

**CALIFORNIA COASTAL COMMISSION**

SOUTH COAST DISTRICT OFFICE  
301 E. OCEAN BLVD., SUITE 300  
LONG BEACH, CALIFORNIA 90802-4830  
(562) 590-5071 FAX  
WWW.COASTAL.CA.GOV



# TH14

**Prepared November 27, 2024 (for the December 12, 2024 Hearing)**

**To:** Commissioners and Interested Parties  
**From:** Karl Schwing, South Coast District Deputy Director  
**Subject:** **South Coast District Deputy Director's Report for Orange County for December 2024**

The following coastal development permit (CDP) waivers, immaterial CDP amendments, CDP extensions, and Executive Director Concurrence for the South Coast District Office are being reported to the Commission on December 12, 2024. Pursuant to the Commission's procedures, each item has been appropriately noticed as required, and each item is also available for review at the Commission's South Coast District Office in Long Beach. Staff is asking for the Commission's concurrence on the items in the South Coast District Deputy Director's report, and will report any objections received and any other relevant information on these items to the Commission when it considers the report on December 12th.

With respect to the December 12th hearing, interested persons may sign up to address the Commission on items contained in this report prior to the Commission's consideration of this report. The Commission can overturn staff's noticed determinations for some categories of items subject to certain criteria in each case (see individual notices for specific requirements).

**Items being reported on December 12, 2024 (see attached)**

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**Waivers**

- 5-24-0647-W, CA State Parks (San Clemente)
- 5-24-0967-W, RFB Irrevocable Trust (San Clemente)

**CDP Extensions**

- 5-17-0948-E5, DJM Arc Lido, LLC (Newport Beach)
- 5-21-0640-E1, City of Newport Beach (Newport Beach)

**Executive Director Concurrence**

- LCP-5-NPB-23-0019-1 City of Newport Beach (Newport Beach)

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November 20, 2024

## **Coastal Development Permit De Minimis Waiver Coastal Act Section 30624.7**

Based on the project plans and information provided in your permit application for the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit pursuant to Section 13238.1, Title 14, California Code of Regulations. If, at a later date, this information is found to be incorrect or the plans revised, this decision will become invalid; and, any development occurring must cease until a coastal development permit is obtained or any discrepancy is resolved in writing.

**Waiver:** 5-24-0647-W

**Applicant:** California Department of Parks and Recreation (CA State Parks)

**Location:** 225 W. Calafia Ave. (San Clemente State Beach), San Clemente, Orange County (APN: 060-020-12)

**Proposed Development:** Demolition of an existing dilapidated restroom building; construction of a new approximately 1,043 sq. ft. restroom building consisting of 6 unisex accessible showers, 3 standard unisex restrooms, 3 accessible unisex restrooms, and a 5 ft. concrete walkway on all sides of the new building, including accessible paths and ramps leading to the building; installation of 4 temporary restroom facilities during construction resulting in the closure of one RV campsite; temporary closure of one additional RV campsite for construction staging; approximately 120 cu. yds. of grading (cut) with retention of Native American and archeological monitors during all ground disturbing activities; protection of all existing trees in place; and pre-construction nesting bird surveys if work occurs during bird nesting season (February 15th to August 31st).

**Rationale:** The project site is located within San Clemente State Beach approximately 1/5 mile inland of the ocean, seaward of the first public road parallel to the sea. The existing restroom building was built in 1976 and is in need of replacement. The applicant is proposing to install four temporary restroom facilities to maintain adequate facilities for the adjacent campsites. Construction staging along with placement of the temporary restrooms would result in the temporary closure of two RV campsites for the anticipated one year of construction. This maximizes public access as the other alternatives would result in the closure of daily State Beach parking or closure of 27 RV campsites. The applicant proposed to retain Native American and archaeological monitors during all

**Coastal Development Permit De Minimis Waiver**  
5-24-0647-W

ground disturbing activities to protect archaeological, including tribal cultural resources. The applicant will also conduct pre-construction nesting bird surveys if work occurs during the nesting bird season (Feb. 15 to Aug. 31). Should an active nest be found during any survey, the applicants are proposing various measures to minimize harm/harassment to the species, these measures may include, but are not limited to, rescheduling the work, redirection of work, establishment of a no work buffer around the nest, or deploying noise attenuating strategies. Adequate measures to address water quality have been incorporated into the construction of the project, including but not limited to, daily removal and disposal of all construction related debris and covering any temporary on-site stockpiles during the construction phase of the project to prevent runoff and degradation of coastal waters. The proposed project will not prejudice the City's ability to prepare a certified Local Coastal Program and is consistent with the designation in the City's certified Land Use Plan, previous Commission action in the area, and Chapter 3 policies of the Coastal Act.

This waiver will not become effective until reported to the Commission at its **December 11-13, 2024** meeting and the site of the proposed development has been appropriately noticed, pursuant to 13054(b) of the California Code of Regulations. The Notice of Pending Permit shall remain posted at the site until the waiver has been validated and no less than seven days prior to the Commission hearing. If four (4) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

Dr. Kate Huckelbridge  
Executive Director

Emily Greer  
Coastal Program Analyst

cc: Commissioners/File

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LONG BEACH, CALIFORNIA 90802-4830  
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WWW.COASTAL.CA.GOV



November 21, 2024

## **Coastal Development Permit De Minimis Waiver Coastal Act Section 30624.7**

Based on the project plans and information provided in your permit application for the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit pursuant to Section 13238.1, Title 14, California Code of Regulations. If, at a later date, this information is found to be incorrect or the plans revised, this decision will become invalid; and, any development occurring must cease until a coastal development permit is obtained or any discrepancy is resolved in writing.

