



## 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](mailto: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

INTENTIONALLY BLANK PAGE

- 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.

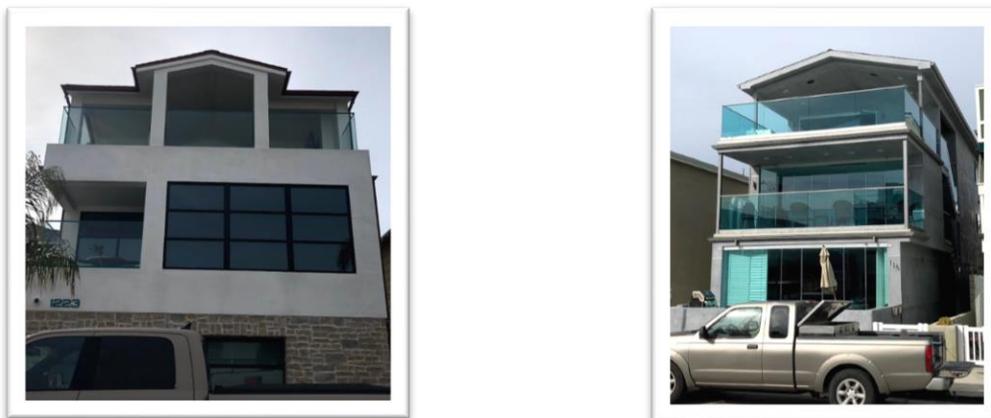
## **INTRODUCTION**

### ***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 backs<sup>1</sup> 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).

---

<sup>1</sup> 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.

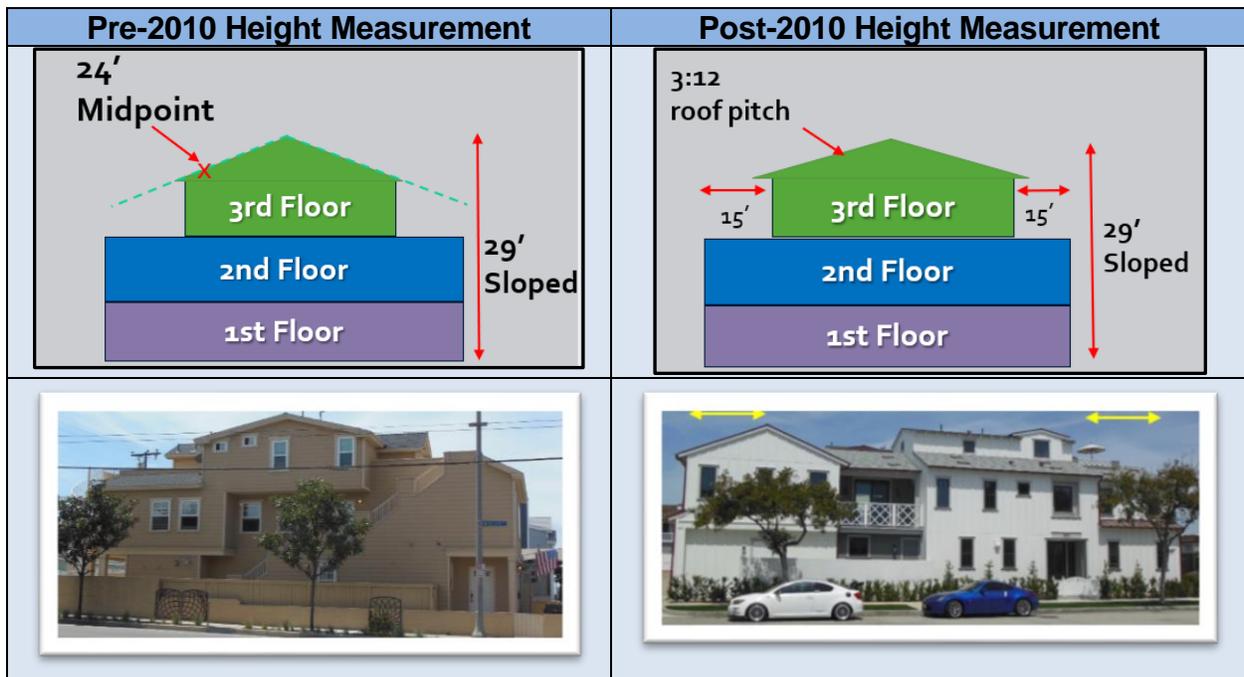


Figure 2. Comparison of building height measurements

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.

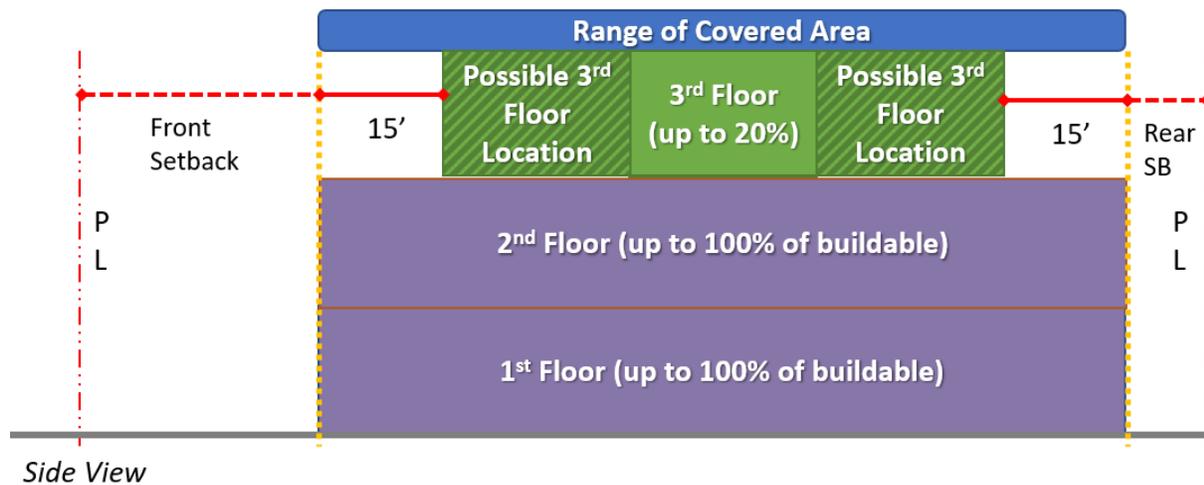


Figure 3. Current third floor regulations

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.

