

ORDINANCE NO. 2023-1

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING ZONING CODE AMENDMENT NO. CA2022-005 TO CHANGE THE DEVELOPMENT LIMIT SPECIFIED FOR BAY ISLAND FROM 23 DWELLING UNITS TO 25 MAXIMUM DWELLING UNITS (PA2022-087)

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, on April 20, 2022, an application was filed by Bay Island Club, Inc., ("Applicant") with respect to Bay Island, as shown on the official map of Bay Island ("Property") which is attached hereto as Exhibit "A" and incorporated herein by reference;

WHEREAS, Bay Island is a 5.5-acre legal lot in Newport Harbor that is currently developed with 23 single-family homes, shared open space, recreational areas, and a caretaker's unit, which currently functions as a clubhouse;

WHEREAS, Bay Island is accessible by a pedestrian bridge with no vehicular access;

WHEREAS, on November 24, 1997, the City Council approved Use Permit No. UP3618 to implement a Planned Residential Development Overlay District, which modified the Multi-Family Residential (MFR) zoning and development regulations for Bay Island and created a development plan authorizing a maximum of 25 residential units (24 single-family building sites plus one residential caretaker site) and off-site parking;

WHEREAS, the purpose of Use Permit No. UP3618 is to ensure that future development maintains the single-family detached character of Bay Island;

WHEREAS, on July 25, 2006, the City Council approved Resolution No. 2006-76 adopting a comprehensive 2006 General Plan Update ("General Plan Update") wherein the density of Bay Island was inadvertently decreased to a maximum of 23 residential dwelling units based on the number of dwellings that existed on Bay Island at that time;

WHEREAS, on October 25, 2010, the City Council adopted a comprehensive update to Title 20 (Planning and Zoning) of the Newport Beach Municipal Code ("NBMC") which inadvertently set the maximum density of Bay Island to 23 residential dwelling units;

WHEREAS, the Applicant is requesting approval to correct the maximum density allowed on Bay Island from 23 to 25 dwelling units, consistent with Use Permit No. UP3618 ("Project");

WHEREAS, the following approvals are requested or required from the City to implement the Project:

- General Plan Amendment No. GP2022-001 – An amendment to the Land Use Element of the General Plan to correct the development limit specified for Bay Island from 23 dwelling units to 25 maximum dwelling units;
- Local Coastal Program Amendment No. LC2022-003 – An amendment to Title 21 (Local Coastal Program Implementation Plan) of the NBMC to correct the development limit specified for Bay Island from 23 dwelling units to 25 maximum dwelling units; and
- Zoning Code Amendment No. CA2022-005 – An amendment to Title 20 (Planning and Zoning) of the NBMC to correct the development limit specified for Bay Island from 23 dwelling units to 25 maximum dwelling units;

WHEREAS, the Property is located within the Multiple Residential (RM) Zoning District and the General Plan Land Use Element category is Multiple Residential Detached (RM-D);

WHEREAS, the Property is located within the coastal zone with a Coastal Land Use Plan category of Multiple-Unit Residential – 10.0 – 19.9 DU/AC (RM-C) and the Coastal Zoning District of Multiple Residential (RM);

WHEREAS, the Planning Commission held a public hearing on September 8, 2022 in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the hearing was given in accordance with 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 hearing;

WHEREAS, at the hearing, the Planning Commission adopted Resolution No. PC2022-023 by a majority vote (6 ayes, 1 absent) recommending City Council approval of General Plan Amendment No. GP2022-001, Local Coastal Program Amendment No. LC2022-003 and Zoning Code Amendment No. CA2022-005; and

WHEREAS, the City Council held a public hearing on January 10, 2023 in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the 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 hearing.

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

Section 1: The City Council hereby approves Zoning Code Amendment No. CA2022-005 to correct the development limit specified for Bay Island from 23 dwelling units to a maximum of 25 dwelling units, as depicted in Exhibit "B" which is attached hereto and incorporated herein. This approval is contingent upon the certification of Local Coastal Program Amendment No. LC2022-003 by the California Coastal Commission.

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

Section 3: 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 4: The City Council finds Zoning Code Amendment No. CA2022-005 is exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to Section 15303, Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3. Class 3 exempts the construction of up to three single-family residences. Zoning Code Amendment No. CA2022-005 would authorize the future development of up to two additional single-family residences at Bay Island and therefore qualifies within this exemption.

Section 5: 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.

Proposed

Section 6: The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. This ordinance shall take effect upon certification of Local Coastal Program Amendment No. LC2022-003 by California Coastal Commission. 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 10th day of January, 2023, and adopted on the 24th day of January, 2023, by the following vote, to-wit:

AYES: _____

NAYS: _____

ABSENT: _____

NOAH BLOM, MAYOR

ATTEST:

LEILANI I. BROWN, CITY CLERK

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



AARON C. HARP, CITY ATTORNEY

Attachments: Exhibit A - Bay Island Map
 Exhibit B - Zoning Code Amendment No. CA2022-005

Exhibit "A"
Bay Island Map



Exhibit "B"
Zoning Code Amendment No. CA2022-005