**Waiver:** 5-24-0967-W

**Applicant:** RFB Irrevocable Trust

**Location:** 4004 Calle Ariana, San Clemente, Orange County (APN: 060-231-87)

**Proposed Development:** Demolition of an existing approximately 2,047 sq. ft. single family residence, including all existing building elements: roofs, walls, slabs and foundations, as well as implementation of best management practices (BMPs) to prevent storm water runoff to the street and bluff including the installation of straw waddles near the sidewalk and along the top of the slope for approximately six months. No grading, recompaction, permanent irrigation, or permanent fencing is proposed.

**Rationale:** The subject site is an approximately 9,600 sq. ft. blufftop lot located in an urbanized neighborhood between the sea and first public road in the private gated community of Cyprus Shore. The lot is designated Residential Low Density (RL) by the City's certified LUP. The Cyprus Shore community, where the subject lot is located, has been impacted by coastal bluff landsliding that began in the fall of 2021. In the fall of 2022, landslide movement re-commenced at the subject site. The landsliding in this area was deemed to be the reactivation of an ancient landslide. The landsliding caused the existing single-family residence to be severely damaged due to the failure of the foundation. Utilities on site were shut off and the building was red tagged by the City of San Clemente in October 2021. In the spring of 2023, the Orange County Transportation Authority (OCTA) installed a grade beam and tieback stabilization system at the toe of the coastal bluff directly seaward of the residence. As a result of this stabilization system, movement of both the coastal bluff and larger ancient landslides has stopped. However, according to the applicant's civil engineer, due to structural damage to the residence, the structure is considered unsafe and at imminent

**Coastal Development Permit De Minimis Waiver**  
5-24-0967-W

risk of collapse and, as a result, may cause risk of life to anyone who might be in the vicinity, therefore the applicant is proposing to demolish the existing single-family residence on site. Adequate measures to address water quality have been incorporated into the demolition, including but not limited to, daily removal and disposal of all construction related debris and properly containing any temporary on-site stockpiles during the construction phase of the project to prevent runoff and degradation of coastal waters. After the demolition the site will be vacant, and no new permanent development is proposed or approved at this hazardous site. The proposed project will not prejudice the City's ability to prepare a certified Local Coastal Program and is consistent with the designation in the City's certified Land Use Plan, previous Commission action in the area, and Chapter 3 policies of the Coastal Act.

This waiver will not become effective until reported to the Commission at its **December 11-13, 2024**, meeting and the site of the proposed development has been appropriately noticed, pursuant to 13054(b) of the California Code of Regulations. The Notice of Pending Permit shall remain posted at the site until the waiver has been validated and no less than seven days prior to the Commission hearing. If four (4) Commissioners object to this waiver of permit requirements, a coastal development permit will be required.

Dr. Kate Huckelbridge  
Executive Director

Emily Greer  
Coastal Program Analyst

cc: Commissioners/File

**CALIFORNIA COASTAL COMMISSION**

SOUTH COAST DISTRICT OFFICE  
301 E. OCEAN BLVD., SUITE 300  
LONG BEACH, CALIFORNIA 90802-4830  
PH (562) 590-5071 FAX (562) 590-5084  
WWW.COASTAL.CA.GOV



November 27, 2024

## **NOTICE OF EXTENSION REQUEST FOR COASTAL DEVELOPMENT PERMIT**

Notice is hereby given that DJM Arc Lido, LLC has applied for a one year extension of Coastal Development Permit No. 5-17-0948 granted by the California Coastal Commission on August 10, 2018.

for: Replacement of a 25-foot long x 3.0-foot wide decked accessway at the bayside (northern) boundary of the project site. The existing deck will be replaced with a 3.5-foot wide deck, including a new 6-inch section cantilevered over the water, resulting in a 25-foot long x 3.5-foot wide accessway segment. The applicant has proposed to offer a public access easement along a 47-foot long segment of this bayfront accessway.

at: 3450 Via Oporto, Newport Beach, Orange County (APN: 423-123-03)

Pursuant to Section 13169 of the Commission Regulations, the Executive Director has determined that there are no changed circumstances affecting the proposed development's consistency with the Coastal Act. The Commission Regulations state that "if no objection is received at the Commission office within ten (10) working days of publishing notice, this determination of consistency shall be conclusive... and the Executive Director shall issue the extension." If an objection is received, the extension application shall be reported to the Commission for possible hearing.

Persons wishing to object or having questions concerning this extension application should contact the district office of the Commission at the above address or phone number.

Sincerely,

Dr. Kate Huckelbridge  
Executive Director

Original on File signed by:

Fernie Sy  
Coastal Program Analyst

cc: Commissioners/File

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WWW.COASTAL.CA.GOV



November 27, 2024

## **NOTICE OF EXTENSION REQUEST FOR COASTAL DEVELOPMENT PERMIT**

Notice is hereby given that the City of Newport Beach has applied for a one- year extension of Coastal Development Permit No. 5-21-0640 granted by the California Coastal Commission on October 14, 2022 for:

Construction of a Confined Aquatic Disposal Facility where dredged sediment unsuitable for open ocean disposal can be contained, including placement of a final 3-foot thick cap layer, deposition of clean sandy sediments along nearshore ocean beaches, and implementation of Operations Management and Monitoring Plan within:

The central portion of Lower Newport Bay between Bay Island, Lido Isle, and Harbor Island, as well as nearshore waters in Newport Beach, Orange County.

Pursuant to Section 13169 of the Commission Regulations, the Executive Director has determined that there are no changed circumstances affecting the proposed development's consistency with the Coastal Act. The Commission Regulations state that "if no objection is received at the Commission office within ten (10) working days of publishing notice, this determination of consistency shall be conclusive... and the Executive Director shall issue the extension." If an objection is received, the extension application shall be reported to the Commission for possible hearing.