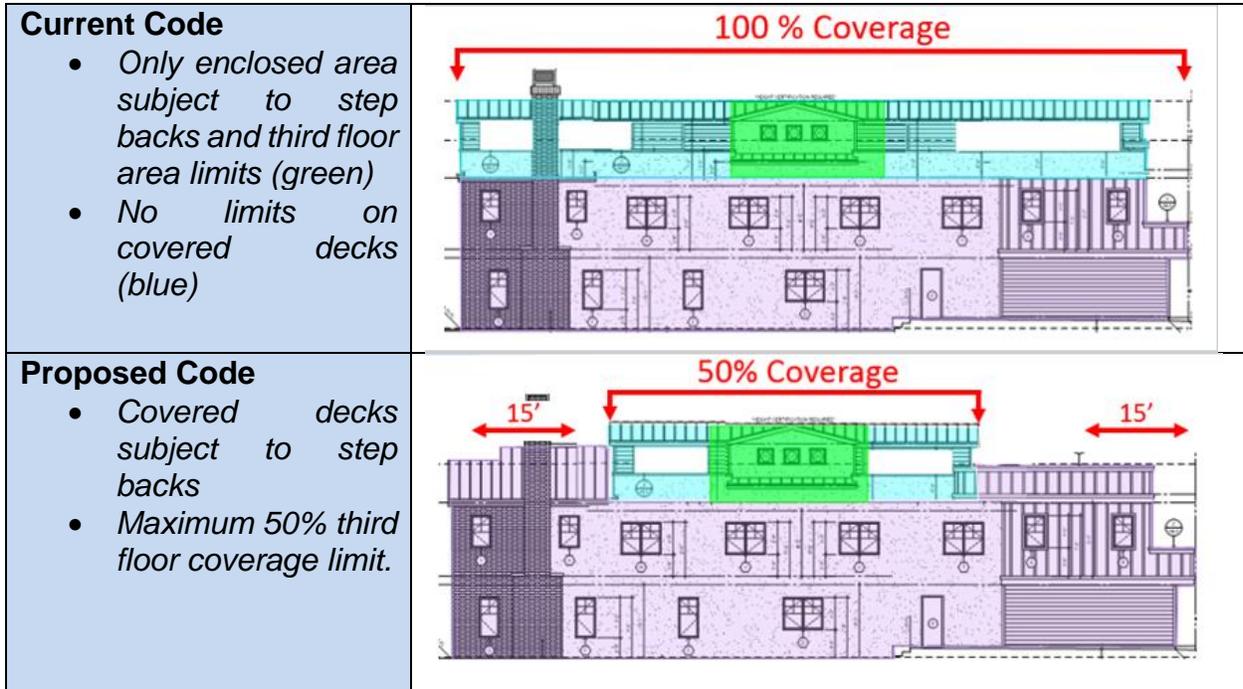


Figure 4. Comparison of current and proposed third floor regulations



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="203 1052 488 1123"><b>No side step back applied</b></p>	
 <p data-bbox="203 1598 488 1669"><b>2-foot side step back applied</b></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

