

CALIFORNIA COASTAL COMMISSION

South Coast District Office
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Th13a

**LCP-5-NPB-23-0019-1, PARTS A & B
(CITY OF NEWPORT BEACH)**

JUNE 25, 2024

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Exhibit 1 – Ordinance No. 2023-2

ORDINANCE NO. 2023-2

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, ADOPTING CODE AMENDMENT NO. CA2021-005 AMENDING SECTION 20.48.200 (ACCESSORY DWELLING UNITS) 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 RELATED 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, on March 9, 2021, the City Council adopted Resolution No. 2021-18 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, on May 25, 2021, the City Council adopted Resolution No. 2021-43, initiating a code amendment to Title 20 (Planning and Zoning) to modify regulations relating to the development of ADU and junior accessory dwelling units (“JADU”);

WHEREAS, on October 7, 2021, the Planning Commission formed an Ad Hoc Committee to evaluate potential code amendments related to encouraging 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, the City desires to amend its local regulatory scheme for the construction of ADUs and JADUs to comply with the amended provisions of Government Code Sections 65852.2 and 65852.22 (“Code Amendment No. CA2021-005”), and to incorporate the recommendations of the Ad Hoc Committee;

WHEREAS, a public hearing was held by the Planning Commission 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 20.62 (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 public hearing, the Planning Commission adopted Resolution No. PC2023-004 by a unanimous vote (5 ayes – 0 nays), recommending approval of Code Amendment No. CA2021-005 to the City Council; and

WHEREAS, a duly noticed public hearing was held by the City Council 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 and Chapter 20.62 (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 does hereby approve Code Amendment No. CA2021-005 to amend Chapter 20.48 (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 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 the introduction and adoption of this ordinance 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 65852.1 and 65852.2 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 5: Except as expressly modified in this ordinance, all other sections, subsections, terms, clauses and phrases set forth in the Newport Beach Municipal Code shall remain unchanged and shall be in full force and effect.

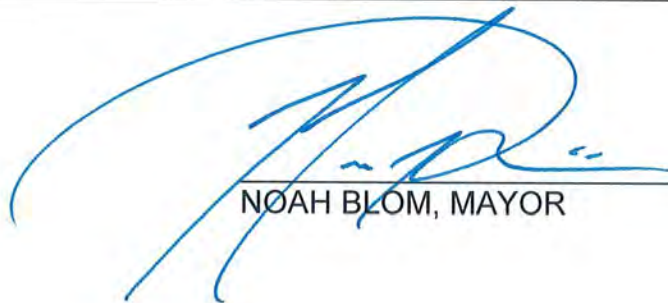
Section 6: The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the ordinance, or a summary thereof, to be published pursuant to City Charter Section 414. This ordinance shall be effective thirty calendar days after its adoption.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 24th day of January, 2023, and adopted on the 14th day of February, 2023, by the following vote, to-wit:

AYES: Mayor Blom, Mayor Pro Tem O'Neill, Council Member Avery, Council Member Grant, Council Member Kleiman, Council Member Stapleton, Council Member Weigand _____

NAYS: _____

ABSENT: _____



NOAH BLOM, MAYOR

ATTEST:



LEILANI I. BROWN, CITY CLERK



APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



AARON C. HARP, CITY ATTORNEY

Attachment(s): Exhibit A - Code Amendment No. CA2021-005
 Exhibit B - Findings in Support of Code Amendment No. CA2021-005

EXHIBIT "A"

ZONING CODE AMENDMENT NO. CA2021-005

Section 20.48.200 (Accessory Dwelling Units) of the Newport Beach Municipal Code is amended in its entirety to read as follows:

20.48.200 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 65852.2 and 65852.22, 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 General Plan and 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. 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 issuance of 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; and

3. 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. 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;

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.

E. 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.

F. Development Standards. Except as modified by this subsection, an accessory dwelling unit and/or junior accessory dwelling unit shall conform to all objective standards of the underlying residential zoning district, any applicable overlay district,

and all other applicable provisions of Title 20 (Planning and Zoning), 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.
 - b. For replacement of an existing enclosed structure, garage, or carport, no existing setback is required, beyond the existing setback provided. 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 20.40.040.

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 size limitations set forth in subsection (F)(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 setback, 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.