Persons wishing to object or having questions concerning this extension application should contact the district office of the Commission at the above address or phone number.

Sincerely,

Dr. Kate Huckelbridge  
Executive Director

Mandy Revell  
Coastal Program Analyst

cc: Commissioners/File

**CALIFORNIA COASTAL COMMISSION**

SOUTH COAST DISTRICT  
301 EAST OCEAN BOULEVARD, SUITE 300  
LONG BEACH, CA 90802-4302  
PHONE: (562) 590-5071  
WEB: WWW.COASTAL.CA.GOV



# TH14

**Prepared November 27, 2024 (for December 12, 2024 Hearing)**

**To:** Coastal Commissioners and Interested Persons

**From:** Kate Huckelbridge, Executive Director  
Karl Schwing, Deputy Director  
Amrita Spencer, Coastal Program Manager  
Mandy Revell, District Supervisor  
Chloe Seifert, Staff Analyst

**Subject: Certification Review for City of Newport Beach LCP Amendment Number LCP-5-NPB-23-0019 (Part A) related to Accessory Dwelling Units**

On July 11, 2024, the California Coastal Commission considered a proposed Newport Beach LCP amendment (LCP-5-NPB-23-0019-1 Part A) to modify the Implementation Plan (IP) of the City's Certified Local Coastal Program (LCP) to update development standards for junior accessory dwelling units and accessory dwelling units (J/ADUs). At that time, and after a public hearing, the Commission conditionally certified the amendment provided it was modified as suggested by the Commission.

On November 12, 2024, the Newport Beach City Council considered the Commission's July 11, 2024, conditional certification that approved a modified version of the LCP amendment, including the suggested modifications (see attachment). On November 12, 2024, the City Council adopted the Ordinance.

The Executive Director has reviewed the City's November 12, 2024, action and has determined that it is legally adequate to meet all of the Commission's conditional certification requirements. The Executive Director will report that determination to the Coastal Commission at the Commission's December meeting on December 12, 2024 as part of the South Coast District Director's Report for Orange County. The Commission meeting starts at 9am on December 11th, and the District Director's Report for Orange County is item number Th14 on the agenda for that day. Interested persons are welcome to submit comments and/or to sign-up to testify to the Commission regarding this matter under that agenda item (see the Commission's website at [www.coastal.ca.gov](http://www.coastal.ca.gov) for further information and instructions to participate in these ways).

Please note that this certification review is not a time to revisit any substantive issues associated with the approval of the subject LCP amendment, as certification review is limited to the question of whether the County adopted the suggested modifications to the LCP amendment approved by the Commission. Please further note that the



Executive Director's determination is not subject to any required concurrence or approval by the Commission, but rather is simply being reported to the Commission as is required by the Commission's regulations in order to allow for the amended LCP to be certified in that form (see Title 14, Division 5.5, Sections 13544 and 13544.5). Upon reporting this item to the Commission in the South Coast District Director's Report for Orange County, the amended LCP will be certified as of that date and time.

**If you have any questions about this LCP amendment certification review process, including questions about how to submit written comments and/or to testify to the Commission, please contact the South Coast District office at (562) 590-5071 and/or [SouthCoast@coastal.ca.gov](mailto:SouthCoast@coastal.ca.gov).**

**Attachment:** Newport Beach City Council's September 24, 2024, Action



**CITY OF NEWPORT BEACH**

100 Civic Center Drive  
Newport Beach, California 92660

949 644-3200

[newportbeachca.gov/communitydevelopment](http://newportbeachca.gov/communitydevelopment)

**VIA ELECTRONIC MAIL AND USPS DELIVERY**

November 18, 2024

Chloe Seifert  
California Coastal Commission  
South Coast District Office  
301 E. Ocean Blvd, Suite 300  
Long Beach, CA, 90802

**Subject: City of Newport Beach LCP Amendment No. LC2021-003 (LCP-5-NPB-23-0019-1 Part A) related to Accessory Dwelling Units**

Dear Chloe,

On November 12, 2024, the City Council of the City of Newport Beach adopted Ordinance No. 2024-28 approving LCP Amendment No. LC2021-003 (LCP-5-NPB-23-0019-1 Part A). The ordinance accepts and incorporates all of the Coastal Commission's suggested modifications. We request a determination by the Executive Director of the Coastal Commission that this action is legally adequate to satisfy the specific requirements of Coastal Commission's July 11, 2024, action on this amendment.

Sincerely,

  
\_\_\_\_\_  
Jaime Murillo, AICP  
Deputy Community Development Director

Attachments:

1. Ordinance No. 2024-28

cc: Mandy Revell, District Supervisor (Email only)

## ORDINANCE NO. 2024-28

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, ADOPTING LOCAL COASTAL PROGRAM AMENDMENT NO. LC2021-003 AS MODIFIED BY THE CALIFORNIA COASTAL COMMISSION TO AMEND TITLE 21 (LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN) OF THE NEWPORT BEACH MUNICIPAL CODE TO IMPLEMENT COUNCIL POLICY K-4 (REDUCING THE BARRIERS TO THE CREATION OF HOUSING) AND NEW STATE LAW REQUIREMENTS RELATING TO ACCESSORY DWELLING UNITS (PA2021-113)**

**WHEREAS**, Section 200 of the City of Newport Beach ("City") Charter vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges or procedures granted or prescribed by any law of the State of California;

**WHEREAS**, 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;

**WHEREAS**, the City adopted the City of Newport Beach Local Coastal Program Coastal Land Use Plan ("Coastal Land Use Plan") in 2005, which has been amended from time to time;