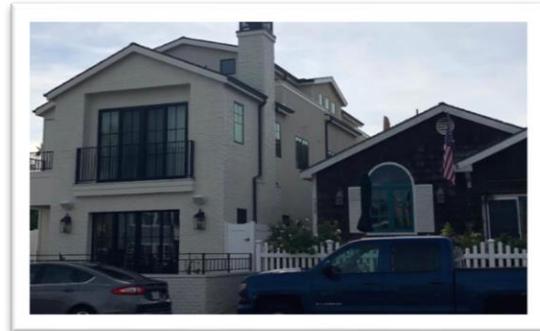


Figure 8. Examples of desired outcome with side step backs applied

### **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.

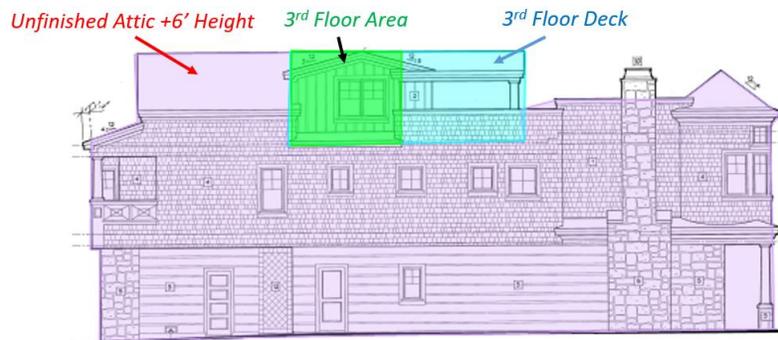


Figure 9 - Bulk associated with large attics

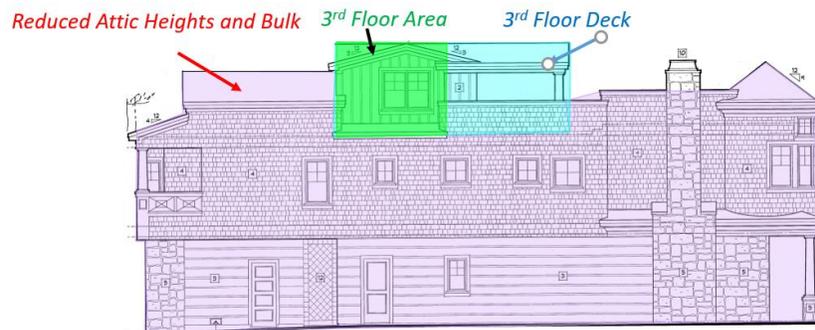


Figure 10 - Desired Outcome of Revised Definition

**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.

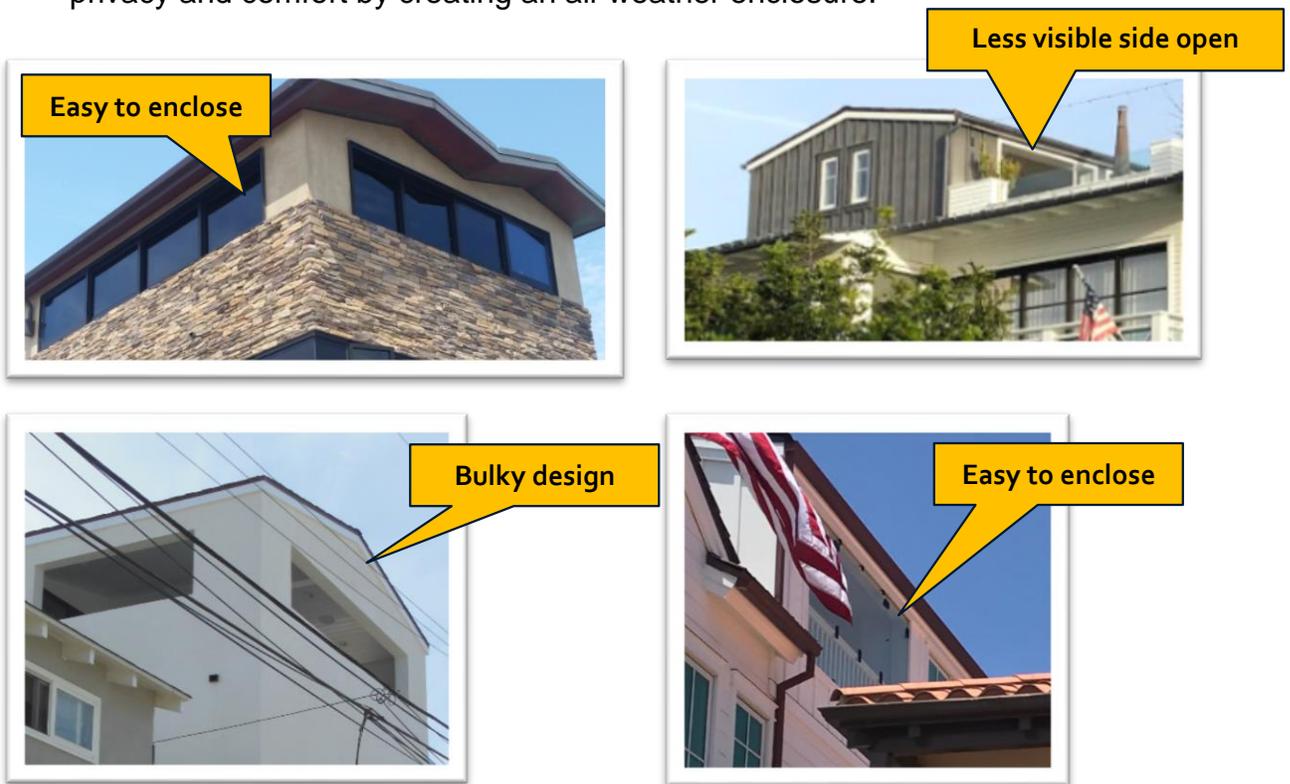


Figure 11. Examples of covered decks and patios designs under current code

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.

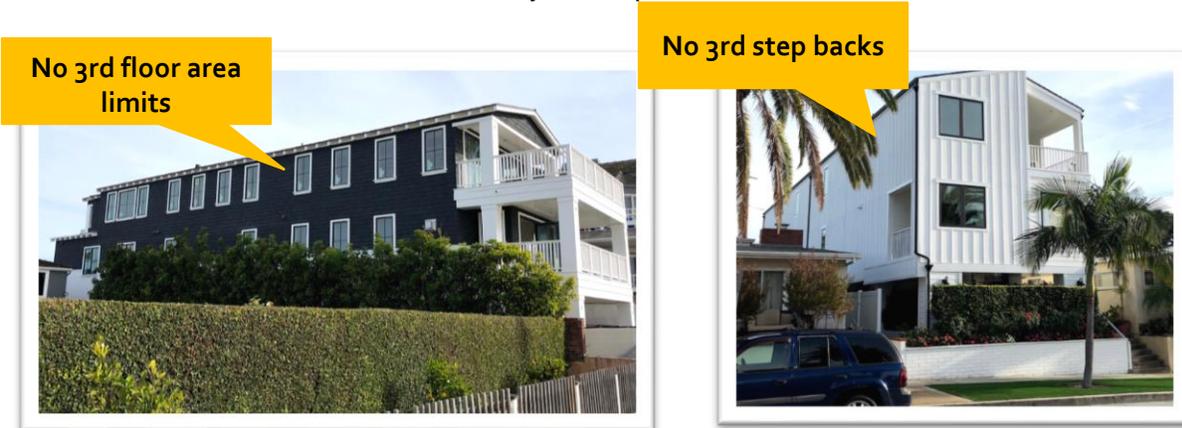


Figure 13. Examples of two-unit development in RM zone with no third floor step backs

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 27<sup>th</sup> 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 they 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

INTENTIONALLY BLANK PAGE

# **Attachment No. PC 1**

Draft Resolution - Title 20 Zoning Code  
Amendments

INTENTIONALLY BLANK PAGE

## RESOLUTION NO. PC2020-013

### **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 subject amendment under Resolution No. 2019-43 authorizing staff to investigate code revisions to reduce third floor mass and overall building bulk associated with single-unit and two-unit developments.
4. On May 28, 2019, the City Council initiated the remaining portion of the subject amendment under Resolution No. 2019-45 authorizing staff to initiate code revisions to restrict single-unit and two-unit dwellings developed on lots zoned for 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 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. 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 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 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 or to single-unit 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 (Senate Bill 330, Skinner. 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.

**SECTION 4. DECISION.**

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

1. The Planning Commission finds the proposed code amendments are not a projects 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 7TH DAY OF MAY, 2020.**

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: \_\_\_\_\_  
Peter Koetting, Chairman

BY: \_\_\_\_\_  
Lee Lowrey, 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**

<b>Development Feature</b>	<b>RM</b>	<b>RMD</b>	<b>RM-6,000</b>	<b>Additional Requirements</b>
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 in subsection (A)(2) of this section.
2. **Exceptions.** This section does not apply or shall be limited in its application to:
  - a. R-1-6,000, R-1-7,200, R-1-10,000, RMD, and RM-6000 Zoning Districts;
  - b. 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 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 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.

