

ORDINANCE NO. 2021-17

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF NEWPORT BEACH, CALIFORNIA, AMENDING
TITLE 21 (LOCAL COASTAL PROGRAM
IMPLEMENTATION PLAN) OF THE NEWPORT BEACH
MUNICIPAL CODE AND ADOPTING LOCAL COASTAL
PROGRAM AMENDMENT NO. LC2017-004 RELATED
TO CERTAIN FRONT YARD AND SIDE YARD
SETBACKS ON LIDO ISLE (PA2016-066)**

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 for the portion of the coastal zone within its jurisdiction;

WHEREAS, in 2005, the City adopted the City of Newport Beach Local Coastal Program Coastal Land Use Plan ("LCP") as amended from time to time including most recently on February 12, 2019, via Resolution No. 2019-16;

WHEREAS, the California Coastal Commission effectively certified the City's Local Coastal Program Implementation Plan on January 13, 2017, and the City Council adopted Ordinance No. 2016-19 adding 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;

WHEREAS, following adoption of the City 2010 comprehensive update to Title 20 (Planning and Zoning) of the NBMC, City staff discovered that front setbacks were left unclarified and/or inadvertently placed on Setback Maps S-3A and S-3B Lido Isle in Section 20.80.040 (Setback Maps) of the NBMC for the residential properties located at 203 Via Ithaca and 300, 328, 332, 335, 408, 412 and 416 Piazza Lido;

WHEREAS, these same Setback Maps were incorporated into the 2017 certification of Title 21 for properties located in the coastal zone;

WHEREAS, therefore, staff initiated amendments to Titles 20 and 21 in order to correct Setback Maps S-3A and S-3B Lido Isle;

WHEREAS, amending the Setback Maps S-3A and S-3B Lido Isle to restore the correct side yard setbacks and clarify front setbacks does not result in a significant change to the existing development pattern of the neighborhood since the properties were developed to these standards, therefore, this code amendment allows the properties to maintain their existing uses and remain consistent with adjacent properties;

WHEREAS, a public hearing was held by the Planning Commission on July 6, 2017, 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 Chapters 20.62 and 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing;

WHEREAS, at the conclusion of the hearing, the Planning Commission adopted Resolution No. 2062 by a unanimous vote (6 ayes, 1 absent, 0 nays) recommending to the City Council approval of LCP Amendment No. LC2017-004 and Zoning Code Amendment No. CA2016-004;

WHEREAS, a public hearing was held by the City Council on September 12, 2017, 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 and Chapters 20.62 and 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 introduced Ordinance No. 2017-13 to adopt Zoning Code Amendment No. CA2016-004 and authorized submittal of LCP Amendment No. LC2017-004 to the California Coastal Commission by a unanimous vote (7 ayes, 0 nays);

WHEREAS, pursuant to Section 13515 of Title 14, Division 5.5 of the California Code of Regulations, review drafts of the LCP Amendment No. LC2017-004 were made available and a notice of the availability was distributed a minimum of six weeks prior the City Council public hearing; and

WHEREAS, on September 14, 2018, the California Coastal Commission approved LCP Amendment No. LC2017-004 (LCP-5-NPB-17-0084-1 Part A) as submitted with no modifications, as a result, LCP Amendment No. LC2017-004 is now deemed approved and certified as part the City's LCP and Title 21.

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

Section 1: Setback Maps S-3A and S-3B Lido Isle in Section 21.80.040 (Setback Maps) of the NBMC are hereby amended as set forth in Exhibit "A," which is attached hereto and incorporated herein by reference.

Section 2: The LCP and Title 21, including LCP Amendment No. LC2017-004, shall be carried out in full conformance with the California Coastal Act.

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

Section 4: 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 5: The City Council finds LCP Amendment No. LC2017-004 is not 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"). LCP Amendment No. LC2017-004 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. LCP Amendment No. LC2017-004 itself does not authorize development that would directly result in physical change to the environment.

Section 6: 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 7: 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.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 14th day of September, 2021, and adopted on the 28th day of September, 2021, by the following vote, to-wit:

AYES: _____

NAYS: _____


ABSENT: _____

BRAD AVERY, MAYOR

ATTEST:

LEILANI I. BROWN, CITY CLERK

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



AARON C. HARP, CITY ATTORNEY

Attachments: Exhibit A – Setback Maps S-3A and S-3B Lido Isle