**WHEREAS**, the California Coastal Commission ("Coastal Commission") effectively certified the City's Local Coastal Program Implementation Plan on January 13, 2017, which the City added as 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 on January 30, 2017;

**WHEREAS**, the City Council adopted Resolution No. 2021-18 on March 9, 2021, to add City Council Policy K-4 (Reducing the Barriers of the Creation of Housing), which encourages the development of accessory dwelling units ("ADU") as an important strategy to accommodate future growth and is an integral strategy to help meet the City's Regional Housing Needs Allocation ("RHNA");

**WHEREAS**, the City Council adopted Resolution No. 2021-43 on May 25, 2021, initiating a code amendment to Title 21 to modify regulations relating to the development of ADUs and junior accessory dwelling units ("JADU");

**WHEREAS**, the Planning Commission formed an Ad Hoc Committee on October 7, 2021, to evaluate potential code amendments to encourage new ADU development within the City;

**WHEREAS**, in 2022, the California Legislature adopted SB 897 and AB 2221, amending California Government Code Sections 65852.2 and 65852.22, to impose new limits on a city's ability to regulate ADUs and JADUs;

**WHEREAS**, amendment to Title 21 of the NBMC for the construction of ADUs and JADUs is necessary to comply with the amended provisions of Government Code Sections 66310 through 66342 (formerly 65852.2 and 65852.22) ("LCPA"), and to incorporate the recommendations of the Ad Hoc Committee;

**WHEREAS**, pursuant to Section 13515 (Public Participation and Agency Coordination Procedures) of the California Code of Regulations Title 14, Division 5.5, Chapter 8, Subchapter 2, Article 5 (Public Participation) ("Section 13515"), drafts of LCPA were made available and a Notice of Availability was distributed at least six weeks prior to the anticipated final action date;

**WHEREAS**, the Planning Commission held a public hearing on January 5, 2023, 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 21.62 (Public Hearings) of the NBMC, and. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing;

**WHEREAS**, at the conclusion of the public hearing, the Planning Commission adopted Resolution No. PC2023-005 by a unanimous vote (5 ayes, 0 nays), recommending approval of the LCPA to the City Council;

**WHEREAS**, the City Council held a public hearing on January 24, 2023, 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 Ralph M. Brown Act, Section 13515, and Chapter 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing;

**WHEREAS**, at the conclusion of the hearing, the City Council adopted Resolution No. 2023-8 authorizing submittal of the LCPA to the Coastal Commission by a unanimous vote (7 ayes, 0 nays);

**WHEREAS**, the Coastal Commission denied the LCPA (LCP-5-NPB-23-0019-1 Part A) on July 11, 2024 as submitted and approved it with suggested modifications as being consistent with the California Coastal Act; and

**WHEREAS**, the City Council held a public hearing on October 24, 2024, 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 Ralph M. Brown Act, Section 13515, and Chapter 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing.

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

**Section 1:** The City Council hereby adopts the LCPA and accepts the suggested modifications approved by the Coastal Commission to amend Section 21.48.200 (Accessory Dwelling Units) of the NBMC as set forth in Exhibit "A," and based upon the Findings in Exhibit "B," both of which are attached hereto and incorporated herein by reference.

**Section 2:** The LCP, including this LCPA, will be carried out fully in conformity with the California Coastal Act.

**Section 3:** The recitals provided in this ordinance are true and correct and are incorporated into the substantive part of this ordinance.



**Section 4:** The City Council hereby authorizes City staff to submit this ordinance for a determination by the Executive Director of the Coastal Commission that this action is legally adequate to satisfy the specific requirements of the Coastal Commission's July 11, 2024, action on LCP Amendment Request No. LCP-5-NPB-23-0019-1 Part A (Accessory Dwelling Units).

**Section 5:** This ordinance shall not become effective for thirty days after adoption and until the Executive Director of the Coastal Commission certifies that this ordinance complies with the Coastal Commission's July 11, 2024, action on LCP Amendment Request No. LCP-5-NPB-23-0019-1 Part A (Accessory Dwelling Units).

**Section 6:** If any section, subsection, sentence, clause or phrase of this ordinance 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 ordinance. The City Council hereby declares that it would have passed this ordinance 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 7:** The City Council finds this action is statutorily and categorically exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to Section 21080.17 of the California Public Resources Code and Section 15282(h) of the California Code of Regulations, Title 14, Division 6, Chapter 3 ("CEQA Guidelines") which exempts from the requirements of CEQA, the adoption of an ordinance regarding second units to implement the provisions of Sections 66310 through 66342 (formerly 65852.2 and 65852.22) of the Government Code. Similarly, the ministerial approval of accessory dwelling units is not a project for CEQA purposes, and environmental review is not required prior to approving individual applications.

**Section 8:** Except as expressly modified in this ordinance, all other sections, subsections, terms, clauses and phrases set forth in the NBMC shall remain unchanged and shall be in full force and effect.