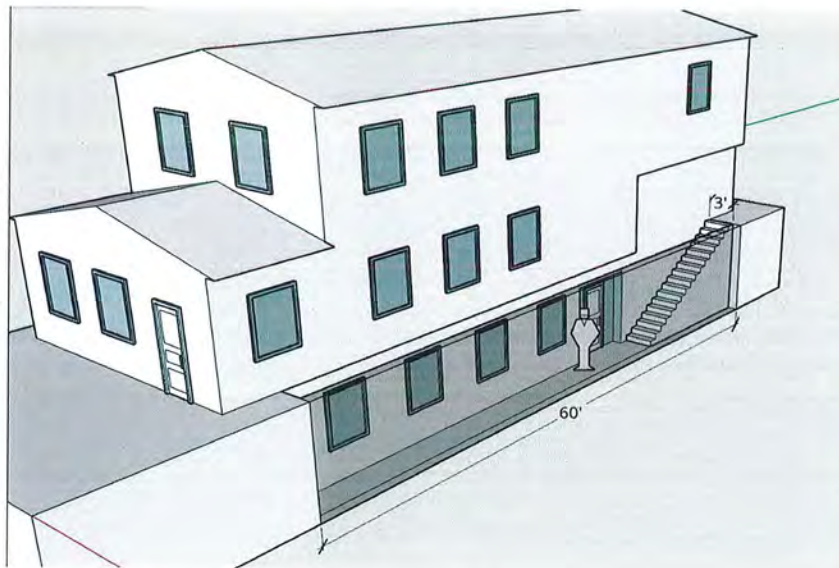


Figure 3-7

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 20.40 (Off-Street Parking) except as modified below:
- No additional parking shall be required for junior accessory dwelling units.
 - A maximum of one (1) parking space shall be required for each accessory dwelling unit.
 - 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 additional parking shall be required for:

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

ii. An accessory dwelling unit located within one-half-mile walking distance of a 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.

vi. Outside the coastal zone, when an accessory dwelling unit is constructed in conjunction with a new single-unit or multi-unit dwelling on the same lot.

e. No Replacement Parking Necessary. Outside the coastal zone, 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, those off-street parking spaces are not required to be replaced. Accessory dwelling units shall not displace required uncovered parking spaces. Refer to Section 21.48.200(G)(8)(e) for replacement parking in the coastal zone.

G. 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 (G)(3) of this section, the City may require the installation of a new or separate utility connections 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.

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.

H. **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.

I. **Deed Restriction and Recordation Required.** 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.

J. **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 65852.2 and 65852.22. 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 ZONING CODE AMENDMENT NO. CA2021-005

1. Zoning Code Amendment No. CA2021-005 is consistent with and implements California Government Code Sections 65852.2 and 65852.22.
2. Adopting an ordinance consistent with Government Code Sections 65852.2 and 65852.22 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 Section 65852.2, 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 65852.2(a)(1)(D)(xi) 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 65852.2(l) notes, "Nothing in this section 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 California 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. Zoning Code Amendment No. CA2021-005 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. 2023-2 was duly introduced on the 28th day of January, 2023, at a regular meeting, and adopted by the City Council at a regular meeting duly held on the 14th day of February, 2023, and that the same was so passed and adopted by the following vote, to wit:

AYES: Mayor Noah Blom, Mayor Pro Tem Will O'Neill, Council Member Brad Avery, Council Member Robyn Grant, Council Member Lauren Kleiman, Council Member Joe Stapleton, Council Member Erik Weigand

NAYS: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 15th day of February, 2023.

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. 2023-2 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: January 28, 2023
Adopted Ordinance: February 18, 2023

In witness whereof, I have hereunto subscribed my name this 15th day of MARCH, 2023.



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

City of Newport Beach

Exhibit 2 – Resolution No. 2023-8

RESOLUTION NO. 2023-8

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AUTHORIZING SUBMITTAL OF LOCAL COASTAL PROGRAM AMENDMENT NO. LC2021-003 TO THE CALIFORNIA COASTAL COMMISSION TO AMEND SECTION 21.48.200 (ACCESSORY DWELLING UNITS) 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 RELATED TO ACCESSORY DWELLING UNITS (PA2019-248)

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, in 2005, the City adopted the City of Newport Beach Local Coastal Program Coastal Land Use Plan, as amended from time to time;

WHEREAS, 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 City of Newport Beach Municipal Code (“NBMC”) whereby the City assumed coastal development permit-issuing authority on January 30, 2017;

