (A)(2)(c) and (A)(3) shall apply.

32. Third Floor Limitations.

a. Allowed Floor Area. The maximum gross floor area ~~of habitable space~~ that may be located on a third floor ~~or above twenty four (24) feet in height~~ shall not be greater than either of the following:

- i. Fifteen (15) percent of the total buildable area for lots wider than thirty (30) feet; or
- ii. Twenty (20) percent of the total buildable area for lots thirty (30) feet wide or less.

On sloping lots, if the slope of the grade on which the structure is located is greater than five percent, subject to Section [20.30.050\(B\)\(3\)](#), the Director shall determine which story is the third story for the purpose of implementing this requirement.

For example, on a thirty (30) foot wide lot, if the total buildable area of the lot is two thousand five hundred fifty (2,550) square feet, then the maximum square footage ~~of habitable space~~ that may be located on the third floor, ~~or above twenty-four (24) feet in height~~ is five hundred ten (510) square feet (two thousand five hundred fifty (2,550) sq. ft. x twenty percent (20%) = five hundred ten (510) sq. ft.).

b. Allowed Combined Floor Area and Covered Deck Area. The combined total maximum gross floor area and covered deck area that may be located on a third floor shall not be greater than fifty (50) percent of the total buildable area.

b.c. Location of Third Floor Structure. Enclosed ~~square footage floor area and covered deck area, and enclosed or partially enclosed outdoor living areas~~, located on the third floor shall be set back a minimum of fifteen (15) feet from the front and rear setback lines and for lots ~~greater than~~ thirty (30) feet in width or greater a minimum of two feet from each side setback line, including bay windows.

4.3. Open Volume Area Required.

- a. Calculation. Open volume area shall be provided in addition to the required setback areas and shall be a minimum area equal to fifteen (15) percent of the buildable area of the lot.
- b. Location. The open volume area may be provided anywhere on the lot within the buildable area and below twenty-four (24) feet from grade. The open air space volume may be provided on any level or combination of levels and may extend across the entire structure or any portion thereof.
- c. Minimum Dimensions. The open volume area shall meet the following standards:
 - i. Have a minimum dimension of at least five feet in depth from the wall plane on which it is located and a minimum clear vertical dimension of at least seven and one-half feet; and
 - ii. Be open to the outdoors on at least one side.

B. Design Criteria.

1. Applicability. The design criteria provided in this subsection shall apply to all single-unit and two-unit residential buildings Citywide. The following design criteria shall be used in determining a project's consistency with the purpose of this Zoning Code and with the policies of the General Plan related to architecture and site design. The criteria shall apply to all new single-unit and two-unit residential buildings and additions thereto. Review of projects under this subsection is ministerial and shall occur concurrently with the review of plans for building permit issuance.

2. Design Criteria.

- a. Walls. Long, unarticulated exterior walls are discouraged on all structures. The visual massing of a building should be reduced by incorporating appropriate design elements; including variation in the wall plane, building modulation, openings, recesses, vertical elements, varied textures, and design accents (e.g., moldings, pilasters, etc.). Front facades shall include windows.
- b. Upper Floors. Portions of upper floors should be set back in order to scale down facades that face the street, common open space, and adjacent residential structures. Upper story setbacks are

recommended either as full-length “stepbacks” or partial indentations for upper story balconies, decks, and/or aesthetic setbacks.

c. Architectural Treatment. Architectural treatment of all elevations visible from public places, including alleys, is encouraged. Treatments may include window treatments, cornices, siding, eaves, and other architectural features.

d. Front Facade. Where the neighborhood pattern is for the primary entrance to face the street, the primary entry and windows should be the dominant elements of the front facade. Primary entrances should face the street with a clear, connecting path to the public sidewalk or street. Alternatively, entry elements may be visible from the street without the door necessarily facing the street.

e. Main Entrance. The main dwelling entrance should be clearly articulated through the use of architectural detailing.

20.70.020 Definitions of Specialized Terms and Phrases.

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; ~~and~~

ii. Covered decks, balconies or patios above the first floor;

iii. Any interior ~~finished~~ portion of a structure that is accessible and that measures more than six feet from finished 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~~

iii. 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 area within and including the surrounding exterior walls; and

ii. Any interior ~~finished~~ portion of a structure that is accessible and that measures more than four feet from finished 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.

Proposed Local Coastal Program (Title 21) Amendments:

21.18.030 Residential Coastal Zoning Districts General Development Standards

TABLE 21.18-4

DEVELOPMENT STANDARDS FOR MULTI-UNIT RESIDENTIAL COASTAL ZONING DISTRICTS

Development Feature	RM	RM-6,000	Additional Requirements
Lot Dimensions	Minimum dimensions required for each newly created lot.		
Lot Area (1)(2):			
Corner lot	6,000 sq. ft.	6,000 sq. ft.	
Interior lot	5,000 sq. ft.	6,000 sq. ft.	
Lot Width:			
Corner lot	60 ft.	60 ft.	
Interior lot	50 ft.	60 ft.	
Lot Depth	N/A	80 ft.	
Site Area per Dwelling Unit (7)	Minimum required site area per dwelling unit based on net area of the lot unless the maximum number of units is shown on the Coastal Zoning Map.		
	1,200 sq. ft. (6)	1,500 sq. ft.	
Site Coverage	Maximum percentage of the total lot area that may be covered by structures.		
	N/A	60%	
Floor Area Limit (gross floor area)	1.75 (3)	N/A	
Setbacks	The distances below are minimum setbacks required for primary structures. See Section 21.30.110 (Setback Regulations and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions. The following setbacks shall apply, unless different requirements are identified on the setback maps in which case the setback maps shall control. (See Part 8 of this Implementation Plan.) Side and rear setback areas shown		

TABLE 21.18-4

DEVELOPMENT STANDARDS FOR MULTI-UNIT RESIDENTIAL COASTAL ZONING DISTRICTS

Development Feature	RM	RM-6,000	Additional Requirements
	on the setback maps shall be considered front setback areas for the purpose of regulating accessory structures.		
Front	20 ft.	20 ft.	
Side (interior, each):			
Lots 40 ft. wide or less	3 ft.	6 ft.	
Lots 40'1" wide to 49'11" wide	4 ft.	6 ft.	
Lots 50 ft. wide and greater	8% of the average lot width (4)	6 ft.	
Side (street side):			
Lots 40 ft. wide or less	3 ft.	N/A	
Lots 40'1" wide to 49'11" wide	4 ft.	N/A	
Lots 50 ft. wide and greater	8% of the average lot width (4)	6 ft.	
Rear	10 ft.	6 ft.	
Abutting Alley:			Lots abutting a 10 ft. alley or less that are directly across the alley from the side yard of a lot abutting the alley
10 ft. wide or less	N/A	N/A	
15 ft. wide or less	5 ft.	N/A	

TABLE 21.18-4

DEVELOPMENT STANDARDS FOR MULTI-UNIT RESIDENTIAL COASTAL ZONING DISTRICTS

Development Feature	RM	RM-6,000	Additional Requirements
15'1" to 19'11"	3'9"	N/A	shall provide a setback for the first floor of at least 10 ft. from the alley.
20 ft. wide or more	0	N/A	
Waterfront	10 ft.	N/A	
Bluff edge setback	As provided in Section 21.28.040 (Bluff (B) Overlay District).		
Canyon face setback	As provided in Section 21.28.050 (Canyon (C) Overlay District).		
Bulkhead setback	Structures shall be set back a minimum of 10 ft. from the bulkhead in each zoning district.		
Waterfront lots	Setbacks on waterfront lots may be increased to avoid coastal hazards through the approval of a coastal development permit. See Sections 21.30.015(D) (Waterfront Development) and 21.30.015(E) (Development in Shoreline Hazardous Areas).		
Height (5)	Maximum height of structures without discretionary approval. See Section 21.30.060(C) (Increase in Height Limit) for possible increase in height limit.		
Flat roof	28 ft.	28 ft.	See Section 21.30.060(C) (Increase in Height Limit).
Sloped roof; minimum 3/12 pitch	33 ft.	33 ft.	
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.	

TABLE 21.18-4

DEVELOPMENT STANDARDS FOR MULTI-UNIT RESIDENTIAL COASTAL ZONING DISTRICTS

Development Feature	RM	RM-6,000	Additional Requirements
Bluffs	See Section 21.28.040 (Bluff (B) Overlay District).		
Canyons	See Section 21.28.050 (Canyon (C) Overlay District).		
Fencing	See Section 21.30.040 (Fences, Hedges, Walls, and Retaining Walls).		
Landscaping	See Sections 21.30.075 (Landscaping) and 21.30.085 (Water Efficient Landscaping).		
Lighting	See Section 21.30.070 (Outdoor Lighting).		
Parking	See Chapter 21.40 (Off-Street Parking).		
Signs	See Section 21.30.065 (Signs).		

Notes:

- (1) All development and the subdivision of land shall comply with the requirements of Section [21.30.025](#) (Coastal Zone Subdivisions).
- (2) On a site of less than five thousand (5,000) square feet that existed prior to March 10, 1976, a two-family dwelling may be constructed; provided, that there shall be not less than one thousand (1,000) square feet of land area for each dwelling unit.
- (3) The total gross floor area contained in all buildings and structures on a development site shall not exceed 1.75 times the buildable area of the site or 1.5 times the buildable area of the site in Corona del Mar; provided, that up to two hundred (200) square feet of floor area per required parking space devoted to enclosed parking shall not be included in calculations of total gross floor area.
- (4) Interior and street side setback areas are not required to be wider than fifteen (15) feet; however, the side setback area on the street side of a corner lot, where the abutting lot has a reversed frontage, shall not be less than the front setback area required on the abutting reversed frontage.

- (5) On the bluff side of Ocean Boulevard, the maximum height shall not exceed the elevation of the top of the curb abutting the lot.
- (6) Portions of legal lots that have a slope greater than two-to-one (2:1) or that are submerged lands or tidelands shall be excluded from the land area of the lot for the purpose of determining the allowable number of units.
- (7) Density bonuses may be granted for the development of housing that is affordable to lower-, low-, and moderate-income households and senior citizens in compliance with Government Code Sections [65915](#) through [65917](#). Any housing development approved pursuant to Government Code Section [65915](#) shall be consistent, to the maximum extent feasible, and in a manner most protective of coastal resources, with all otherwise applicable Local Coastal Program policies and development standards.