- 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.

**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

INTENTIONALLY BLANK PAGE

## RESOLUTION NO. PC2020-014

### **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 that portion of the coastal zone within its jurisdiction.
2. In 2005, the City of Newport Beach (“City”) adopted the City of Newport Beach Local Coastal Program Coastal Land Use Plan (“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. 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”), drafts of LC2019-006 were 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 public hearing was held by the Planning Commission on May 7, 2010, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with the California Government Code Section 54950 *et seq.* (“Ralph M. Brown Act”) Chapter 21.62 (Public Hearings) of the NBMC and Section 13515 of the California Code of Regulations.

Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing.

## SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

The LCP Amendment is not a project subject to the California Environmental Quality Act (“CEQA”) in accordance with Section 21065 of the California Public Resources Code and Sections 15060 (c)(2), 15060 (c)(3), and 15378 of the California Code of Regulations Title 14, Division 6, Chapter 3 (“CEQA Guidelines”). The LCP Amendment is also exempt pursuant to CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Lastly, pursuant to CEQA Guidelines Section 15265(a)(1), local governments are 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 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 units or more.
4. The LCP Amendments 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 Amendments, 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 Amendments are 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 are 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 7<sup>TH</sup> DAY OF MAY, 2020.**

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: \_\_\_\_\_  
Peter Koetting, Chairman

BY: \_\_\_\_\_  
Lee Lowrey, Secretary

**EXHIBIT “A”**

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

**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.

INTENTIONALLY BLANK PAGE

## **Attachment No. PC 3**

April 23, 2019, City Council Study Session  
Minutes

INTENTIONALLY BLANK PAGE

# 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.

**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.

INTENTIONALLY BLANK PAGE

# **Attachment No. PC 4**

City Council Resolution No. 2019-43

INTENTIONALLY BLANK PAGE

**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 14<sup>TH</sup> 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 14<sup>th</sup> 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 15<sup>th</sup> day of May, 2019.



\_\_\_\_\_  
Leilani I. Brown  
City Clerk  
Newport Beach, California



INTENTIONALLY BLANK PAGE

# **Attachment No. PC 5**

City Council Resolution No. 2019-45

INTENTIONALLY BLANK PAGE

**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.

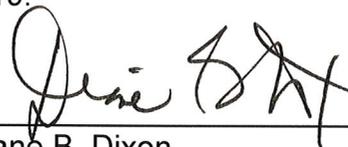
**Section 2:** If any section, subsection, sentence, clause or phrase of this resolution is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would 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 28<sup>TH</sup> 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 28<sup>th</sup> 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 29<sup>th</sup> day of May, 2019.



---

Leilani I. Brown  
City Clerk  
Newport Beach, California



INTENTIONALLY BLANK PAGE

# **Attachment No. PC 6**

Redline    Strikeout    Version    of  
Amendments

INTENTIONALLY BLANK PAGE

**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)**

<b>Development Feature</b>	<b>RM</b>	<b>RMD</b>	<b>RM-6,000</b>	<b>Additional Requirements</b>
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 <a href="#">20.30.110</a> (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 <a href="#">20.48.180</a> (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:	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.
Abutting 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 <a href="#">20.28.040</a> (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 <a href="#">20.30.060(C)</a> (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 <a href="#">20.30.060</a> (C) (Increase in Height Limit)
Open Space	Minimum required open space <a href="#">(applicable to 3 or more units)</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.	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.	<a href="#">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)</a> . <del>See Section 20.48.180 (Residential Development Standards and Design Criteria) for R-2 open space standards.</del>  The minimum dimension is for length and width.
Bluffs	See Section <a href="#">20.28.040</a> (Bluff (B) Overlay District).			
Fencing	See Section <a href="#">20.30.040</a> (Fences, Hedges, Walls, and Retaining Walls).			
Landscaping	See Chapter <a href="#">20.36</a> (Landscaping Standards).			
Lighting	See Section <a href="#">20.30.070</a> (Outdoor Lighting).			
Parking	See Chapter <a href="#">20.40</a> (Off-Street Parking).			
Satellite Antennas	See Section <a href="#">20.48.190</a> (Satellite Antennas and Amateur Radio Facilities).			
Signs	See Chapter <a href="#">20.42</a> (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**

<b>Development Feature</b>	<b>RM</b>	<b>RM-6,000</b>	<b>Additional Requirements</b>
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 <a href="#">21.30.110</a> (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 <a href="#">21.28.040</a> (Bluff (B) Overlay District).		
Canyon face setback	As provided in Section <a href="#">21.28.050</a> (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 <a href="#">21.30.015(D)</a> (Waterfront Development) and <a href="#">21.30.015(E)</a> (Development in Shoreline Hazardous Areas).		
Height (5)	Maximum height of structures without discretionary approval. See Section <a href="#">21.30.060(C)</a> (Increase in Height Limit) for possible increase in height limit.		
Flat roof	28 ft.	28 ft.	See Section <a href="#">21.30.060(C)</a> (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**