WHEREAS, on March 9, 2021, the City Council adopted Resolution No. 2021-18 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”) allocation;

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

WHEREAS, on October 7, 2021, the Planning Commission formed an Ad Hoc Committee to evaluate potential code amendments related to encouraging 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, the City desires to amend its local regulatory scheme for the construction of ADUs and JADUs to comply with the amended provisions of Government Code Sections 65852.2 and 65852.22 (“LCP Amendment No. LC2021-003”), 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 LCP Amendment No. LC2021-003 were made available and a Notice of Availability was distributed at least six weeks prior to the anticipated final action date;

WHEREAS, a public hearing was held by the Planning Commission 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”), Chapter 21.62 (Public Hearings) of the NBMC, and Section 13515. 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 LCP Amendment No. LC2021-003 to the City Council; and

WHEREAS, a duly noticed public hearing was held by the City Council on January 24, 2023, in the City 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 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 resolves as follows:

Section 1: The City Council authorizes staff to submit Local Coastal Program Amendment No. LC2021-003 to amend Chapter 21.48 (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 by reference, to the California Coastal Commission.

Section 2: LCP Amendment No. LC2021-003 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.

Section 3: The LCP, including LCP Amendment No. LC2021-003, will be carried out fully in conformity with the California Coastal Act.

Section 4: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 5: 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 6: The City Council finds the adoption of this resolution 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 65852.1 and 65852.2 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 7: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 24th day of January, 2023.



NOAH BLOM
Mayor

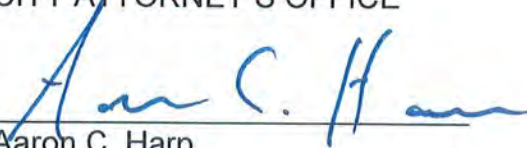
ATTEST:



Leilani I. Brown
City Clerk



APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

Attachment(s): Exhibit A – Local Coast Program Amendment No. LC2021-003
 Exhibit B – Findings in Support of LCP Amendment No. LC2021-003

EXHIBIT "A"

LOCAL COASTAL PLAN AMENDMENT NO. LC2021-003

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 65852.2 and 65852.22, 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. 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 issuance of 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 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 20 (Planning and Zoning) and 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 existing 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.

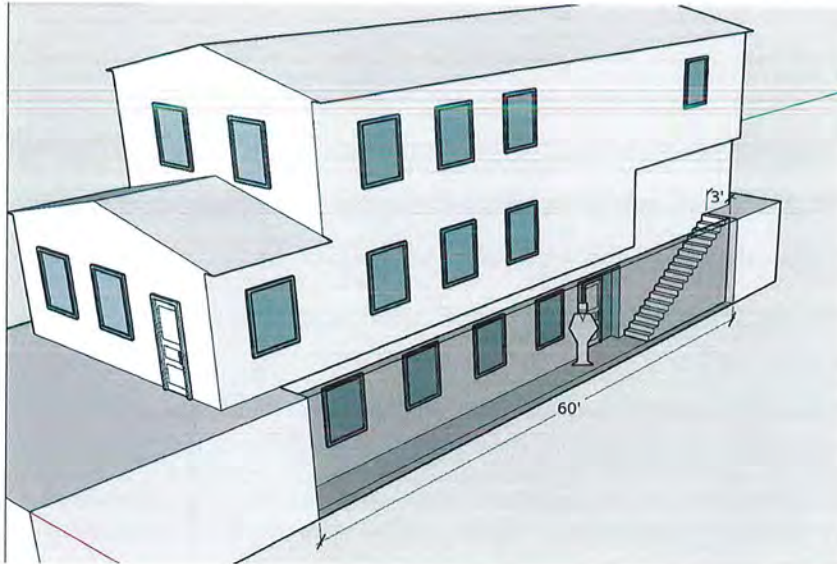


Figure 3-7

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)(2).

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, 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 65852.2 and 65852.22. 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 NO. LC2021-003

1. LCP Amendment No. LC2021-003 is consistent with and implements California Government Code Sections 65852.2 and 65852.22.
2. Adopting an ordinance consistent with Government Code Sections 65852.2 and 65852.22 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 Section 65852.2, 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 65852.2(a)(1)(D)(xi) 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 65852.2(l) notes, "Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976..."

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.

5. 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
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. 2023-8 was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 24th day of January, 2023; and the same was so passed and adopted by the following vote, to wit:

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

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 25th day of January, 2023.



