

CALIFORNIA COASTAL COMMISSION

South Coast District Office
301 Ocean Blvd., Suite 300
Long Beach, CA 90802
(562) 590-5071



W18d

LCP AMENDMENT NO. LCP-5-NPB-20-0025-1, Part C (ADUs)

City of Newport Beach

December 15, 2021

Correspondence

Date of comment: December 10, 2021
Date of hearing: December 15, 2021
Agenda Item: **W18d**

California Coastal Commission
c/o Amrita Spencer
301 E. Ocean Blvd, Suite 300
Long Beach, CA, 90802-4830

Re: **City of Newport Beach LCP Amendment No. LCP-5-NPB-20-0025-1, Part C** (ADUs)

Dear Ms. Spencer and Commissioners,

I generally concur with Coastal staff's suggested modifications, and commend them for flagging the many Coastal Act and LCP issues not noticed during the local review.

However, based on the incorrect description of the local review this item received (as detailed in paragraph 2 of the Summary on page 1 of the staff report, and again at the top of page 5), and an incorrect critical exhibit, it looks like Newport Beach City staff does not provide clear information about its LCP amendment process to Coastal staff.

The resulting display of the *wrong* requesting document in Exhibit 1¹ suggests a need to carefully verify that the unofficial redline Coastal staff seems to be relying on (Exhibit 2) accurately reflects the amended language actually sought by the Newport Beach City Council in its official requesting resolution.

While Exhibit 2 *likely* reflects the amendment being requested, Exhibit 1 is *not* the document that requested it. The correct, official document with the language for which certification was requested is Newport Beach Council [Resolution No. 2020-24](#).

As to the local process, the present LCP amendment, along with similar modifications to the City's Zoning Code, was "initiated," as is normal in Newport Beach, by the City Council (not the Planning Commission) on **January 14, 2020**, through their adoption of [Resolution No. 2020-3](#) (which was [Item 5](#) on their consent calendar). That resulted in [posting](#) of initial [staff-recommended amendment language](#) on February 14, which was reviewed and, apparently with some modifications, recommended for approval by the Planning Commission on **February 20** (as their [Item 4](#)). I (and another resident) submitted [comments](#) to the Planning Commission, some of which may have prompted modifications.

The Council action on **March 10, 2020**, alluded to in the present staff report, consisted of two parts: (1) the *introduction* of [Ordinance No. 2020-9](#) amending the City's Zoning Code, and (2) the *adoption* of [Resolution No. 2020-24](#) forwarding the requested LCP amendment to the CCC for its certification. [Comments](#), which may or may not have been forwarded to Commission staff, were submitted by myself and others, and City staff proposed more [last-minute changes](#).

¹ That Exhibit 1 is the wrong document should be evident since it says it is an ordinance, not a resolution, and it says it is amending [Title 20](#) of the Municipal Code, not the LCP-IP (which is [Title 21](#)). Moreover, the City's redlines cannot be relied on to correctly exhibit changes being made. Usually they do, but they sometimes reflect a different or unused draft. For example, on page 15, the request for Subsection H.2 is shown in redline as "*shall not be rented for periods of less than thirty (30) days or less.*" Examination of [page 12 of Resolution 2020-24](#) shows the "*less than*" is supposed to be stricken.

The Council action on **March 24**, which the present staff report says was the adoption of Exhibit 1, was actually the second reading of Ordinance No. 2020-9 – which, although presented as Exhibit, was *not* the LCP amendment request. The confusion is compounded in the first paragraph at the top of page 5, which refers to Exhibit 1 as the “Cottage Preservation Amendment” -- which it also is not.

Ordinance No. 2020-9 (shown as Exhibit) was a separate action and is not being presented to the CCC for certification, although according to its [Section 7](#), its applicability within the Coastal Zone (but not elsewhere) was contingent upon certification of the amendments to the LCP proposed by Resolution No. 2020-24. Nothing directly affecting the LCP happened on March 24.