**Section 9:** The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the ordinance, or a summary thereof, to be published pursuant to City Charter Section 414 and the same shall become final and effective as provided in Section 5 of this ordinance.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 22nd day of October, 2024, and adopted on the 12th day of November, 2024, by the following vote, to-wit:

AYES: Mayor O'Neill, Mayor Pro Tem Stapleton, Councilmember Avery,  
Councilmember Blom, Councilmember Grant, Councilmember  
Kleiman, Councilmember Weigand

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

  
\_\_\_\_\_  
WILL O'NEILL, MAYOR

**ATTEST:**

  
\_\_\_\_\_  
LEILANI I. BROWN, CITY CLERK



**APPROVED AS TO FORM:**  
CITY ATTORNEY'S OFFICE

  
\_\_\_\_\_  
AARON C. HARP, CITY ATTORNEY

Attachments: Exhibit A - Local Coast Program Amendment (PA2021-113)  
Exhibit B - Findings in Support of LCP Amendment (PA2021-113)

City of Newport Beach

## **EXHIBIT "A"**

### **LOCAL COASTAL PLAN AMENDMENT (PA2021-113)**

**Section 21.48.200 (Accessory Dwelling Units) of the Newport Beach Municipal Code is amended in its entirety to read as follows:**

#### **21.48.200 Accessory Dwelling Units.**

A. Purpose. The purpose of this section is to establish the procedures for the creation of accessory dwelling units and junior accessory dwelling units, as defined in Part 7 (Definitions) of this title and in California Government Code Sections 66310 through 66342, or any successor statute, in areas designated for residential use, including as part of a planned community development plan or specific plan, and to provide development standards to ensure the orderly development of these units in appropriate areas of the City.

B. Effect of Conforming. An accessory dwelling unit or junior accessory dwelling unit that conforms to the requirements in this section shall not be:

1. Deemed to be inconsistent with the Coastal Land Use Plan and coastal zoning district designation for the lot on which the accessory dwelling unit or junior accessory dwelling unit is located;
2. Deemed to exceed the allowable density for the lot on which the accessory dwelling unit or junior accessory dwelling unit is located;
3. Considered in the application of any ordinance, policy, or program to limit residential growth; or
4. Required to correct legally established nonconforming zoning condition(s), building code violation(s), and/or unpermitted structure(s) that do/does not present a threat to public health and safety and is/are not affected by the construction of the accessory dwelling unit or junior accessory dwelling unit; and do/does not raise inconsistency with the coastal resource protection policies of 21.48.200(C)(3). This does not prevent the City from enforcing compliance with applicable building standards in accordance with California Health and Safety Code Section 17980.12.

C. Review Authority. Accessory dwelling units and junior accessory dwelling units shall be approved in any residential or mixed-use zoning district, subject to a building permit and the following conditions:

1. There is an existing or proposed dwelling unit on the lot;



2. The dwelling conforms to the development standards and requirements for accessory dwelling units and/or junior accessory dwelling units as provided in this section;

3. The dwelling conforms to the coastal resource protection development regulations of the Implementation Plan and Coastal Land Use Plan provisions, including Implementation Plan Section 21.28.040 (Bluff (B) Overlay District), Section 21.28.050 (Canyon (C) Overlay District), Section 21.30.100 (Scenic and Visual Quality Protection), or Chapter 21.30B (Habitat Protection); and

4. The building permit shall be considered and approved ministerially, without discretionary review or a hearing, within sixty (60) days from the date that the City determines an application to be complete, unless either:

a. The applicant requests a delay, in which case the sixty (60) day time period is tolled for the period of the requested delay, or

b. In the case of an application for an accessory dwelling unit and/or junior accessory dwelling unit submitted with an application to create a new single-unit dwelling on the lot, the City may delay acting on the accessory dwelling unit and/or junior accessory dwelling application until the City renders a decision on the new single-unit dwelling application.

D. Coastal Development Permits.

1. Application. The applicant shall obtain a coastal development permit, pursuant to Chapter 21.52 (Coastal Development Review Procedures), unless otherwise exempt or excluded from the coastal development permit process pursuant to Section 21.52.035 (Projects Exempt from Coastal Development Permit Requirements) or Section 21.52.045 (Categorical Exclusions).

2. Hearing Exemption. All of the provisions of Chapter 21.52 (Coastal Development Review Procedures) regarding the review and approval of coastal development permits in relation to accessory dwelling units are applicable, except that a public hearing as required by Chapter 21.62 (Public Hearings) shall not be required. Public notice shall be provided as required in Section 21.62.020, except the requirements of Section 21.62.020(A) shall be replaced with a statement that no local public hearing will be held and that written comments on the proposed development may be submitted. Written comments received shall be reviewed by the review authority.

3. Appeal Exemption. Notwithstanding the local appeal provisions of Chapter 21.64 (Appeals and Calls for Review), coastal development permits for accessory dwelling units that are defined as "appealable development" pursuant to Section 21.64.035(A) may be directly appealed to the Coastal Commission in accordance with the provisions of Section 21.64.035 without a discretionary hearing by the Planning Commission or City Council.

E. Maximum Number of Accessory Dwelling Units Allowed. The following is the maximum number of accessory dwelling units allowed on any residential lot. For purposes of this section, "multi-unit dwelling" means a structure or development containing two (2) or more dwelling units. Only one (1) of the categories described below in this subsection may be used per lot.

1. Internal to a Single-Unit or Multi-Unit Dwelling Category. Only one (1) accessory dwelling unit may be permitted on a lot with a proposed or existing single-unit or multi-unit dwelling, subject to the following:

a. The accessory dwelling unit is proposed:

i. Within the space of a proposed single-unit or multi-unit dwelling; or

ii. Within the existing space of an existing single-unit or multi-unit dwelling; or

iii. Within the existing space of an existing accessory structure, plus an addition beyond the physical dimensions of the existing structure of up to one hundred fifty (150) square feet if the expansion is limited to accommodating ingress and egress.

b. The accessory dwelling unit shall have independent exterior access from the single-unit dwelling.

c. Side and rear setbacks comply with Title 9 (Fire Code) and Title 15 (Buildings and Construction).

2. Attached on Lot with Single-Unit or Multi-Unit Dwelling Category. Only one (1) attached, new-construction accessory dwelling unit may be permitted on a lot with a proposed or existing single-unit or multi-unit dwelling.