Leilani I. Brown
City Clerk
Newport Beach, California



Exhibit 3 – Ordinance No. 2023-1

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 24, 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.

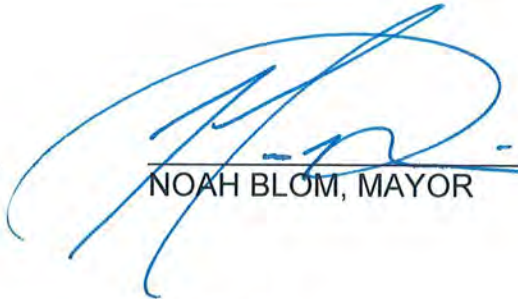
Section 6: The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. This ordinance shall take effect upon certification of Local Coastal Program Amendment No. LC2022-003 by California Coastal Commission. The City Clerk shall cause the ordinance, or a summary thereof, to 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 24th day of January, 2023, and adopted on the 14th day of February, 2023, by the following vote, to-wit:

AYES: Mayor Blom, Mayor Pro Tem O'Neill, Council Member Avery, Council Member Grant, Council Member Kleiman, Council Member Stapleton, Council Member Weigand _____

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

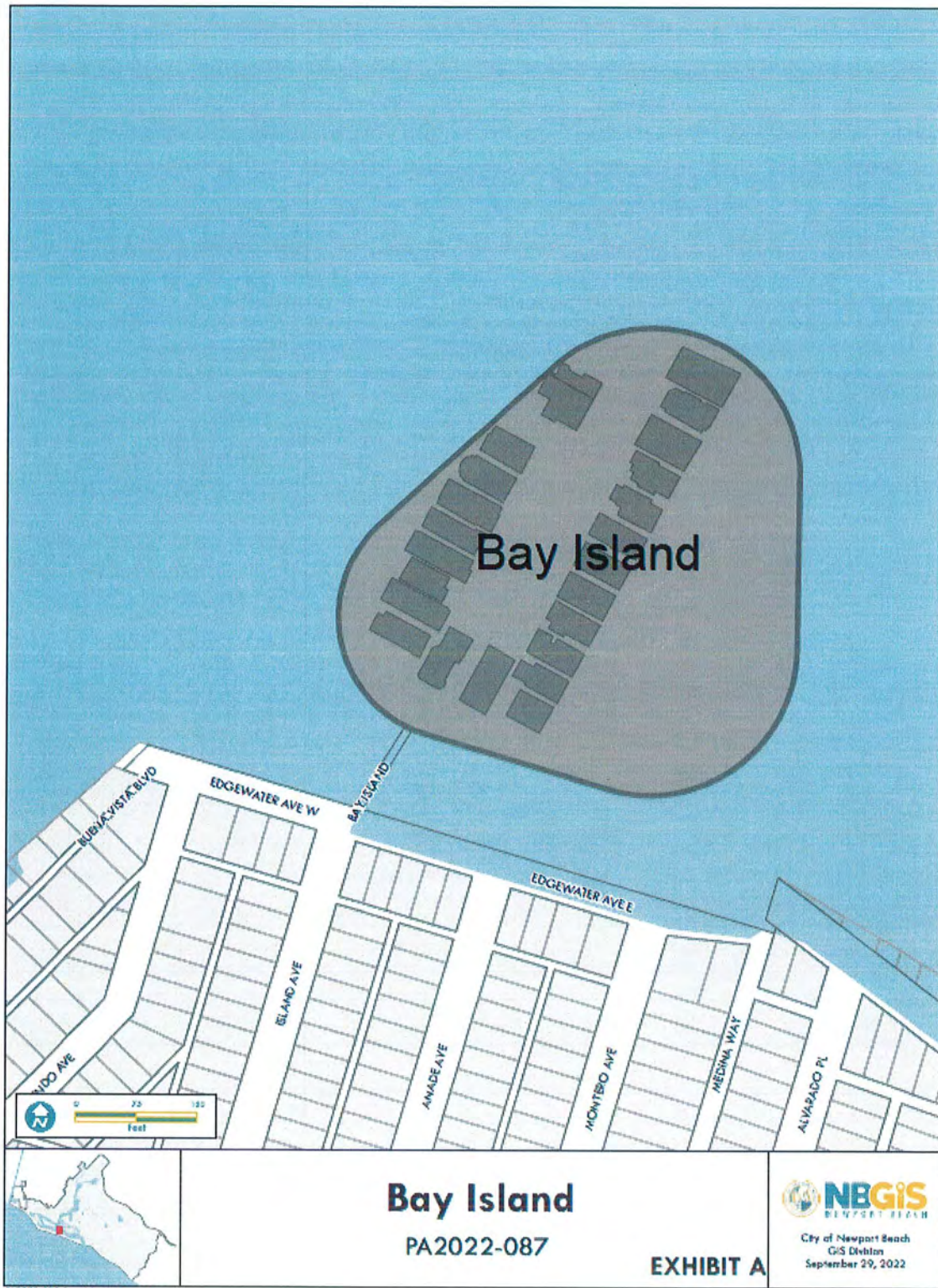
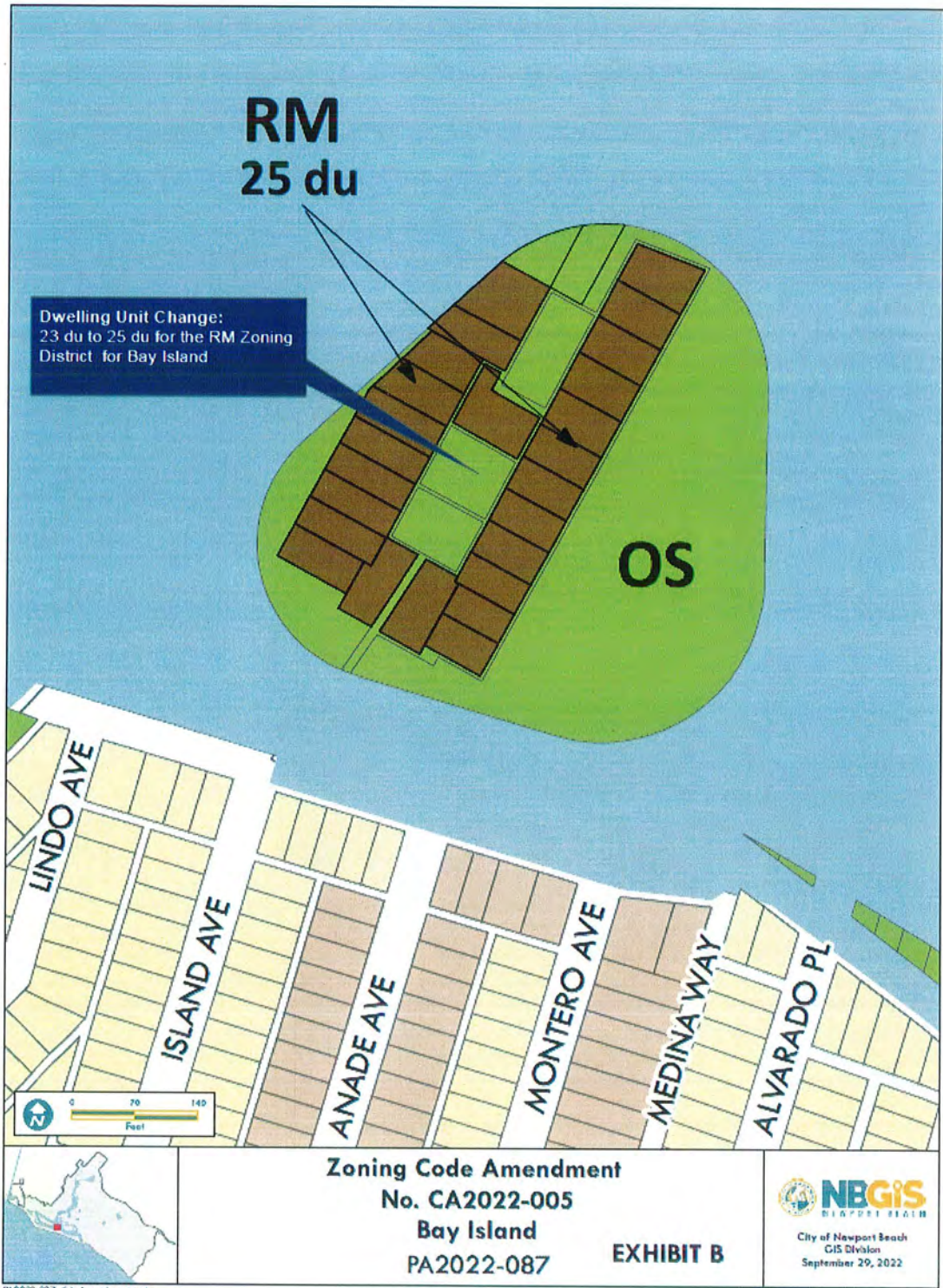