(Ord. 2019-1 § 2, 2019; Ord. 2016-19 § 9 (Exh. A)(part), 2016)

21.70.020 Definitions of Specialized Terms and Phrases.

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; ~~and~~
 - ii. Covered decks, balconies or patios above the first floor;
 - iii. Any interior ~~finished~~ portion of a structure that is accessible and that measures more than six feet from finished 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 finished portion of a structure that is accessible and that measures more than four feet from finished 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.

Attachment No. PC 6

RM Intensity Analysis with 3rd Floor Area
Limits Applied

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Balboa Peninsula RM Lot (Duplex 2- Car Example): 30' x 102.5' = 3,075 sf

Buildable Area: 24' x 95.5' = 2292 sf
 Maximum Floor Area Limit (FAL formula): 1.75 x Buildable Area plus 200 sf/garage
 Maximum Floor Area Allowed: 4,011 + 400 = 4,411sf
 Minimum Open Volume: 15% x Buildable Area = 344 sf

Proposed New Standards:
 Maximum 3rd Floor: 20% x Buildable Area = 458 sf
 Maximum 3rd Floor Area and Covered Deck Area: 50% x Buildable Area = 1146 sf
 Third floor step backs (15 feet front and rear; 2 feet sides)

1 st Floor	1908 sf
2 nd Floor	2292 sf
3 rd Floor	458 sf
Total Possible	4658 sf

Total Allowed 4,411 sf
Result- No loss of intensity

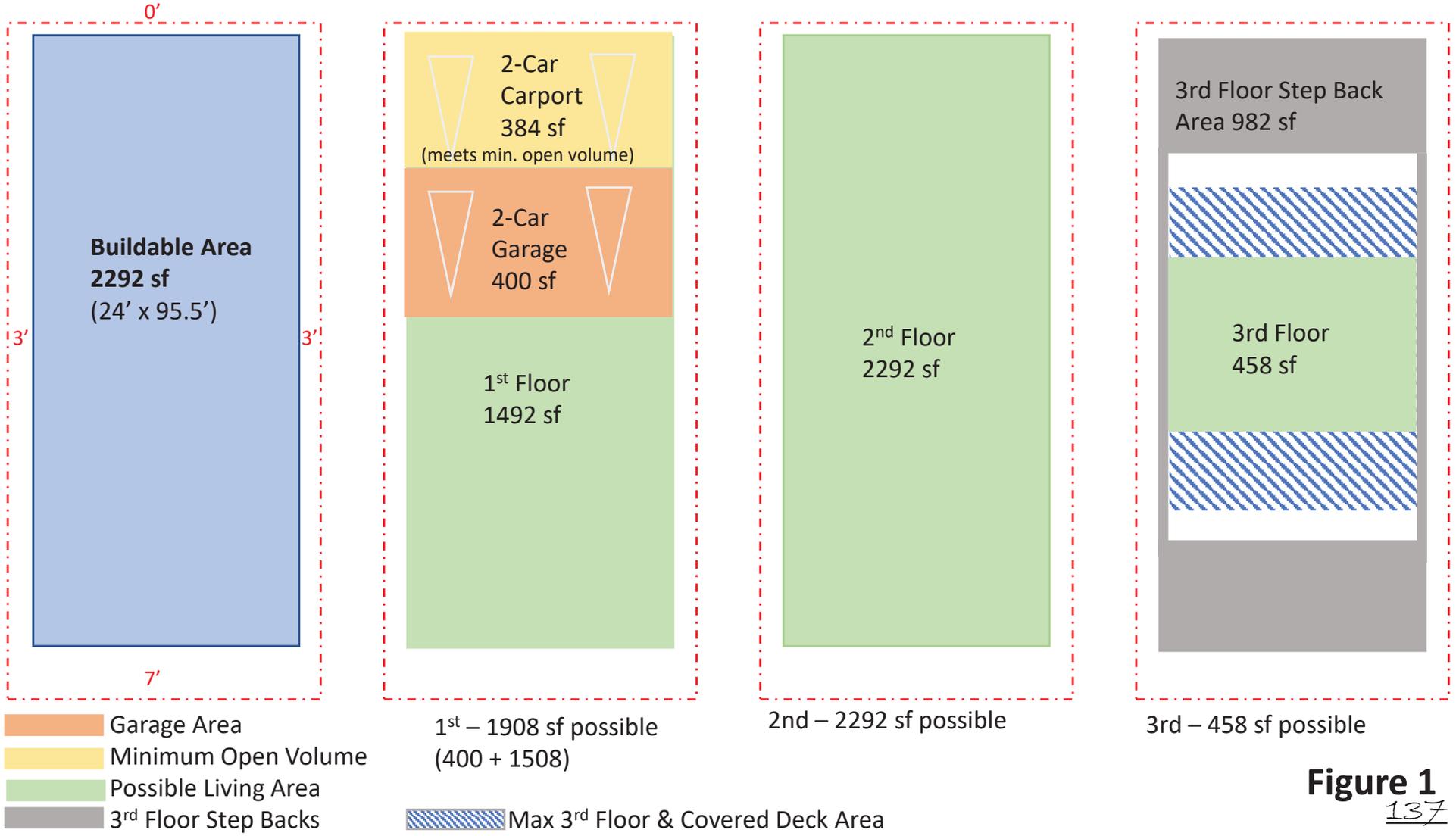


Figure 1
 137

Balboa Peninsula RM Lot (Duplex 4- Car Example): 30' x 102.5' = 3,075 sf

Buildable Area: 24' x 95.5' = 2292 sf
 Maximum Floor Area Limit (FAL formula): 1.75 x Buildable Area plus 200 sf/garage
 Maximum Floor Area Allowed: 4,011 + 800 = 4,811sf
 Minimum Open Volume: 15% x Buildable Area = 344 sf

Proposed New Standards:
 Maximum 3rd Floor: 20% x Buildable Area = 458 sf
 Maximum 3rd Floor Area and Covered Deck Area: 50% x Buildable Area = 1146 sf
 Third floor step backs (15 feet front and rear; 2 feet sides)

1 st Floor	2292 sf
2 nd Floor	1948 sf
3 rd Floor	458 sf
Total Possible	4698 sf

Total Allowed 4811 sf
Result- Loss of intensity



- Garage Area
 - Minimum Open Volume
 - Possible Living Area
 - 3rd Floor Step Backs
 - Max 3rd Floor & Covered Deck Area
- 1st – 2292 sf possible (800 + 1492)
 2nd – 1948 sf possible

3rd – 458 sf possible

Figure 2
 138

Attachment No. PC 7

Newport Heights Analysis

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Proposed Changes to Residential Design Standards Potential Impacts to Newport Heights (PA2019-070)

Prepared for the Newport Heights Improvement Association

Jaime Murillo – Principal Planner

Jmurillo@newportbeachca.gov; (949) 644-3209

July 31, 2020

Project Webpage:

www.newportbeachca.gov/residentialdesignstandards

Background

- A comprehensive Zoning Code update in 2010 included changes to building height measurement standards and definition of gross floor area that have inadvertently resulted in proliferation of covered third level decks and bulkier residential building designs. Despite measuring the same in terms of enclosed gross floor area, newer development appears larger and at times out of scale with the pre-2010 development.
- As a result of community concerns related to the bulk and mass associated with new single- and two-unit dwelling developments in the City, the City Council held a study session on April 23, 2019, and directed staff to prepare amendments regulating these concerns.
- Third story designs are commonly utilized in older communities with smaller lots, such as Corona del Mar, Balboa Island, West Newport, and the Balboa Peninsula, to maximize the development potential of these small lots.
- Given the larger lot sizes in Newport Heights, third level designs are less common and the proposed changes are not expected to have a significant impact on the design of typical new development in the area.
- This analysis is not comprehensive, but intended to provide an illustrative example of how recent development in Newport Heights would have been affected by these proposed amendments. The analysis includes 5 properties in the area suggested by Chris Budnik, a NHIA Board Member.

Proposed Code Revisions That May Impact Newport Heights Development

Revisions to Third Floor Standards

- Third floor step backs* would apply to covered deck areas (currently applies only to enclosed floor area).
- Third floor side step backs would apply to lots 30 feet wide or greater (currently applies to lots wider than 30 feet).
- Maximum covered third floor area (enclosed or unenclosed) limited to 50 percent of buildable area. Uncovered deck area would remain unrestricted.

Clarification of Gross Floor Area

- *Unfinished* attics with a ceiling height of 6 feet or higher would count as floor area (currently only finished attics count).
- Covered patios, decks, and balconies above the first floor would count as floor area unless completely open on at least two sides, rather than one side.
- Carports only open on one side would count as floor area.

*A step back is an additional offset of a wall of building feature beyond the minimum setback line.



Typical Newport Heights Lot

401 Fullerton Ave

50' x 127.5'
6375sf

Standard	Current Code	Proposed Code (new req's in red)	401 Fullerton Ave (Actual Construction)
Setbacks			
Front	20'	No Change	20'
Sides	4'	No Change	4'
Rear	5'	No Change	5'
Buildable Area (B)	4305 sf	No Change	
Max Floor Area (2XB)	8,610 sf	No Change	7260 sf (1350 sf below maximum)
Height	24' flat/29' sloped	No Change	24' flat/29' sloped
3rd Floor Step Backs (measured from PL)	Enclosed Area only	Enclosed and Unenclosed	Not affected, 3 rd floor deck is uncovered and is not subject to current or proposed changes.
• Front- 35'	Front/Rear/Side	Front/Rear/Side	
• Sides-6'			
• Rear-20'			
3rd Floor Enclosed Area (15% of B)	646 sf	No change	Not affected, no 3 rd floor enclosed area
3rd Floor Covered Area (50% of B)	N/A	2152.5 sf	Not affected, no 3 rd floor covered area
Open Volume (15% of B)	646 sf min.	No Change	818 sf
Covered Patios on 2nd and 3rd floor count as floor area	Less than 1 side completely open	Less than 2 sides completely open	House design not affected
Attics count as floor area	Finished space with 6' + ceiling height	Finished or unfinished space with 6' + ceiling height	House design not affected