3. Detached on Lot with Single-Unit or Multi-Unit Dwelling Category. Only one (1) detached new-construction accessory dwelling unit may be permitted on a lot with a proposed or existing single-unit dwelling. Up to two (2) detached new-construction accessory dwelling units may be constructed on a lot that has an existing or proposed multi-unit dwelling. For purposes of this section, a multi-unit development approved and built as a single complex shall be considered one (1) lot, regardless of the number of parcels.

4. Conversion of Multi-Unit Dwelling Category. Multiple accessory dwelling units may be permitted on lots with existing multi-unit dwellings subject to the following:

a. The number of accessory dwelling units shall not exceed twenty-five (25) percent of the existing multi-unit dwellings on the lot. For the purpose of calculating the number of allowable accessory dwelling units, the following shall apply:

i. Previously approved accessory dwelling units shall not count towards the number of existing multi-unit dwellings;

ii. Fractions shall be rounded down to the next lower number of dwelling units, except that at least one accessory dwelling unit shall be allowed; and

iii. For the purposes of this section, multi-unit developments approved and built as a single complex shall be considered one (1) lot, regardless of the number of parcels.

b. The portion of the existing multi-unit dwelling that is to be converted to an accessory dwelling unit is not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages.

F. Maximum Number of Junior Accessory Dwelling Units Allowed. One (1) junior accessory dwelling unit may be permitted on a lot with a proposed or existing single-unit dwelling, subject to the following:

1. The junior accessory dwelling unit is proposed to be attached to, or within the space of, a proposed or existing single-unit dwelling.

2. The junior accessory dwelling unit shall have independent exterior access from the single-unit dwelling and may provide interior access to the single-unit dwelling.

3. Side and rear setbacks comply with Title 9 (Fire Code) and Title 15 (Buildings and Construction).

4. The junior accessory dwelling unit may be constructed in addition to an accessory dwelling unit on the lot with a proposed or existing single-unit dwelling. A junior accessory dwelling unit is not permitted on a lot with a proposed or existing multi-unit dwelling.

G. Development Standards. Except as modified by this subsection, an accessory dwelling unit and/or junior accessory dwelling unit shall conform to all requirements of the underlying residential zoning district, any applicable overlay district, and all other applicable provisions of Title 21 (Local Coastal Program Implementation Plan), including but not limited to height, setback, site coverage, floor area limit, and residential development standards and design criteria.

1. Minimum Lot Area. There shall be no minimum lot area required to establish an accessory dwelling unit and/or junior accessory dwelling unit.

2. Setback Requirements. Accessory dwelling units and junior accessory dwelling units shall comply with the setback requirements applicable to the zoning district, except as noted below:

a. For conversion of existing enclosed floor area, garage, or carport, no additional setback is required, beyond the existing provided setback, unless a greater setback is needed to comply with subsection (C)(3) of this section.

b. For replacement of an existing enclosed structure, garage, or carport, no additional setback is required, beyond the existing setback provided, unless a greater setback is needed to comply with subsection (C)(3) of this section. This provision shall only apply to accessory dwelling units and junior accessory dwelling units that are replacing existing structures within the same footprint and do not exceed the existing structure's size and/or height. For an accessory dwelling unit that will replace a detached garage, the building and demolition permits shall be reviewed and issued concurrently.

c. Attached and detached accessory dwelling units shall provide a minimum setback of four (4) feet from all side property lines and rear property lines not abutting an alley unless the setback requirements of the underlying zoning district are less restrictive.

### 3. Building Height.

a. Internal. Accessory dwelling units and junior accessory dwelling units internal to an existing or proposed single-unit or multi-unit dwelling shall comply with the height limit as required by underlying zoning district.

b. Attached. Accessory dwelling units and junior accessory dwelling units attached to an existing or proposed single-unit or multi-unit dwelling shall comply with the height limit as required by underlying zoning district.

c. Detached accessory dwelling units shall not exceed a height of sixteen (16) feet except as noted below:

i. An accessory dwelling unit constructed on a lot with an existing or proposed multi-unit, multi-story dwelling shall not exceed a height of eighteen (18) feet.

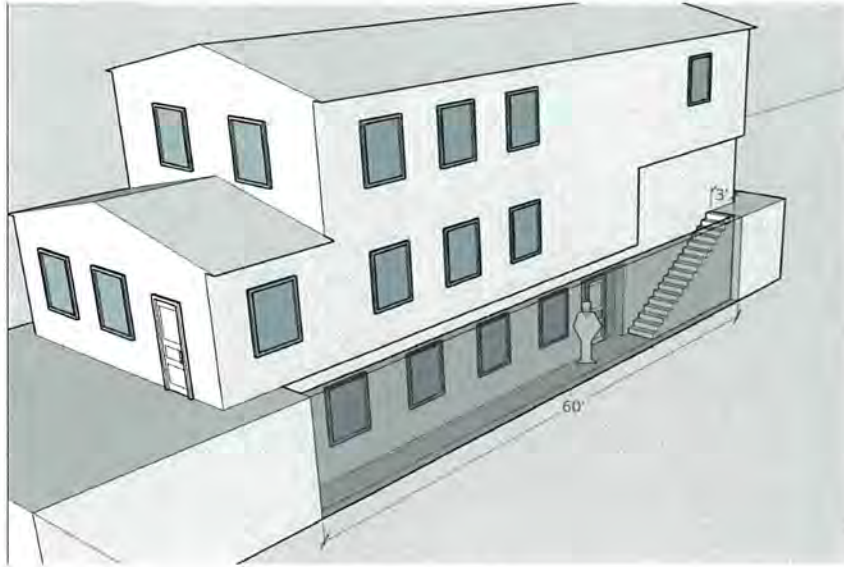
ii. An accessory dwelling unit constructed above a detached garage shall not exceed two (2) stories and the maximum allowable height of the underlying zoning district, provided the accessory dwelling unit meets the minimum setbacks required by underlying zoning district and the principal dwelling unit complies with parking standards set forth in Section 21.40.040.

iii. An accessory dwelling unit constructed on a lot with an existing or proposed single-unit or multi-unit dwelling that is located within one-half mile walking distance of a major transit stop or high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code shall not exceed a height of eighteen (18) feet. An additional two (2) feet in height shall be permitted to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary unit.