Exhibit "B"
Zoning Code Amendment No. CA2022-005



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; that the foregoing ordinance, being Ordinance No. 2023-1 was duly introduced on the 28th day of January, 2023, at a regular meeting, and adopted by the City Council at a regular meeting duly held on the 14th day of February, 2023, and that the same was so passed and adopted by the following vote, to wit:

AYES: Mayor Noah Blom, Mayor Pro Tem Will O'Neill, Council Member Brad Avery, Council Member Robyn Grant, Council Member Lauren Kleiman, Council Member Joe Stapleton, Council Member Erik Weigand

NAYS: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 15th day of February, 2023.



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

CERTIFICATE OF PUBLICATION

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 Ordinance No. 2023-1 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: January 28, 2023
Adopted Ordinance: February 18, 2023

In witness whereof, I have hereunto subscribed my name this 15th day of ~~February~~ MARCH, 2023.



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

City of Newport Beach

Exhibit 4 – Resolution No. 2023-4

RESOLUTION NO. 2023-4

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING GENERAL PLAN AMENDMENT NO. GP2022-001 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, 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 24, 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 resolves as follows:

Section 1: The City Council hereby approves General Plan Amendment No. GP2022-001 amending the General Plan of the City of Newport Beach 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 by reference. This approval is contingent upon the certification of Local Coastal Program Amendment No. LC2022-003 by the California Coastal Commission.

Section 2: Charter Section 423 requires voter approval of any major General Plan amendment to the General Plan. A major General Plan amendment is one that significantly increases allowed density or intensity by 40,000 square feet of non-residential floor area, increases traffic by more than 100 peak hour vehicle trips (AM/PM), or increases residential dwelling units by 100 units. These thresholds apply to the total of increases resulting from the amendment itself, plus 80 percent of the increases resulting from other amendments affecting the same neighborhood (defined as a Statistical Area as shown in the General Plan Land Use Element) and adopted within the preceding 10 years.

Council Policy A-18 (Guidelines for Implementing Charter Section 423) requires that proposed amendments to the General Plan be reviewed to determine if a vote of the Newport Beach electorate would be required. This policy includes a provision that all General Plan amendments be tracked as "Prior Amendments" for 10 years to determine if minor amendments in a single Statistical Area cumulatively exceed the thresholds indicated above.

Facts in Support Finding of Consistency with Charter Section 423:

The Project is located within Statistical Area D3 with no general plan amendments over the last 10 years. Charter Section 423 is not triggered because the maximum number of dwelling units on Bay Island was inadvertently revised to reflect the number of dwelling units at that time as opposed to what was authorized by Use Permit No. UP3618.

Additionally, even assuming the Project was not merely correcting an error, increasing the number of dwelling units by two units has no effect on the non-residential floor area and would result in an overall increase of 1.4 a.m. peak hour trips and 1.9 p.m. peak hour trips based on the residential trip rates reflected in Council Policy A-18. Since none of the three thresholds specified by Charter Section 423 are exceeded, no vote of the electorate is required

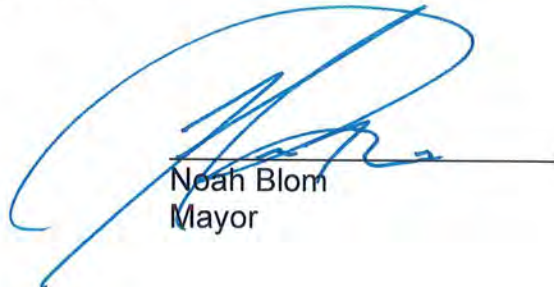
Section 3: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 4: 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 5: The City Council finds General Plan Amendment No. GP2022-001 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. General Plan Amendment No. GP2022-001 would authorize the future development of up to two additional single-family residences at Bay Island and therefore qualifies within this exemption.

Section 6: This resolution shall take effect upon the certification of Local Coastal Program Amendment No. LC2022-003 by the California Coastal Commission.

ADOPTED this 24th day of January, 2023.