Beyond this, the present staff report says (bottom of page 1 and top of page 2) this request “*is consistent with the procedural requirements of the Coastal Act and the regulations which govern such proposals (Sections 30510 and 30514 of the Coastal Act, and Sections 13551, 13552 and 13553 of Title 14 of the California Code of Regulations).*” As I have pointed out with past Newport Beach LCP amendment requests, that is questionable for in [14 CCR § 13552](#) cites [14 CCR § 13515](#), which requires drafts to be made available for review at various locations “*as soon as such drafts are available, but at a minimum at least six (6) weeks prior to any final action on the documents by the local government.*” Newport Beach complies only with staff’s initial draft, and does *not* post subsequent drafts even at the [location](#) previously mentioned. Instead, it provides revised drafts only with the agenda materials posted a few days before the public hearings. This can cause considerable confusion as to what is being commented on at any particular time.

The present staff report also appears to omit an explanation of the long delay between those local review actions and current CCC hearing. According to [Item W12b](#) at the CCC’s November 18, 2020, meeting, CCC staff had deemed the request complete on October 30, 2020, but asked for a one-year extension.

Yours sincerely,



James M. Mosher, Ph.D.
2210 Private Road
Newport Beach, CA. 92660

Additional Specific Comments

1. **Page 1**, SUMMARY, paragraph 2: If a complete history is not needed, I would suggest something like “*The Newport Beach Planning Commission held a public hearing on the ADU Amendment on February 20, 2020, ~~and the, The~~ Newport Beach City Council held a public hearing on March 10, 2020, ~~to initiate the LCP Amendment. The City Council at which it adopted City Council Resolution No. 2020-924 on March 24, 2020,~~ authorizing City staff to submit the LCP Amendment to the Coastal Commission (Exhibit 1).*” [The correct Exhibit 1 needs to be provided, as well.]
2. **Page 5**, paragraph 1: I would suggest “*The Newport Beach Planning Commission held a public hearing on the ~~Cottage Preservation ADU~~ Amendment on February 20, 2020, and the Newport Beach City Council held a public hearing on March 10, 2020, ~~to initiate the LCP Cottage Preservation Amendment. On March 24, 2020, the City Council adopted at which it adopted~~ City Council Resolution No. 2020-924 (Exhibit 1) authorizing City staff to submit the LCP Amendment to the Coastal Commission.*”
3. **Page 8**, Table 21.18-1: The “**P**”s are what Resolution No. 2020-24 proposes, but I believe they are supposed to be “**A**”s as they [currently are](#), and as shown in Tables 21.22-1 and 21.22-2. But see also my [written comments](#) from the March 10, 2020, City Council meeting: I don’t think ADUs and JADUs need to be listed in these tables at all, and it seems attempting to do so only creates inconsistencies in the code.
4. **Page 21**, in the opening paragraph of the modified section C: I believe the “*a*” in “*a Zoning Clearance*” has been incorrectly stricken. But, more importantly, what a “*Zoning Clearance*” might be is not defined in the LCP. It is a mechanism defined only in the City’s Zoning Code, NBMC [Sec. 20.52.100](#), and referred to in the LCP only as an additional non-coastal permit that may be required. Is that the intended meaning here?
5. **Page 21**, in the suggested modification to C.3: I believe “**or**” should be “**and**” as more than one could apply to a given property, and compliance with *all* is required.
6. **Page 21**, in the requested C.3: There is an extra “*is*” that should be deleted.
7. **Page 22**, in the suggested modification to D.1: The words “*otherwise exempt*” are run together.
8. **Page 22**, on the last line: The words “*dwelling unit*” are run together.
9. **Page 23**, end of first “*a*.”: The words “*is proposed*” are run together.
10. **Page 23**, category “*2*.”: This says it applies to “**Detached/Attached**” but the body mentions only “**detached**.”
11. **Page 25**, paragraph “*c*.”: The words “*not abutting*” are run together.
12. **Page 27**, paragraph “*7*.”: The words “*long as*” are run together.
13. **Page 29**, Suggested Modification #7: What are the “*minor clarifying edits*” that CCC staff proposes? Since people may not agree as to what is a clarification not changing the meaning, is this a reference to the changes already shown in Suggested Modifications #1 through #6? Or something else? If it is the latter, how would the City’s codifier possibly know what changes to make if they are not spelled out?