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

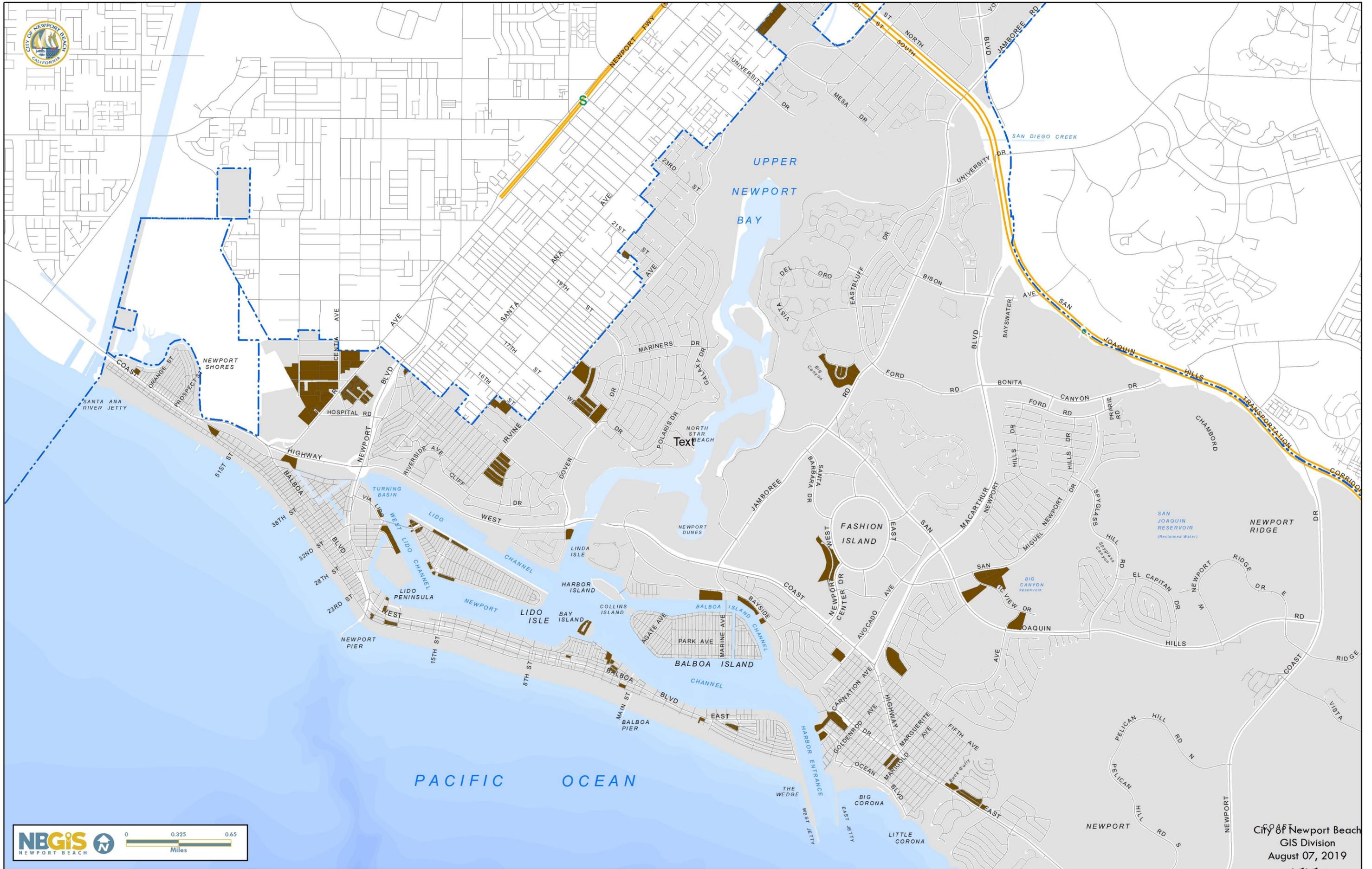
iii. Parking structures associated with an allowed use within the same development.

INTENTIONALLY BLANK PAGE

# **Attachment No. PC 7**

Map of Multi-Unit Residential (RM) Lots

INTENTIONALLY BLANK PAGE



City of Newport Beach  
GIS Division  
August 07, 2019

INTENTIONALLY BLANK PAGE

# **Attachment No. PC 8**

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

INTENTIONALLY BLANK PAGE



### Legend

- R-2 Lots 25 ft or Less (584 - 15%)
- R-2 Lots greater than 25 feet (3,207 - 85%)