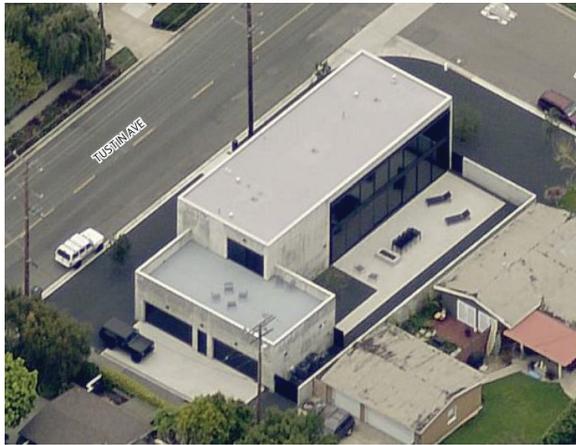


Typical Newport Heights Lot

328 Fullerton Ave

50' x 127.5'
6375sf

Standard	Current Code	Proposed Code (new req's in red)	328 Fullerton Ave (Actual Construction)
Setbacks			
Front	20'	No Change	20'
Sides	4'	No Change	4'
Rear	5'	No Change	5'
Buildable Area (B)	4305 sf	No Change	
Max Floor Area (2XB)	8,610 sf	No Change	4718 sf (3892 sf below maximum)
Height	24' flat/29' sloped	No Change	23'9" flat/25' 10" sloped
3rd Floor Step Backs <small>(measured from PL)</small>	Enclosed Area only	Enclosed and Unenclosed	Not affected, no 3 rd floor
• Front- 35'	Front/Rear/Side	Front/Rear/Side	
• Sides-6'			
• Rear-20'			
3rd Floor Enclosed Area (15% of B)	646 sf	No change	Not affected, no 3 rd floor
3rd Floor Covered Area (50% of B)	N/A	2152.5 sf	Not affected, no 3 rd floor
Open Volume (15% of B)	646 sf min.	No Change	3665 sf
Covered Patios on 2nd and 3rd floor count as floor area	Less than 1 side completely open	Less than 2 sides completely open	House design not affected
Attics count as floor area	Finished space with 6' + ceiling height	Finished or unfinished space with 6' + ceiling height	House design not affected



Larger Newport Heights Lot

630 Tustin Ave

66'x 142'
9372sf

Standard	Current Code	Proposed Code (new req's in red)	630 Tustin Ave (Actual Construction)
Setbacks			
Front	20'	No Change	20'
Sides	4'	No Change	4'
Rear	10'	No Change	10'
Buildable Area (B)	6496 sf	No Change	
Max Floor Area (2XB)	12,992 sf	No Change	4738 sf (8254 sf below maximum)
Height	24' flat/29' sloped	No Change	24' flat
3rd Floor Step Backs (measured from PL)	Enclosed Area only	Enclosed and Unenclosed	Not affected, no 3 rd floor
• Front- 35'	Front/Rear/Side	Front/Rear/Side	
• Sides-6'			
• Rear-25'			
3rd Floor Enclosed Area (15% of B)	974 sf	No change	Not affected, no 3 rd floor
3rd Floor Covered Area (50% of B)	N/A	3248 sf	Not affected, no 3 rd floor
Open Volume (15% of B)	974 sf min.	No Change	2960 sf
Covered Patios on 2nd and 3rd floor count as floor area	Less than 1 side completely open	Less than 2 sides completely open	House design not affected
Attics count as floor area	Finished space with 6' + ceiling height	Finished or unfinished space with 6' + ceiling height	House design not affected



Larger Newport Heights Lot

320 Fullerton Ave

60' x 127.5'
7,650 sf

Standard	Current Code	Proposed Code (new req's in red)	320 Fullerton Ave (Actual Construction)
Setbacks			
Front	20'	No Change	20'
Sides	4'	No Change	4'
Rear	5'	No Change	5'
Buildable Area (B)	5340 sf	No Change	
Max Floor Area (2XB)	10,678 sf	No Change	5602 sf (5077 sf below maximum)
Height	24' flat/29' sloped	No Change	24' flat/27' sloped
3rd Floor Step Backs <small>(measured from PL)</small>	Enclosed Area only	Enclosed and Unenclosed	Not affected, no 3 rd floor or covered deck
• Front- 35'	Front/Rear/Side	Front/Rear/Side	
• Sides-6'			
• Rear-20'			
3rd Floor Enclosed Area (15% of B)	801 sf	No change	Not affected, no enclosed 3 rd floor area
3rd Floor Covered Area (50% of B)	N/A	2,670 sf	Not affected, 3 rd floor deck is uncovered
Open Volume (15% of B)	801 sf min.	No Change	1585 sf
Covered Patios on 2nd and 3rd floor count as floor area	Less than 1 side completely open	Less than 2 sides completely open	House design not affected
Attics count as floor area	Finished space with 6' + ceiling height	Finished or unfinished space with 6' + ceiling height	House design not affected



Larger Newport Heights Lot

510 Kings Rd

Approx. 60' x 151.6'
9,100 sf

Standard	Current Code	Proposed Code (new req's in red)	510 Kings Rd (Actual Construction)
Setbacks			
Front	20'	No Change	20'
Sides	4'	No Change	4'
Rear	10'	No Change	25'
Buildable Area (B)	6,333 sf	No Change	
Max Floor Area (2XB)	12,666sf	No Change	6844 sf (5822 sf below maximum)
Height	24' flat/29' sloped	No Change	24' flat/29' sloped
3rd Floor Step Backs (measured from PL)	Enclosed Area only	Enclosed and Unenclosed	Affected, covered 3rd floor deck would encroach 6 feet into 15-foot front step back deck
• Front- 35'	Front/Rear/Side		
• Sides-6'		Front/Rear/Side	
• Rear-25'			
3rd Floor Enclosed Area (15% of B)	950 sf	No change	Not affected, 266 sf enclosed third floor
3rd Floor Covered Area (50% of B)	N/A	3166 sf	Not affected, 339 sf total covered proposed
Open Volume (15% of B)	950 sf min.	No Change	2291 sf
Covered Patios on 2nd and 3rd floor count as floor area	Less than 1 side completely open	Less than 2 sides completely open	House design not affected
Attics count as floor area	Finished space with 6' + ceiling height	Finished or unfinished space with 6' + ceiling height	House design not affected

Attachment No. PC 8

HCD Letter and Staff Correspondence

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**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



July 31, 2020

Jaime Murillo, Principal Planner
City of Newport Beach
100 Civic Center Drive, First Floor Bay C
Newport Beach, CA 92660

Dear Jaime Murillo:

**RE: Pending Zoning Amendments and the Housing Crisis Act of 2019
Letter of Technical Assistance**

Thank you for the opportunity to provide information to assist the City of Newport Beach (City) in its decision-making regarding the application of the Housing Crisis Act (SB 330, 2019) to the City's pending residential design standards code amendments (PA2019-070) that include amendments to the zoning code and local coastal program.

The Housing Crisis Act of 2019 was signed by Governor Newsom on October 9, 2019 and became effective on January 1, 2020. The Housing Crisis Act (Gov. Code, § 66300 et seq.) 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. These provisions remain in effect until January 1, 2025. Specifically, Government Code section 66300, subdivision (b)(1)(A), does not allow a locality to enact requirements that result in a less intensive use.

The California Department of Housing and Community Development (HCD) reviewed the May 7, 2020 Planning Commission agenda materials revising residential development standards that apply to single and two-unit residential developments. The pending revisions generally reduce bulk and mass to step back covered third floor decks. HCD understands the revisions do not impact the ability to achieve maximum densities independently or cumulatively in combination with all other development standards. For this reason, the pending revisions do not trigger the Housing Crisis Act "less intensive use" provisions under Government Code section 66300, subdivision (b)(1)(A).

The City has also sought confirmation that development or redevelopment of a parcel with a single-family home does not trigger the definition of a "housing development project" pursuant to Government Code section 66300, subdivision (a)(6). HCD confirms this understanding.

HCD appreciates the opportunity to provide information to assist the City in its decision-making. HCD welcomes the opportunity to assist the City in meeting statutory requirements. Please feel free to contact Shawn Danino at Shawn.Danino@hcd.ca.gov for any additional information and assistance.

Sincerely,

A handwritten signature in black ink that reads "Shannan West". The signature is written in a cursive, flowing style.

Shannan West
Land Use & Planning Unit Chief

From: Murillo, Jaime
Sent: Monday, May 11, 2020 9:30 AM
To: 'McDougall, Paul@HCD'
Subject: RE: Question on SB330 Compliance

Thank you. Mostly regulating covered deck area. But also includes regulating 3rd floor area (but not total allowed floor area) to zones that were previously exempt from standard, and revising the definition of gross floor area to better regulate attics and deck openings. Here is a list of each change.

The proposed amendments would reduce bulk and mass associated with future residential development as follows:

Revisions to Third Floor Standards

- Third floor step backs would apply to covered deck areas (currently applies only to enclosed floor area).
- Third floor side step backs would apply to lots 30 feet wide or greater (currently applies to lots wider than 30 feet).
- Maximum covered third floor area (enclosed or unenclosed) limited to 50 percent of buildable area. Uncovered deck area would remain unrestricted.
- Third floor step back standards (front and rear) would apply to 25-foot wide or less lots zoned R-2 (currently exempt).

Clarification of Gross Floor Area

- *Unfinished* attics with a ceiling height of 6 feet or higher would count as floor area (currently only finished attics count).
- Covered patios, decks, and balconies above the first floor would count as floor area unless completely open on at least two sides, rather than one side.
- Carports only open on one side would count as floor area.

Single-Unit and Two-Unit Dwellings in the R-BI and RM Zones

- Third floor and open volume standards applicable to R-1 and R-2 zones would now apply to single- and two-unit dwellings in Two-Unit Residential, Balboa Island (R-BI) and Multiple Residential (RM) zones.

From: McDougall, Paul@HCD <Paul.McDougall@hcd.ca.gov>
Sent: Monday, May 11, 2020 9:25 AM
To: Murillo, Jaime <JMurillo@newportbeachca.gov>
Subject: RE: Question on SB330 Compliance

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Thank you Sir. We got a couple folks looking at it and we should be able to get something to you within a week or two. It just applies to the deck area, right?