### 4. Unit Size.



- a. The maximum size of a detached or attached accessory dwelling unit is eight hundred fifty (850) square feet for a studio or one-bedroom unit and one thousand (1,000) square feet for a two (2) or more bedroom unit.
  - b. Application of the size limitations set forth in subsection (G)(4)(a) of this section shall not apply to an accessory dwelling unit that is converted as part of a proposed or existing space of a principal residence or existing accessory structure.
  - c. Application of development standards, such as floor area limit or site coverage, may further limit the size of the accessory dwelling unit, but in no case shall the front setbacks, floor area limit, open space, or site coverage requirement reduce the accessory dwelling unit to less than eight hundred (800) square feet where there is no other alternative to comply, and only to the extent necessary to construct the accessory dwelling unit.
  - d. The maximum size of a junior accessory dwelling unit shall be five hundred (500) square feet.
  - e. The minimum size of an accessory dwelling unit or junior accessory dwelling unit shall be at least that of an efficiency unit.
5. Walkout Basement Floor Area Limit Exception. The gross floor area of an accessory dwelling unit or junior accessory dwelling shall be excluded from the allowable floor area limit when located below grade within a basement. Daylighting of the basement shall only be permitted where excavation is necessary to provide exterior access to the main surface level and in compliance with the following:
- a. The access passageway, inclusive of any necessary shoring, may encroach into a side setback area;
  - b. The passageway shall be free of obstructions from the ground level to a height of eight (8) feet; and
  - c. The access passageway shall measure a minimum of thirty-six (36) inches in width, measure a maximum of sixty (60) feet in length, and shall not be located within a yard fronting a public right-of-way.



**Figure 3-7**

**Walkout Basement Floor Area Limit Exception**

6. Fire Sprinklers. An accessory dwelling unit and/or junior accessory dwelling unit shall not require fire sprinklers so long as fire sprinklers are not required for the principal residence, nor shall the construction of an accessory dwelling unit and/or junior accessory dwelling unit require fire sprinklers to be installed in the existing single-unit or multi-unit dwelling.

7. Passageway. No passageway shall be required in conjunction with the construction of an accessory dwelling unit and/or junior accessory dwelling unit. For the purposes of this section, "passageway" means a pathway that is unobstructed clear to the sky and extends from the street to one entrance of the accessory dwelling unit.

8. Parking. Parking shall comply with requirements of Chapter 21.40 (Off-Street Parking) except as modified below:

- a. No additional parking shall be required for junior accessory dwelling units.
- b. A maximum of one (1) parking space shall be required for each accessory dwelling unit.
- c. When additional parking is required, the parking may be provided as tandem parking and/or located on an existing driveway; however, in no case shall parking be allowed in a rear setback abutting an alley or within the front setback, unless the driveway in the front setback has a minimum depth of twenty (20) feet.
- d. No parking shall be required for:

i. An accessory dwelling unit internal to a proposed principal residence or converted from existing space of principal residence or existing accessory structure;

ii. An accessory dwelling unit located within one-half mile walking distance of public transit. For the purposes of this section "public transit" shall include a bus stop where the public may access buses that charge set fares, run on fixed routes, and are available to the public;

iii. An accessory dwelling unit located within an architecturally and historically significant historic district;

iv. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit; or

v. When there is a car-share vehicle located within one block of the accessory dwelling unit. For the purposes of this section, "car-share vehicle" shall mean part of an established program intended to remain in effect at a fixed location for at least ten (10) years and available to the public.

e. Replacement Parking Necessary. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit at the same location or converted to an accessory dwelling unit, replacement parking shall be provided. Replacement parking may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. Accessory dwelling units shall not displace required uncovered parking spaces.

9. Waterfront Development and Flood Hazard Areas.

a. The minimum top of slab elevation for new interior living areas, including areas converted from nonliving areas, shall comply with the flood hazard and sea level rise protection standards of Section 21.30.015(D).

b. Any development in shoreline hazardous areas shall comply with Section 21.30.015(E).

H. Utility Connection.

1. Connection Required. All accessory dwelling units and junior accessory dwelling units shall connect to public utilities (or their equivalent), including water, electric, and sewer services.

2. Except as provided in subsection (H)(3) of this section, the City may require the installation of a new or separate utility connection between the accessory dwelling unit, junior accessory dwelling unit and the utilities.



3. Conversion. No separate connection between the accessory dwelling unit and the utility shall be required for units created within a single-unit or multi-unit dwelling(s), unless the accessory dwelling unit is being constructed in connection with a new single-unit dwelling or multi-unit dwellings.

4. Septic Systems. If the principal dwelling unit is currently connected to an on-site wastewater treatment system and is unable to connect to a sewer system, accessory dwelling units and junior accessory dwelling units may connect to the on-site wastewater treatment system. However, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last ten (10) years.

I. Additional Requirements for All Accessory Dwelling Units and Junior Accessory Dwelling Units.

1. No Separate Conveyance. An accessory dwelling unit or junior accessory dwelling unit may be rented, but no accessory dwelling unit or junior accessory dwelling unit may be sold or otherwise conveyed separately from the lot and the principal dwelling (in the case of a single-unit dwelling) or from the lot and all of the dwellings (in the case of a multi-unit dwelling).