Noah Blom
Mayor

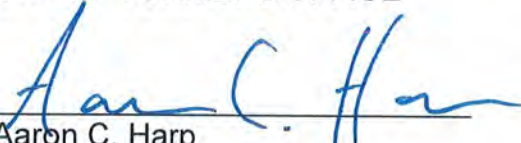
ATTEST:



Leilani I. Brown
City Clerk



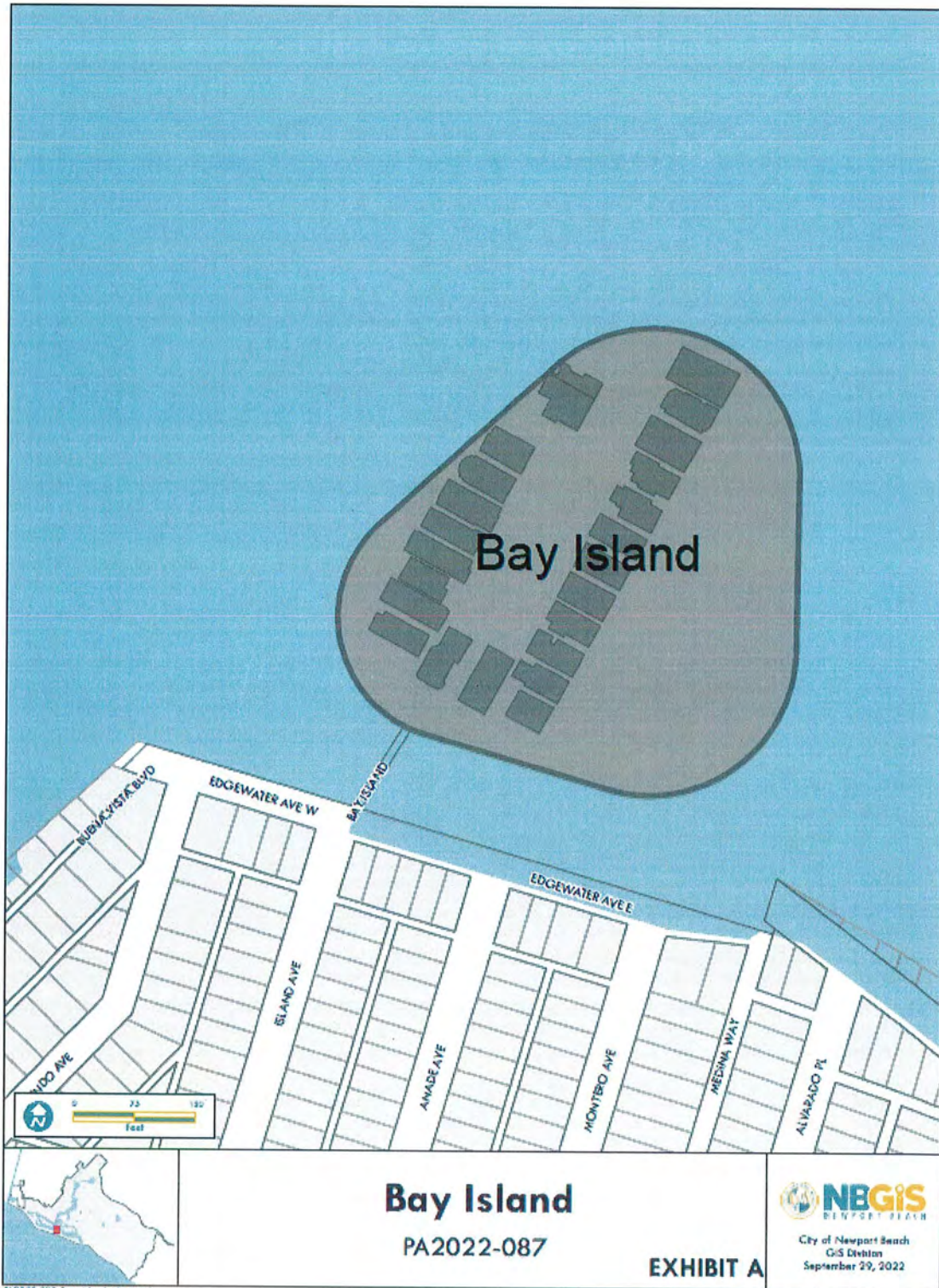
APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

Attachments: Exhibit A - Bay Island Map
 Exhibit B - General Plan Amendment No. GP2022-001