From: Murillo, Jaime <JMurillo@newportbeachca.gov>
Sent: Monday, May 11, 2020 9:17 AM
To: McDougall, Paul@HCD <Paul.McDougall@hcd.ca.gov>
Subject: RE: Question on SB330 Compliance

Thanks Paul, I appreciate it the review. Here is a link to the staff report, which details each change and the effect it will have (its long but lots of exhibits and pictures):

<https://www.newportbeachca.gov/home/showdocument?id=66751> [newportbeachca.gov]
[\[newportbeachca.gov\]](http://newportbeachca.gov)

Page 16 of staff report includes my SB330 analysis. The change swill have absolutely no impact on density; however, we are being challenged with respect to intensity of land use as defined in Section 66300(b)(1)(A) :

(b) (1) Notwithstanding any other law except as provided in subdivision (i), with respect to land where housing is an allowable use, an affected county or an affected city shall not enact a development policy, standard, or condition that would have any of the following effects:

(A) Changing the general plan land use designation, specific plan land use designation, or zoning of a parcel or parcels of property to a less intensive use **or reducing the intensity of land use** within an existing general plan land use designation, specific plan land use designation, or zoning district below what was allowed under the land use designation and zoning ordinances of the affected county or affected city, as applicable, as in effect on January 1, 2018, except as otherwise provided in clause (ii) of subparagraph (B). **For purposes of this subparagraph, "less intensive use" includes, but is not limited to, reductions to height, density, or floor area ratio, new or increased open space or lot size requirements, or new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, or anything that would lessen the intensity of housing.**

From: McDougall, Paul@HCD <Paul.McDougall@hcd.ca.gov>
Sent: Monday, May 11, 2020 8:19 AM
To: Murillo, Jaime <JMurillo@newportbeachca.gov>
Subject: RE: Question on SB330 Compliance

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

You can send that to me – Just curious for now, how does less deck area result in less units?

From: Murillo, Jaime <JMurillo@newportbeachca.gov>
Sent: Friday, May 8, 2020 4:49 PM
To: McDougall, Paul@HCD <Paul.McDougall@hcd.ca.gov>
Subject: Question on SB330 Compliance



Hey Paul,

I was hoping you could point me in the right direction with a question or a request we have. Our Planning Commission directed staff to reach out to State for an interpretation or determination of compliance with SB330, who could I reach out to or do you have a process for that?

Background

I've been working on some changes to Residential Design Standards to control 3rd floor bulk and massing. As a result of a major Zoning Code update in 2010, we have seen a dramatic rise in new 3-story homes and covered 3rd level roof decks. The current code attempts to regulate the mass of 3rd floors through additional step backs on the 3rd level, but unfortunately only applies to enclosed floor area and not covered deck area. The City Council directed staff to revise the code to apply step-backs to covered deck area and eliminate the unintended consequence of the 2010 Code change. There are a number of other minor design changes, but nothing that would impact allowed density or allowed floor area. I presented the item to our Planning Commission last night and we received a lot of comments opposing the change from relators and property owners stating these amendments would violate SB330. Specifically, they believe our 3rd floor step-backs are new setbacks precluded under the law.

As you know, SB330 restricts the adoption of zoning amendments that would result in the reduction of allowed density or intensity of land uses than what is allowed under the regulations in effect on January 1, 2018. The law defines "less intensive use" to include, but is not limited to, reductions to height, density, or floor area ratio, new or increased open space or lot size requirements, new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, or anything that would lessen the intensity of housing.

Our City Attorney's Office has reviewed the draft code revisions and determined that they do not violate SB 330 in that they would not result in the reduction of allowable density (number of units) on a lot, nor result in any changes in overall height limits, allowable floor area, lot coverage, or setbacks that would lessen the allowable intensity of housing site. Each lot will maintain the same allowed height limits, building setbacks, and floor area limits as previously entitled, and the application of third floor and open volume regulations wouldn't preclude the ability for a homeowner to achieve the same development intensity.

Here is a link to the staff report in case you would like to know more about each proposed code change: <https://www.newportbeachca.gov/home/showdocument?id=66751> [newportbeachca.gov]

Thanks so much, please let me know.

Jaime

JAIME MURILLO, AICP
Community Development Department
Principal Planner
jmurillo@newportbeachca.gov
949-644-3209

CITY OF NEWPORT BEACH
[100 Civic Center Drive, First Floor Bay C, Newport Beach, California 92660 \[google.com\]](https://www.newportbeachca.gov) | [newportbeachca.gov](https://www.newportbeachca.gov)
[\[newportbeachca.gov\]](https://www.newportbeachca.gov)

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Attachment No. PC 9

Floor Area Intensity Analysis

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Typical Balboa Island Lot (Single-Unit Example): 30' x 85' = 2,550 sf

Buildable Area: 24' x 70' = 1680sf

Maximum Floor Area Limit (FAL formula): 1.5 x Buildable Area plus 200 sf

Maximum Floor Area Allowed: 2520 + 200 = 2720 sf

Proposed New Standards:

Minimum Open Volume: 15% x Buildable Area= 252 sf

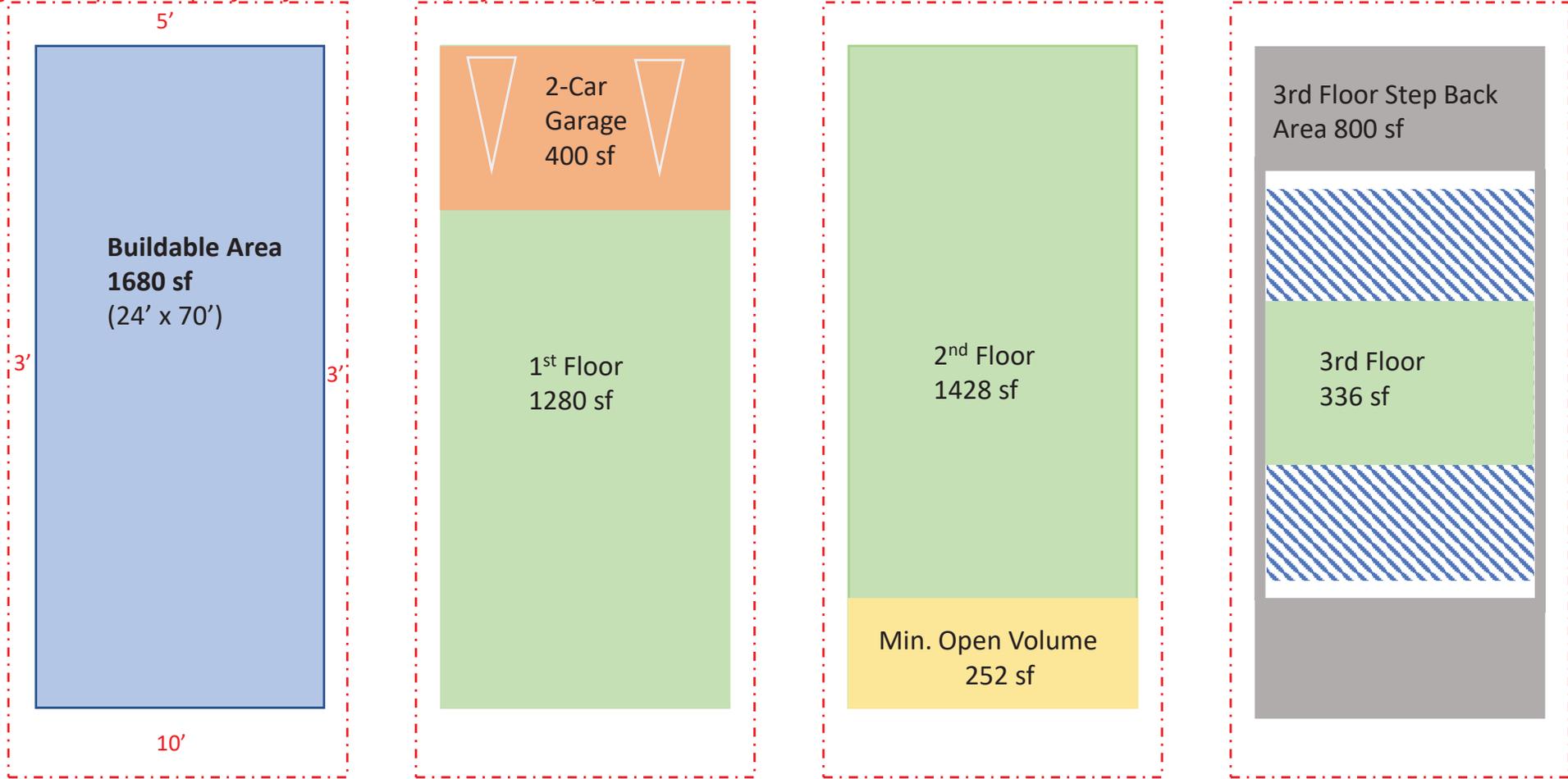
Maximum 3rd Floor: 20% x Buildable Area= 336 sf

Maximum 3rd Floor Area and Covered Deck Area: 50% x Buildable Area= 840 sf

Third floor step backs (15 feet front and rear; 2 feet sides)

1 st Floor	1680 sf
2 nd Floor	1680 sf
3 rd Floor	336 sf
Total Possible	3696 sf

Total Allowed 2720 sf
Result- No loss of intensity



- Garage Area
- Minimum Open Volume
- Possible Living Area
- 3rd Floor Step Backs
- Max 3rd Floor & Covered Deck Area

1st – 1680 sf possible
(400+1280)

2nd – 1428 sf possible

3rd – 336 sf possible

Figure 1
159

Typical Balboa Island Lot (Duplex Example): 30' x 85' = 2,550 sf

Buildable Area: 24' x 70' = 1680sf

Maximum Floor Area Limit (FAL formula): 1.5 x Buildable Area plus 200 sf

Maximum Floor Area Allowed: 2520 + 200= 2720 sf

Proposed New Standards:

Minimum Open Volume: 15% x Buildable Area= 252 sf

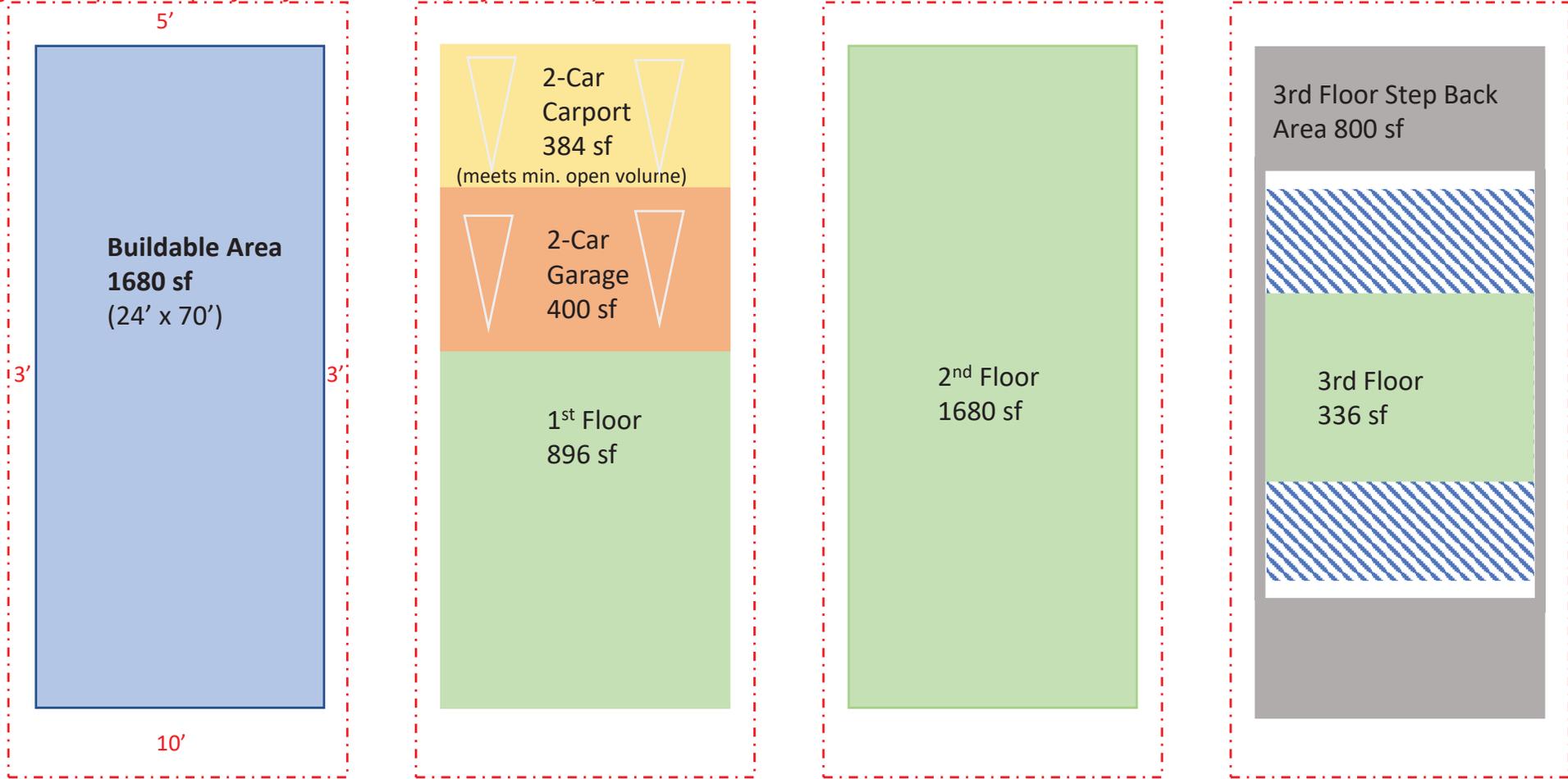
Maximum 3rd Floor: 20% x Buildable Area= 336 sf

Maximum 3rd Floor Area and Covered Deck Area: 50% x Buildable Area= 840 sf

Third floor step backs (15 feet front and rear; 2 feet sides)

1 st Floor	1296 sf
2 nd Floor	1680 sf
3 rd Floor	336 sf
Total Possible	3312 sf

Total Allowed 2720 sf
Result- No loss of intensity



- Garage Area
- Minimum Open Volume
- Possible Living Area
- 3rd Floor Step Backs

1st – 1296 sf possible
 (400+896)

2nd – 1680 sf possible

3rd – 336 sf possible

Max 3rd Floor & Covered Deck Area

Figure 2
160

Balboa Peninsula RM Lot (Duplex 2- Car Example): 30' x 102.5' = 3,075 sf

Buildable Area: 24' x 95.5' = 2292 sf

Maximum Floor Area Limit (FAL formula): 1.75 x Buildable Area plus 200 sf/garage

Maximum Floor Area Allowed: 4,011 + 400 = 4,411sf

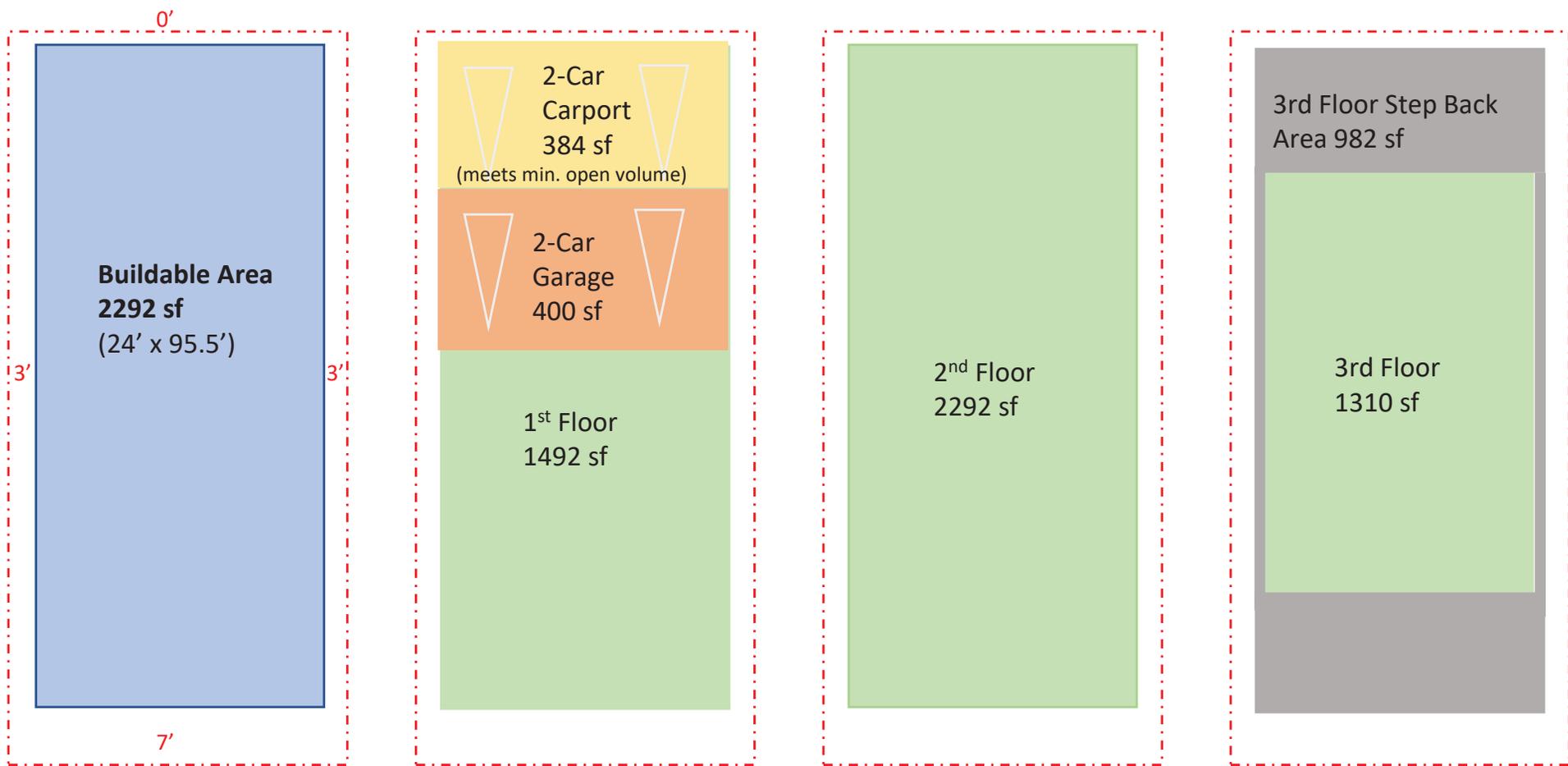
Minimum Open Volume: 15% x Buildable Area = 344 sf

Proposed New Standards:

Third floor step backs (15 feet front and rear; 2 feet sides)

1 st Floor	1908 sf
2 nd Floor	2292 sf
3 rd Floor	1310 sf
Total Possible	5510 sf

Total Allowed 4,411 sf
Result- No loss of intensity



- Garage Area
- Minimum Open Volume
- Possible Living Area
- 3rd Floor Step Backs

1st – 1908 sf possible
(400 + 1508)