Total Lots: 3,791

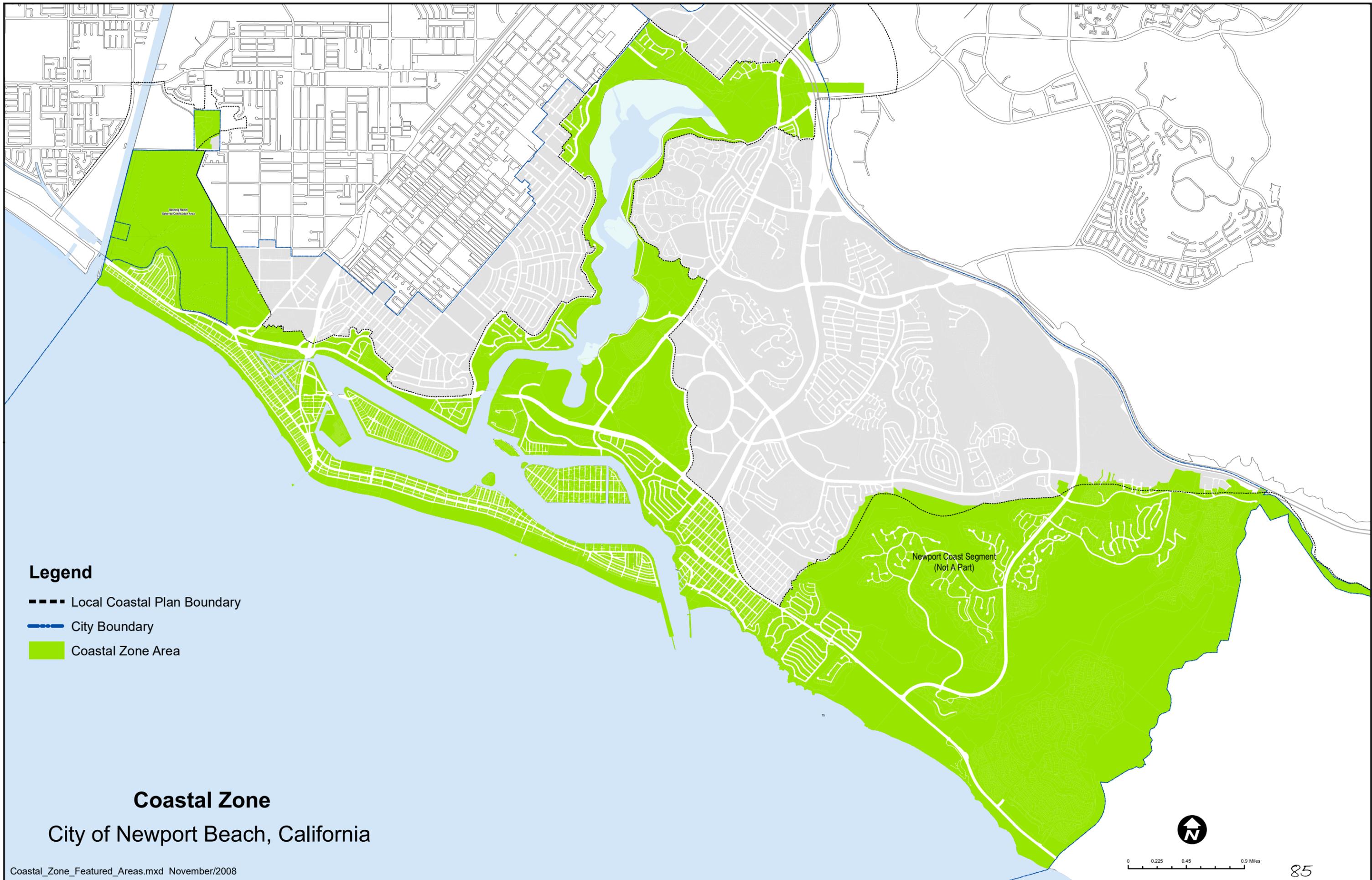


INTENTIONALLY BLANK PAGE

# **Attachment No. PC 9**

Coastal Zone Map

INTENTIONALLY BLANK PAGE



**Legend**

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

**Coastal Zone**

City of Newport Beach, California



0 0.225 0.45 0.9 Miles

INTENTIONALLY BLANK PAGE

# **Attachment No. PC 10**

September 10, 2019, City Council Minutes

INTENTIONALLY BLANK PAGE

# 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

INTENTIONALLY BLANK PAGE

# **Attachment No. PC 11**

Planning Commission Correspondence

INTENTIONALLY BLANK PAGE

24 April, 2020

City of Newport Planning Commission

Re:PA 2019-070- 3rd story amendments

To whom it may concern,

I am relieved to see the City take the first step in attempting to mitigate the negative effects of the current third story guidelines. I have worked as a design professional on many projects over the last 40 years in Newport Beach. I also have owned a home in town for the last 30 years. At the urging of many of my neighbors and clients that reside on Peninsula Point, I have been actively attending the community workshops that the Planning department was sponsoring to evaluate the current massing problems we are experiencing.

The proliferation of the third story mass has adversely affected the character and value of many properties including my own. It has taken away natural wind patterns thus necessitating the need for more Air conditioning in the Summer. It has blocked much needed sunlight which has increased the need for more heat in the Winter. And, most importantly, it has virtually eliminated the character that brought most residents to our neighborhoods in the first place. Furthermore, I have personally been hired to design mitigation additions to bring back privacy lost from neighbors' third story structures looming over a given property. This domino effect is clearly counter productive towards maintaining an overall scale in our neighborhoods.

As a designer, I am all too familiar with the nuanced wording of the third story guidelines. The third story rule was intended to reduce some of the mass by requiring it to be 15' from the front and rear setbacks. However, the error was that it did not specify covered patios. Clearly, this was an oversight because the advent of these roofs over patios did nothing to reduce mass and help to maintain neighbors' natural light and wind patterns. Moreover, many of these approved covered roofs were then closed in and illegally converted into living space. This is why I have argued about the absurdity of the third story guidelines for years.

The real issue isn't actually square footage, it is massing. My argument from day one was to create a massing envelope for each property thus ensuring that each neighbor can retain some meaningful amount of sunlight and air circulation. During the workshops and behind closed doors I argued and lobbied for this effectively hoping for a maximum perimeter height of 22' with all four sides increasing at a 45 degree angle until the maximum height of 29' was reached. No square footage limitation within that envelope. Simple! Easy to administer and a huge boost to preserving light, wind, and character. Sadly that is not what is being proposed. Regardless, what the Planning Staff is proposing is a compromise solution based on many public meetings based on lots of input.

The proposal to eliminate covered patios within the first 15' of the rear and front setbacks along with counting all covered areas as square footage will provide meaningful relief to our

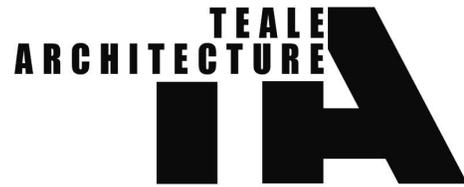
neighborhoods. We are not proposing a reduction in allowable square footage on a lot. That hasn't changed. Therefore we haven't reduced the value of such properties. Rather, we are inching towards preserving the value of the existing properties.

Myself along with many of my neighbors strongly urge you to approve this amendment as an initial step towards preserving our neighborhoods..

Sincerely

Mark Becker  
Mark Becker Incorporated  
410 Belvue Lane,  
Newport Beach, CA  
92661  
[mbecker@markbecker.com](mailto:mbecker@markbecker.com)  
510-589-5547

2900 Bristol St.  
Building A, Suite 203  
Costa Mesa, CA 92626  
Tel: 949.975.0123  
www.tealearchitecture.com



April 28, 2020

To: Planning Commission – City of Newport Beach

Re: PA2019-070

As an architect and owner of Teale Architecture we have designed over 20 houses in Newport Beach per year, I support the Residential Design Standards and LCP Amendments developed by the City Planning Staff

The mass and bulk of homes in some residential zones impact neighbors and the proposed revisions will mitigate these impacts while not presenting an undue hardship to those who have not yet developed their properties.

Staff has met with me and other architects to get a clear understanding of the architectural concerns and implications. Staff has taken into consideration the input that I have given.

My areas of concern were related to covered roof deck restrictions and deck restrictions. Should Planning Commission decide to count covered roof decks as part of the build able area limit it would effectively eliminate them. The covered roof deck restrictions proposed still allow covered roof decks to occur which are a valuable outdoor space for the owners. The proposal by staff is reasonable and the additional setbacks, size limitations and the opening requirements will reduce the impact on the neighbors.

I am also concerned about requiring decks (2<sup>nd</sup> floor) to be open on 2 sides because they will be difficult to incorporate in the design since they can only be located in the very front or the very back of the building.

I support the proposal as presented by staff.  
Thank you for your time and consideration.

Regards,

A handwritten signature in blue ink, appearing to read "Mark Teale", written in a cursive style.