2. Short-Term Lodging. The accessory dwelling unit and/or junior accessory dwelling unit shall not be rented for periods of thirty (30) days or less.

3. Owner-Occupancy for Junior Accessory Dwelling Units. A natural person with legal or equitable title to the lot must reside in either the principal single-unit dwelling unit or the junior accessory dwelling unit as the person's legal domicile and permanent residence. However, this owner-occupancy requirement shall not apply to any junior accessory dwelling unit owned by a governmental agency, land trust, or housing organization.

J. Deed Restriction and Recordation Required.

1. Prior to the issuance of a building and/or grading permit for an accessory dwelling unit and/or junior accessory dwelling unit, the property owner shall record a deed restriction with the County Recorder's Office, the form and content of which is satisfactory to the City Attorney. The deed restriction document shall notify future owners of the owner-occupancy requirements, prohibition on the separate conveyance, the approved size and attributes of the unit, and restrictions on short-term rentals. This deed restriction shall remain in effect so long as the accessory dwelling unit and/or junior accessory dwelling unit exists on the lot.

2. For properties in flood hazard areas as identified by the Federal Emergency Management Agency in the "Flood Insurance Study" for Orange County, California and Incorporated Area with accompanying FEMA Flood Insurance Rate Maps, deed restriction shall also include notice to future owners that the unit is located within an area that may be subject to flooding or future flooding.



3. For properties located in low lying shoreline areas that may be subject to future sea level rise, the property owner shall also record a waiver of future protection in compliance with Section 21.30.015(E)(5).
- K. Historic Resources. Accessory dwelling units and/or junior accessory dwelling units proposed on residential or mixed-use properties that are determined to be historic shall be approved ministerially, in conformance with California Government Code Sections 66310 through 66342. However, any accessory dwelling unit or junior accessory dwelling unit that is listed on the California Register of Historic Resources shall meet all Secretary of the Interior standards, as applicable.

## **EXHIBIT "B"**

### **FINDINGS IN SUPPORT OF LOCAL COASTAL PLAN AMENDMENT (PA2021-113)**

1. LCP Amendment No. LC2021-003 is consistent with and implements California Government Code Sections 66310 through 66342 (formerly 65852.2 and 65852.22).
2. Adopting an ordinance consistent with Government Code Sections 66310 through 66342 ensures that the character of the City is preserved to the maximum extent possible and that the City's regulation regarding ADUs and JADUs continue to promote the health, safety, and welfare of the community.
3. As permitted by California Government Code Sections 66310 through 66342, the City finds that maintaining the prohibition of parking in rear alley setbacks is essential to preserve vehicular maneuverability for residents and fire and life safety personnel traveling through the City's narrow alleyways. Also, prohibiting parking in front setbacks, unless located on a driveway a minimum 20 feet in depth, is also essential to ensure that driveways are of sufficient depth to accommodate a vehicle entirely on-site without protruding into the public right-of-way and blocking pedestrian, bicyclist, and vehicular traffic creating a life safety condition.
4. The City is a coastal community with numerous coastal resources that attract over seven million annual visitors. This includes public beaches, Newport Harbor, Balboa Peninsula, Balboa Island, and Newport Bay. The number of annual visitors, coupled with historic development patterns of the City, has created a significant impact on the limited parking supply. The loss of off-street parking on residential lots would exacerbate the continual public parking problems in the Coastal Zone, as it shifts residential parking from on-site to on-street. Government Code Section 66314(d)(11) notes that off-street parking shall not be required to be replaced when a garage, carport, or other covered parking is converted to an ADU or JADU. Notwithstanding this, Government Code Section 66329 notes, "Nothing in this article shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976..."
5. The elimination of off-street parking in residential properties within the Coastal Zone would create a significant impact to public parking and limit visitor access to coastal resources. To preserve the limited parking supply and ensure this amendment is consistent with the Coastal Act, this amendment maintains and clarifies that the requirement for replacement parking is needed when existing parking is displaced by a ADU or JADU. The amendment also requires parking to provide for an ADU constructed in conjunction with a new single-unit or multi-unit development when not located within ½ mile walking distance to a bus stop.
6. LCP Amendment No. LC2021-003 would serve to implement Housing Element Policy Action 1H (Accessory Dwelling Unit Construction) of the 2021-2029 Housing Element. Policy Action 1 requires the City to analyze methods to aggressively support and accommodate ADU construction within 12 months of Housing Element adoption and establish a program within 24 months of adoption.


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

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; that the foregoing ordinance, being Ordinance No. 2024-28 was duly introduced on the 22<sup>nd</sup> day of October, 2024, at a regular meeting, and adopted by the City Council at a regular meeting duly held on the 12<sup>th</sup> day of November, 2024, and that the same was so passed and adopted by the following vote, to wit:

AYES: Mayor Will O'Neill, Mayor Pro Tem Joe Stapleton, Councilmember Brad Avery,  
Councilmember Noah Blom, Councilmember Robyn Grant, Councilmember  
Lauren Kleiman, Councilmember Erik Weigand  
NAYS: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 13<sup>th</sup> day of November, 2024.



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

#### CERTIFICATE OF PUBLICATION

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

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that Ordinance No. 2024-28 has been duly and regularly published according to law and the order of the City Council of said City and that same was so published in *The Daily Pilot*, a newspaper of general circulation on the following dates:

Introduced Ordinance:           October 26, 2024  
Adopted Ordinance:           November 16, 2024

In witness whereof, I have hereunto subscribed my name this \_\_\_\_\_ day of November, 2024.

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

City of Newport Beach