2nd – 2292 sf possible

3rd – 1310 sf possible

Figure 3
161

Balboa Peninsula RM Lot (Duplex 4- Car Example): 30' x 102.5' = 3,075 sf

Buildable Area: 24' x 95.5' = 2292 sf

Maximum Floor Area Limit (FAL formula): 1.75 x Buildable Area plus 200 sf/garage

Maximum Floor Area Allowed: 4,011 + 800 = 4,811sf

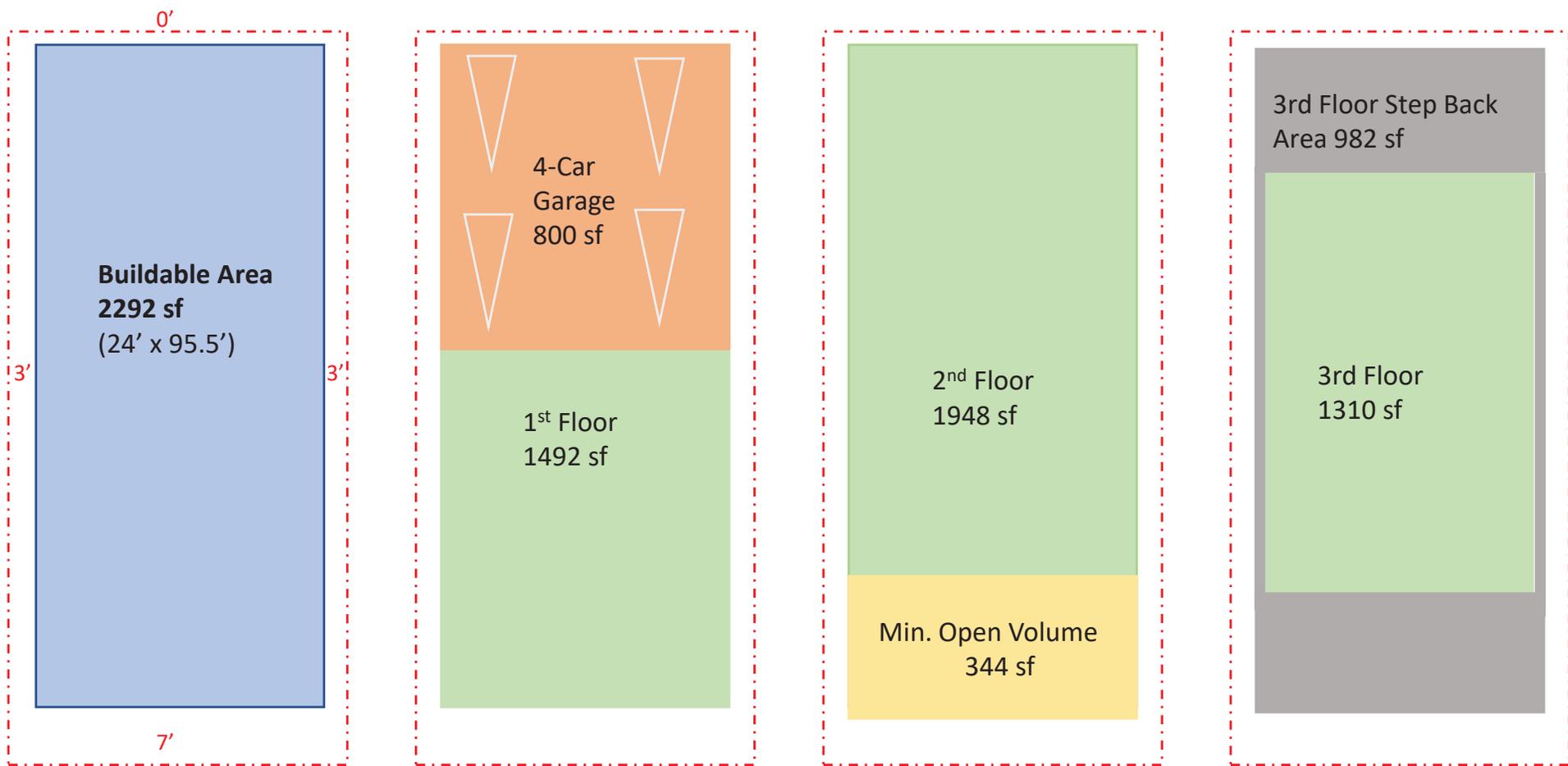
Minimum Open Volume: 15% x Buildable Area = 344 sf

Proposed New Standards:

Third floor step backs (15 feet front and rear; 2 feet sides)

1 st Floor	2292 sf
2 nd Floor	1948 sf
3 rd Floor	1310 sf
Total Possible	5550 sf

Total Allowed 4811 sf
Result- No loss of intensity



- Garage Area
- Minimum Open Volume
- Possible Living Area
- 3rd Floor Step Backs

1st – 2292 sf possible
(800 + 1492)

2nd – 1948 sf possible

3rd – 1310 sf possible

Figure 4
162

Balboa Peninsula RM Lot (Single-Unit 2-Car Example): 30' x 102.5' = 3,075 sf

Buildable Area: 24' x 95.5' = 2292 sf

Maximum Floor Area Limit (FAL formula): 1.75 x Buildable Area plus 200 sf/garage

Maximum Floor Area Allowed: 4,011 + 400 sf = 4411sf

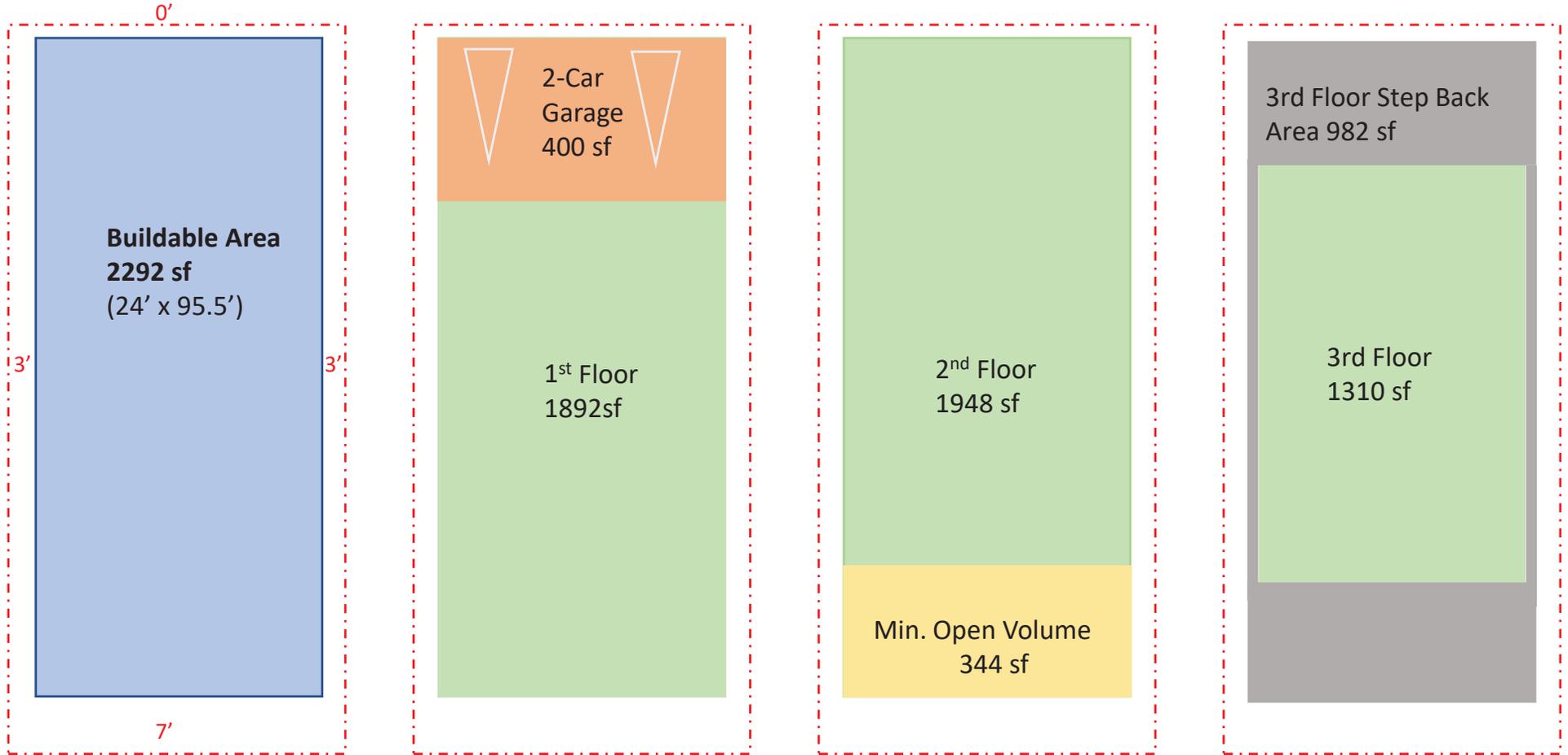
Minimum Open Volume: 15% x Buildable Area = 344 sf

Proposed New Standards:

Third floor step backs (15 feet front and rear; 2 feet sides)

1 st Floor	2292 sf
2 nd Floor	1948 sf
3 rd Floor	1310 sf
Total Possible	5550 sf

Total Allowed 4411 sf
Result- No loss of intensity



- Garage Area
- Minimum Open Volume
- Possible Living Area
- 3rd Floor Step Backs

1st – 2292 sf possible
(400 + 1892)

2nd – 1948 sf possible

3rd – 1310 sf possible

Figure 5
163

Balboa Peninsula RM Lot (Single-Unit 3-Car Example): 30' x 102.5' = 3,075 sf

Buildable Area: 24' x 95.5' = 2292 sf

Maximum Floor Area Limit (FAL formula): 1.75 x Buildable Area plus 200 sf/garage

Maximum Floor Area Allowed: 4,011 + 600 sf = 4611sf

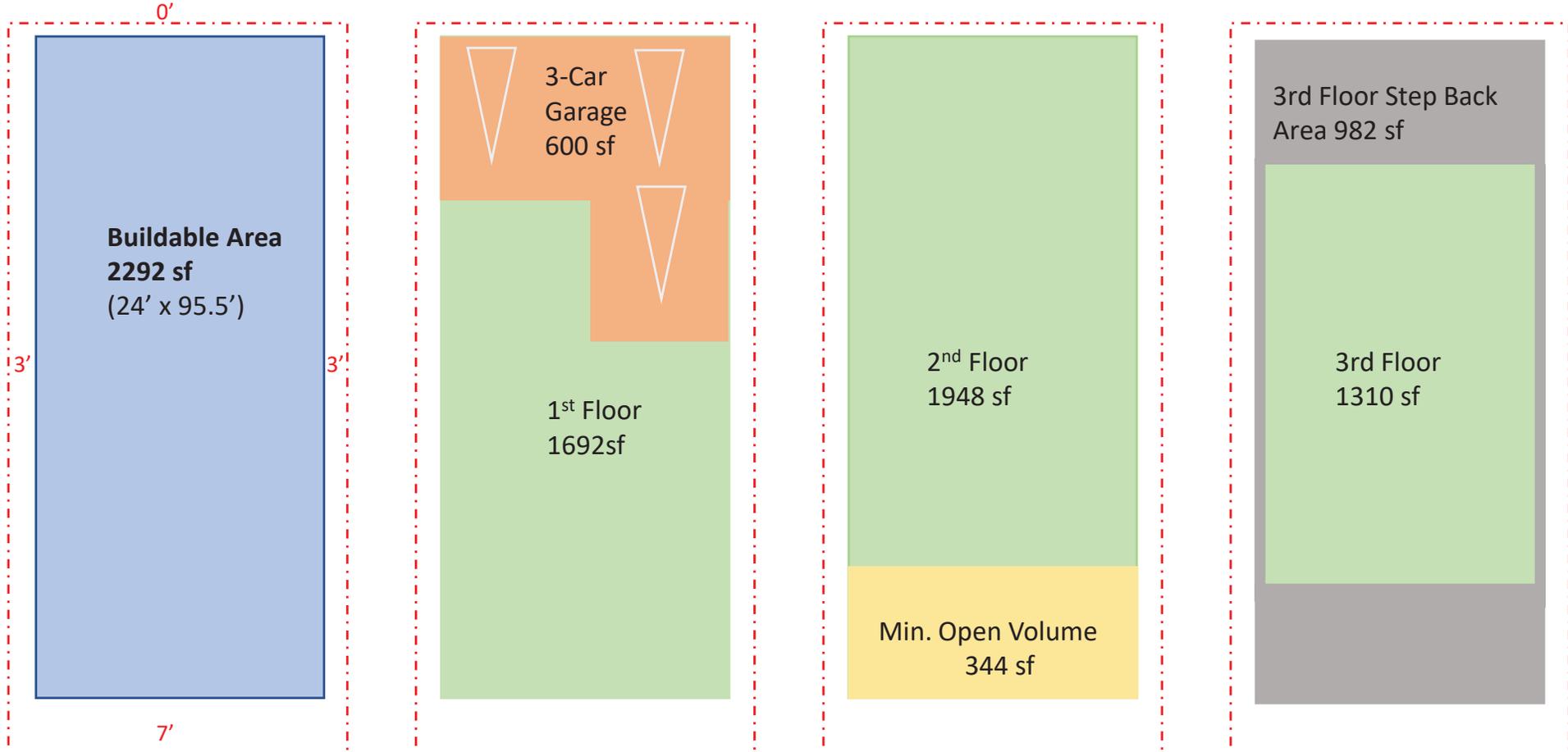
Minimum Open Volume: 15% x Buildable Area = 344 sf