Mark Teale, Architect.  
C-22162

**From:** Jurjis, Seimone  
**Sent:** Tuesday, April 28, 2020 8:54 AM  
**To:** Murillo, Jaime; Campbell, Jim  
**Subject:** FW: Local Coastal Program Amendment

---

**From:** Donabrams <[don@abramscoastal.com](mailto:don@abramscoastal.com)>  
**Sent:** Monday, April 27, 2020 10:40 AM  
**To:** Ian Harrison <[ian@ianharrisonarchitect.com](mailto:ian@ianharrisonarchitect.com)>; Dixon, Diane <[ddixon@newportbeachca.gov](mailto:ddixon@newportbeachca.gov)>; Avery, Brad <[bavery@newportbeachca.gov](mailto:bavery@newportbeachca.gov)>; Duffield, Duffy <[dduffield@newportbeachca.gov](mailto:dduffield@newportbeachca.gov)>; Muldoon, Kevin <[kmuldoon@newportbeachca.gov](mailto:kmuldoon@newportbeachca.gov)>; Herdman, Jeff <[jherdman@newportbeachca.gov](mailto:jherdman@newportbeachca.gov)>; clerk; Brenner, Joy <[JBrenner@newportbeachca.gov](mailto:JBrenner@newportbeachca.gov)>; O'Neill, William <[woneill@newportbeachca.gov](mailto:woneill@newportbeachca.gov)>; Koetting, Peter <[pkoeetting@newportbeachca.gov](mailto:pkoeetting@newportbeachca.gov)>; Weigand, Erik <[eweigand@newportbeachca.gov](mailto:eweigand@newportbeachca.gov)>; Lowrey, Lee <[llowrey@newportbeachca.gov](mailto:llowrey@newportbeachca.gov)>; Ellmore, Curtis <[CEllmore@newportbeachca.gov](mailto:CEllmore@newportbeachca.gov)>; Klaustermeier, Sarah <[sklaustermeier@newportbeachca.gov](mailto:sklaustermeier@newportbeachca.gov)>; Rosene, Mark <[mrosene@newportbeachca.gov](mailto:mrosene@newportbeachca.gov)>; Jurjis, Seimone <[sjurjis@newportbeachca.gov](mailto:sjurjis@newportbeachca.gov)>; [brionj@bj-inc.com](mailto:brionj@bj-inc.com); Chris Brandon <[chris@brandonarchitects.com](mailto:chris@brandonarchitects.com)>; Bill Guidero <[guiderodesign@gmail.com](mailto:guiderodesign@gmail.com)>  
**Subject:** Local Coastal Program Amendment

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

Dear City Council and City Planning Commission Members and City Staff:

I would like to second what Ian Harrison said below and go one step further: This Amendment is wholly unnecessary. The third floor roof decks that have been designed and built in recent years are an enhancement to the community. As usual, there are a few people in the City who don't care for them, but that is not a reason to overhaul the code. With all the problems facing our City at this moment, I believe this is one of the last topics that should be considered.

Thank you,  
Don



**DONALD L. ABRAMS**

Broker BRE#01234323

C 714.325.9055

O 949.675.4822



On Apr 27, 2020, at 9:59 AM, Ian Harrison <[ian@ianharrisonarchitect.com](mailto:ian@ianharrisonarchitect.com)> wrote:

City of Newport Beach,

I would like to strongly suggest the upcoming hearing for the Local Coastal Program Amendment be postponed until the city is open for business again. I am getting the feeling from many people in the community that this amendment is being railroaded through while there is no face-to-face communication with the city to get a true representation of the people of Newport Beach.

The fact that the Council meeting is already scheduled prior to the Planning Commission meeting hearing seems very suspect and a forgone conclusion that there is no alternate views of this amendment.

There is no life threatening or safety reason that this amendment needs to be pushed through now and not wait for a full and open review where those who want can openly express their views.

Thank you for your consideration,

Ian

Ian Harrison, Architect  
949-887-4534

**From:** Kathy Brown <thebrown5@aol.com>  
**Sent:** Wednesday, April 29, 2020 12:28 PM  
**To:** Murillo, Jaime  
**Subject:** Third Story guidelines

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

My name is Kathy Brown and I am a resident of the Balboa Peninsula Point. My address is 1706 Miramar, Newport Beach CA. I am emailing you to show my support of Mark Becker and his views in regards to the 3rd Story Guidelines. I copied his letter below. Please contact me if any additional information is necessary.

Thank you,  
Kathy Brown  
714 345-6033  
[thebrown5@aol.com](mailto:thebrown5@aol.com)

City of Newport Planning Commission

Re:PA 2019-070- 3rd story amendments

To whom it may concern,

I am relieved to see the City take the first step in attempting to mitigate the negative effects of the current third story guidelines. I have worked as a design professional on many projects over the last 40 years in Newport Beach. I also have owned a home in town for the last 30 years. At the urging of many of my neighbors and clients that reside on Peninsula Point, I have been actively attending the community workshops that the Planning department was sponsoring to evaluate the current massing problems we are experiencing.

The proliferation of the third story mass has adversely affected the character and value of many properties including my own. It has taken away natural wind patterns thus necessitating the need for more Air conditioning in the Summer. It has blocked much needed sunlight which has increased the need for more heat in the Winter. And, most importantly, it has virtually eliminated the character that brought most residents to our neighborhoods in the first place. Furthermore, I have

personally been hired to design mitigation additions to bring back privacy lost from neighbors' third story structures looming over a given property. This domino effect is clearly counter productive towards maintaining an overall scale in our neighborhoods.

As a designer, I am all too familiar with the nuanced wording of the third story guidelines. The third story rule was intended to reduce some of the mass by requiring it to be 15' from the front and rear setbacks. However, the error was that it did not specify covered patios. Clearly, this was an oversight because the advent of these roofs over patios did nothing to reduce mass and help to maintain neighbors' natural light and wind patterns. Moreover, many of these approved covered roofs were then closed in and illegally converted into living space. This is why I have argued about the absurdity of the third story guidelines for years.