Proposed New Standards:

Third floor step backs (15 feet front and rear; 2 feet sides)

1 st Floor	2292 sf
2 nd Floor	1948 sf
3 rd Floor	1310 sf
Total Possible	5550 sf

Total Allowed 4611 sf
Result- No loss of intensity



- Garage Area
- Minimum Open Volume
- Possible Living Area
- 3rd Floor Step Backs

1st – 2292 sf possible
(600 + 1692)

2nd – 1948 sf possible

3rd – 458 sf possible

Figure 6
164

CDM RM Lot (Duplex 2- Car Example): 30' x 118' = 3,540 sf

Buildable Area: 24' x 108' = 2,592 sf

Maximum Floor Area Limit (FAL formula): 1.5 x Buildable Area plus 200 sf/garage

Maximum Floor Area Allowed: 3,888 + 400 = 4,288 sf

Minimum Open Volume: 15% x Buildable Area = 389 sf

Third floor step backs (15 feet front and rear)

Proposed New Standards:

Third floor step backs (2 feet sides)

1 st Floor	2203 sf
2 nd Floor	2292 sf
3 rd Floor	1560 sf
Total Possible	6055 sf

Total Allowed 4,288 sf
Result- No loss of intensity

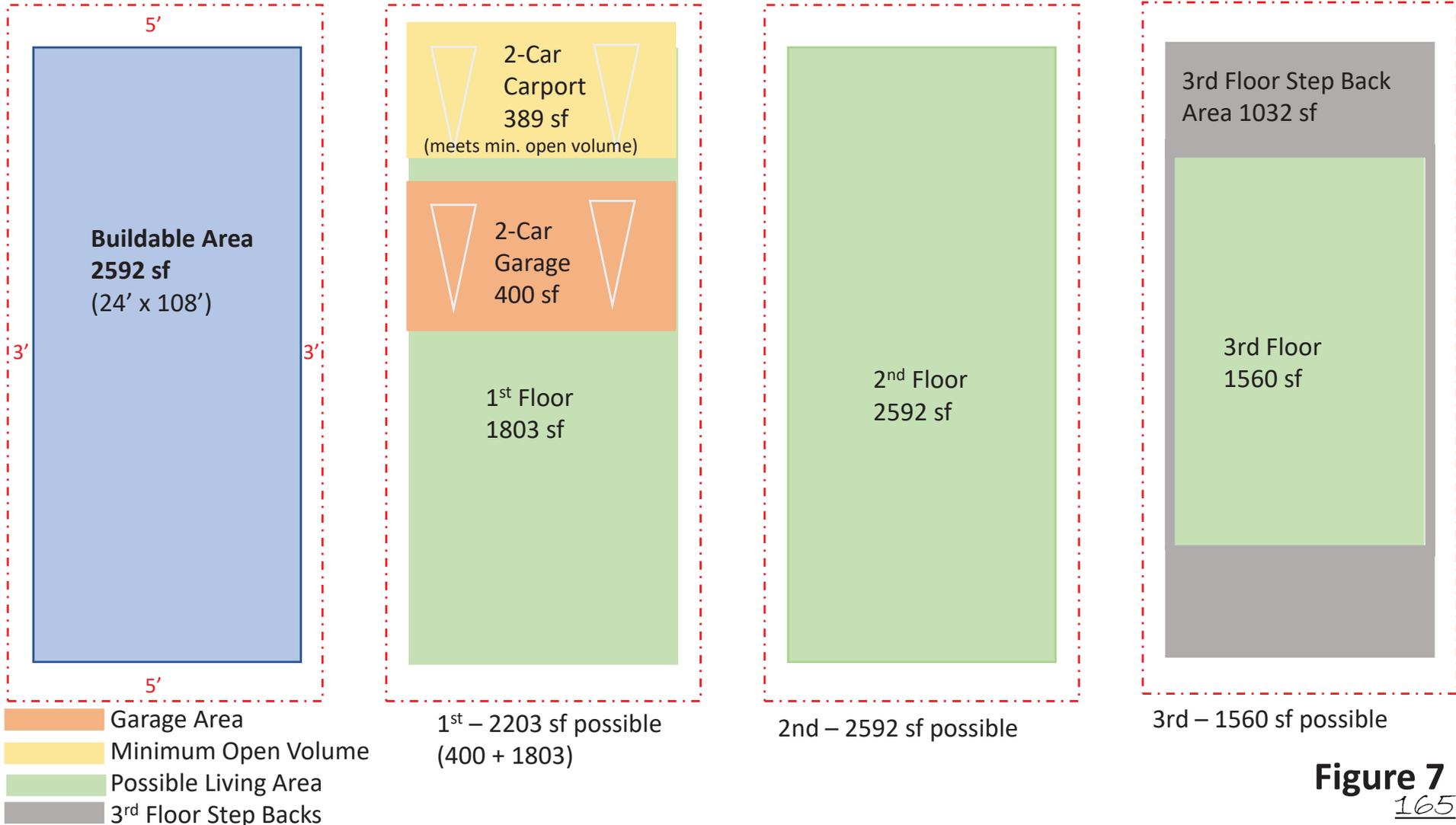


Figure 7
 165

CDM RM Lot (Duplex 4- Car Example): 30' x 118' = 3,540 sf

Buildable Area: 24' x 108' = 2,592 sf

Maximum Floor Area Limit (FAL formula): 1.5 x Buildable Area plus 200 sf/garage

Maximum Floor Area Allowed: 3,888 + 800 = 4,688 sf

Minimum Open Volume: 15% x Buildable Area = 389 sf

Third floor step backs (15 feet front and rear)

Proposed New Standards:

Third floor step backs (2 feet sides)

1 st Floor	2592 sf
2 nd Floor	2203 sf
3 rd Floor	1560 sf
Total Possible	6355 sf

Total Allowed 4688 sf
Result- No loss of intensity

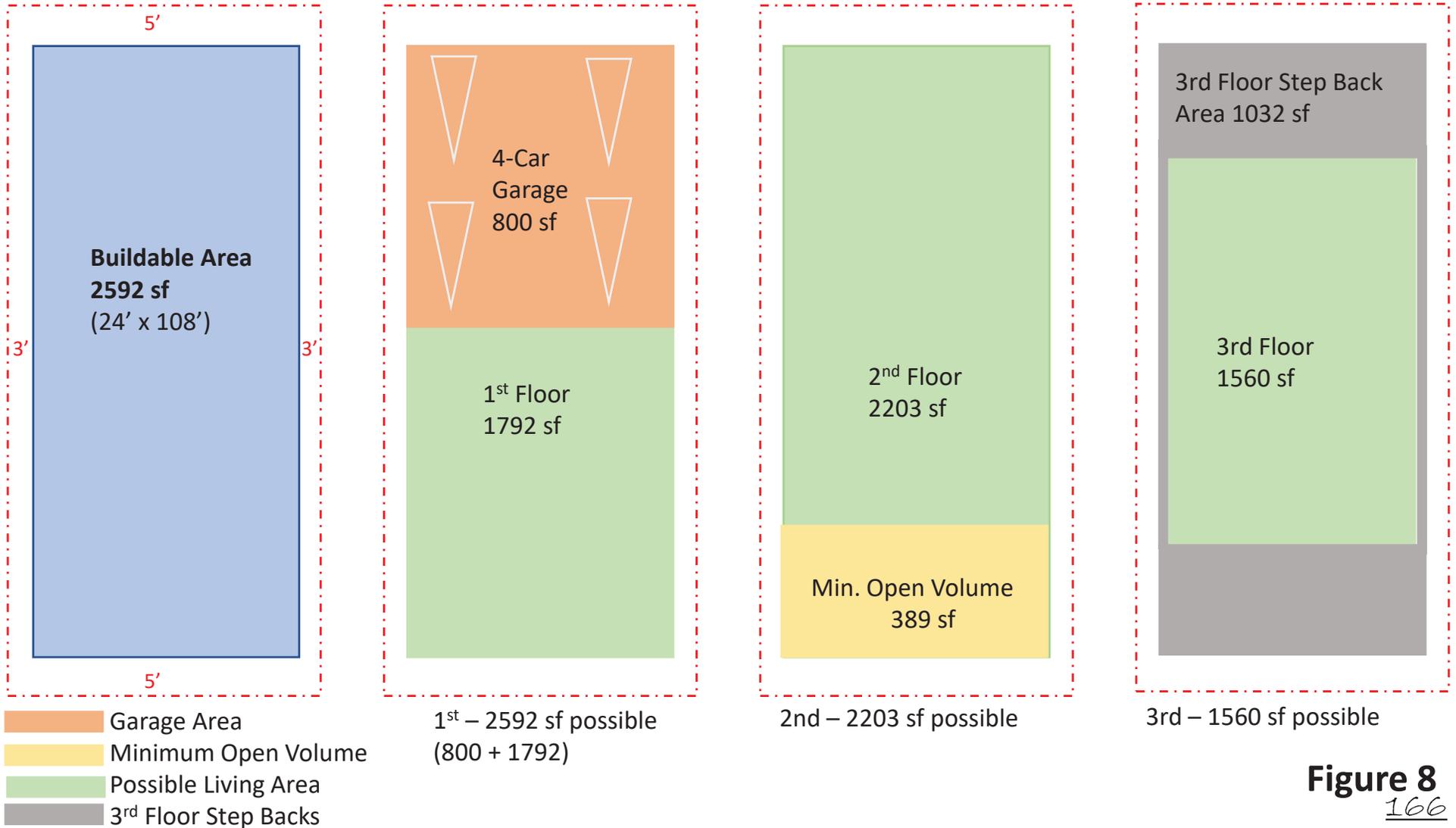


Figure 8
 166

CDM RM Lot (Single-Unit 2- Car Example): 30' x 118' = 3,540 sf

Buildable Area: 24' x 108' = 2,592 sf

Maximum Floor Area Limit (FAL formula): 1.5 x Buildable Area plus 200 sf/garage

Maximum Floor Area Allowed: 3,888 + 400 = 4,288 sf

Minimum Open Volume: 15% x Buildable Area = 389 sf

Third floor step backs (15 feet front and rear)

Proposed New Standards:

Third floor step backs (2 feet sides)

1 st Floor	2592 sf
2 nd Floor	2203 sf
3 rd Floor	1560 sf
Total Possible	6355 sf

Total Allowed 4288 sf
Result- No loss of intensity

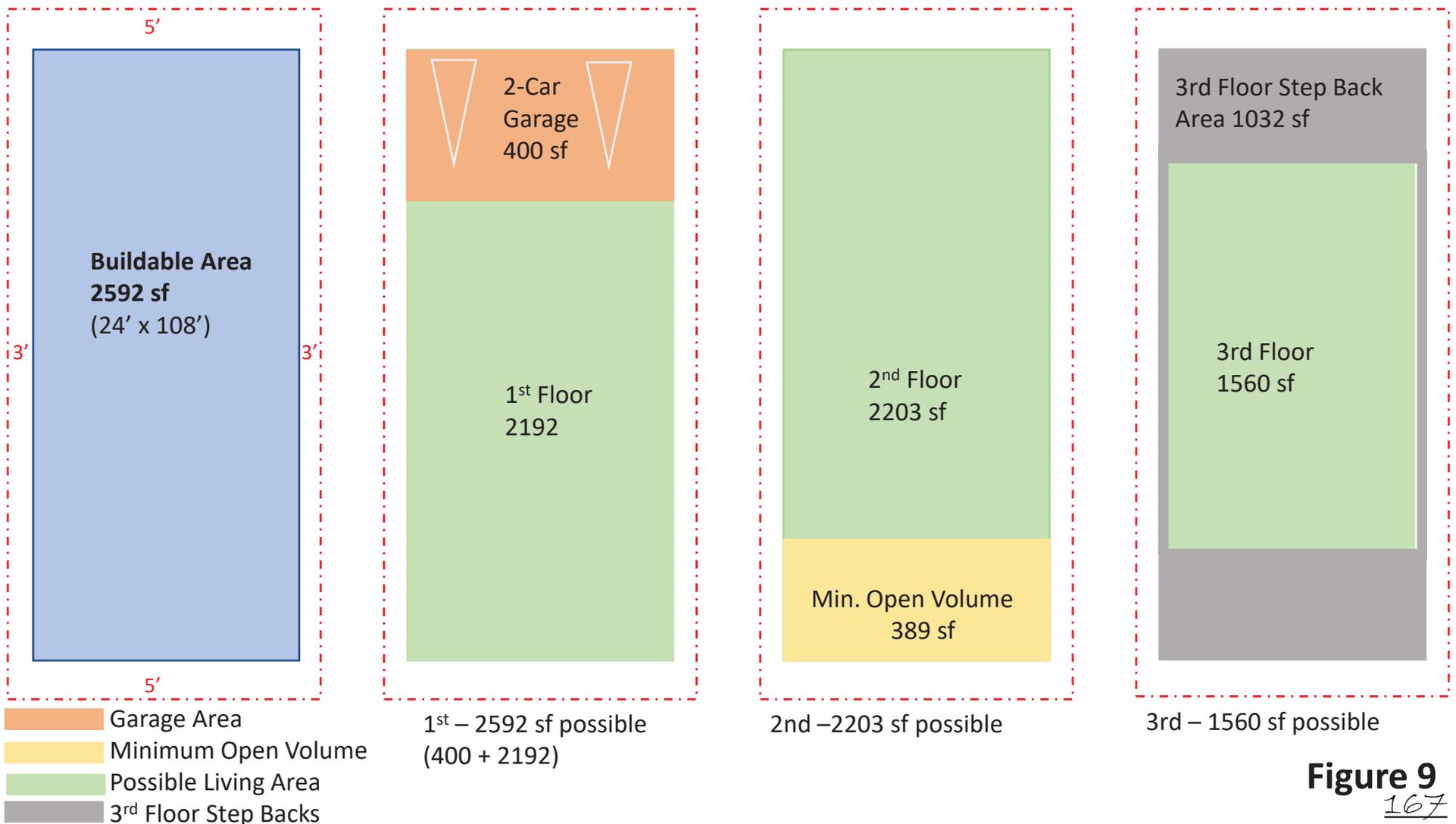


Figure 9
167

Balboa Peninsula R-2 25' wide lot (Duplex Example): 25' x 95' = 2,375 sf

Buildable Area: 19' x 80' = 1,520 sf

Maximum Floor Area Limit (FAL formula): 1.5 x Buildable Area

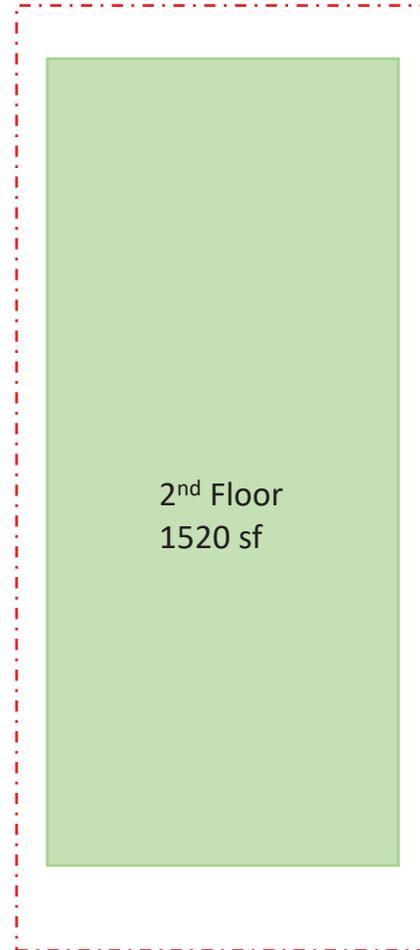
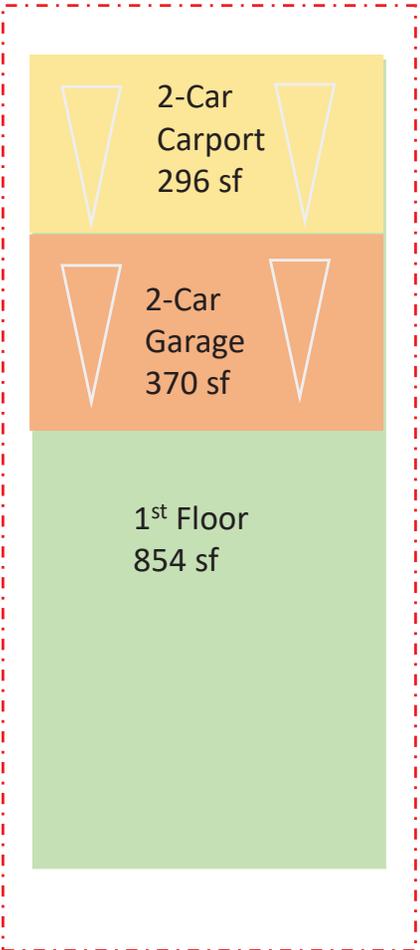
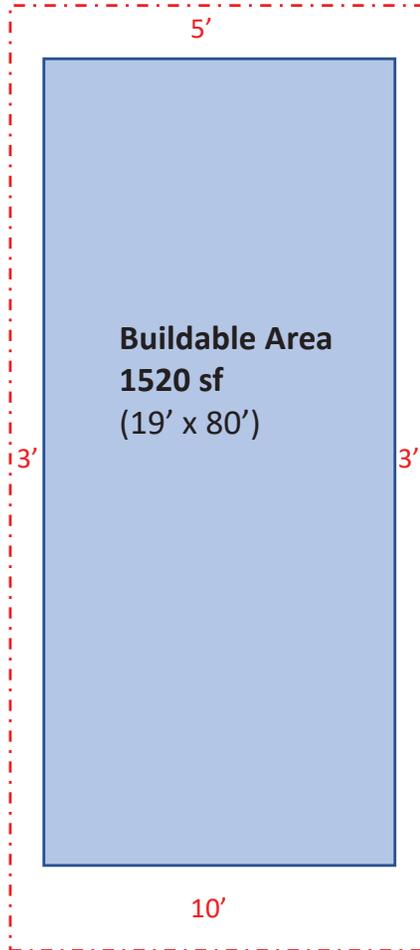
Maximum Floor Area Allowed: 3,040 sf

Proposed New Standards:

Third floor step backs (15 feet front and rear)

1 st Floor	1224 sf
2 nd Floor	1520 sf
3 rd Floor	950 sf
Total Possible	3694 sf

Total Allowed 3040 sf
Result- No loss of intensity



- Garage Area
- Possible Living Area
- Required Step Backs

1st – 1224 sf possible
(370 + 854)

2nd – 1520 sf possible

3rd – 950 sf possible

Figure 10
168