The real issue isn't actually square footage, it is massing. My argument from day one was to create a massing envelope for each property thus ensuring that each neighbor can retain some meaningful amount of sunlight and air circulation. During the workshops and behind closed doors I argued and lobbied for this effectively hoping for a maximum perimeter height of 22' with all four sides increasing at a 45 degree angle until the maximum height of 29' was reached. No square footage limitation within that envelope. Simple! Easy to administer and a huge boost to preserving light, wind, and character. Sadly that is not what is being proposed. Regardless, what the Planning Staff is proposing is a compromise solution based on many public meetings based on lots of input.

The proposal to eliminate covered patios within the first 15' of the rear and front setbacks along with counting all covered areas as square footage will provide meaningful relief to our neighborhoods. We are not proposing a reduction in allowable square footage on a lot. That hasn't changed. Therefore we haven't reduced the value of such properties. Rather, we are inching towards preserving the value of the existing properties.

Myself along with many of my neighbors strongly urge you to approve this amendment as an initial step towards preserving our neighborhoods..

Sincerely

Mark Becker Mark Becker Incorporated 410 Belvue Lane, Newport Beach,  
CA 92661 [mbecker@markbecker.com](mailto:mbecker@markbecker.com) 510-589-554

*Timothy C. Collins*

*412 Belvue Ln.  
Newport Beach, CA  
92661*

Mr. Jaime Murillo  
Principal Planner  
Community Development Department  
City of Newport Beach

[jmurillo@newportbeachca.gov](mailto:jmurillo@newportbeachca.gov)

Re: Amendments to Residential Design Standards-Reduce 3rd Story Massing

Dear Jaime,

Please convey to the Planning Commissioners my support for the amendments being proposed for action on May 7, 2020.

Reduction of 3rd story bulk and mass is long overdue and needed to reverse negative impacts upon small lot residential units on the Balboa Peninsula. Our home has experienced a loss of the prevailing westerly breeze and sunlight on to our patio as the result of over massing in new homes surrounding ours.

We specifically support the following minimum features in the proposed code and LCP amendments:

- 1) No covered third story patios within 15 feet of both the front and rear setbacks
- 2) Any covered patio counted in floor area square footage.

We look forward to the final meeting agenda and staff report and will reserve right to further comment.

Very truly yours.

Timothy C. Collins



**From:** Catherine Wolcott <catherinewolcott@hotmail.com>  
**Sent:** Wednesday, April 29, 2020 2:57 PM  
**To:** Murillo, Jaime; Jurjis, Seimone; Jacobs, Carol; Koetting, Peter; Weigand, Erik; Lowrey, Lee; Ellmore, Curtis; Klaustermeier, Sarah; Kleiman, Lauren; Rosene, Mark; Brown, Leilani; Summerhill, Yolanda; Campbell, Jim  
**Cc:** Waite, David P.; Carol Martin; Bill Martin; Joni Martin; Cindy Martin  
**Subject:** Re: Notice of Public Hearing- Residential Design Standards Code and LCP Amendments

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

Good afternoon,

Thank you for providing notice that the proposed development standards amendments that our family has been objecting to for nearly a year is scheduled for a public hearing before the Planning Commission on May 7. I appreciate that staff members are making their best efforts to continue operations in a challenging environment, but I have concerns about holding a public hearing on an issue of this level of importance and controversy in an electronic public hearing format.

If there is one thing yesterday's City Council special meeting demonstrated, it is that the WebEx platform is at best only a partial substitute for public comment and input in a public hearing. While we are still able to submit written comment to the Planning Commission and staff, neither written comment nor an unreliable electronic public comment period is the functional equivalent of being able to speak in the Council Chambers. If our outside legal counsel, other family members, or I do not have the opportunity to convey our point of view to the Planning Commissioners and other members of the public in a face-to-face setting, one important aspect of our due process rights is curtailed. We already made the medically necessary (and it turned out, prudent) decision not to attend the March 9 community outreach meeting on this matter because of the documented community spread of COVID-19. To now have the development standards matter rushed through the Planning Commission when State Executive Order N-33-20 is still in effect, our state is still in Phase One of Governor Newsom's reopening roadmap, and at a time when City Hall is still closed and therefore presumably has not been actively issuing building permits for some time, does not provide sufficient public benefit to balance out the reduction of due process.

When the harm the City is considering is an imminent public health threat and the right the City proposes to curtail to address that harm is only a few days or weeks of public beach access, holding an electronic hearing is justified and the technical difficulties experienced at electronic meetings are not as problematic. When, as here, the matter has been under consideration for over a year and the City proposes to address this clearly non-urgent matter by permanently curtailing vested property rights -- and furthermore, curtailing them in a manner that is directly in conflict with the Housing Crisis Act of 2019 -- the topic is too important to limit public live comment to an echoing WebEx platform.

Thank you for your consideration, as well as your service in a difficult time.

Best regards,

Catherine Martin Wolcott

---

**From:** "Murillo, Jaime" <[JMurillo@newportbeachca.gov](mailto:JMurillo@newportbeachca.gov)>

**Date:** Tuesday, April 28, 2020 at 8:55 AM

**To:** "<Undisclosed recipients:;>"

**Subject:** Notice of Public Hearing- Residential Design Standards Code and LCP Amendments

Thank you for your interest in potential code amendments related to Residential Design Standards. These amendments are intended to reduce bulk and mass associated with future single-unit and two-unit developments. Project details and draft code revisions are currently available for review online at: [www.newportbeachca.gov/residentialdesignstandards](http://www.newportbeachca.gov/residentialdesignstandards)

The Planning Commission is scheduled to review the proposed amendments at their next meeting date on **May 7, 2020** (see attached public hearing notice).

The Agenda, staff report and corresponding documents will be posted to the City's website at [www.newportbeachca.gov/planningcommission](http://www.newportbeachca.gov/planningcommission), by end of business day on Friday, **May 1, 2020**.

If you have any questions please let me know.

Thanks,

Jaime



**JAIME MURILLO, AICP**  
Community Development Department  
Principal Planner  
[jmurillo@newportbeachca.gov](mailto:jmurillo@newportbeachca.gov)  
949-644-3209

**CITY OF NEWPORT BEACH**

100 Civic Center Drive, First Floor Bay C, Newport Beach, California 92660 | [newportbeachca.gov](http://newportbeachca.gov)