EXHIBIT "A"
Bay Island Map



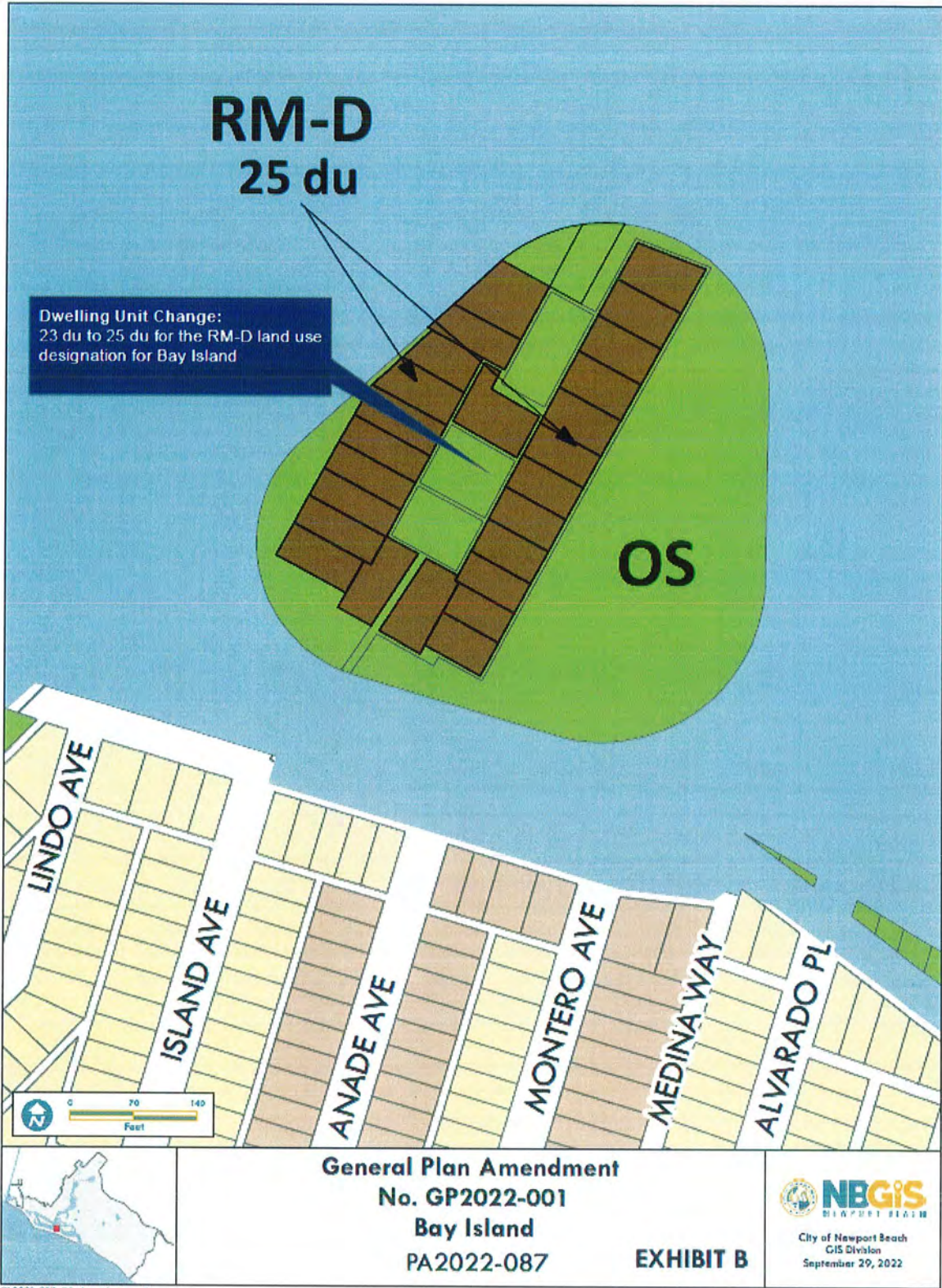
Bay Island
PA2022-087

EXHIBIT A

NBGIS
NEWPORT BEACH
City of Newport Beach
GIS Exhibit
September 29, 2022

PA2022-087_Bay_Island_Map.mxd

EXHIBIT "B"
General Plan Amendment No. GP2022-001



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. 2023-4 was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 24th day of January, 2023; and the same was so passed and adopted by the following vote, to wit:

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

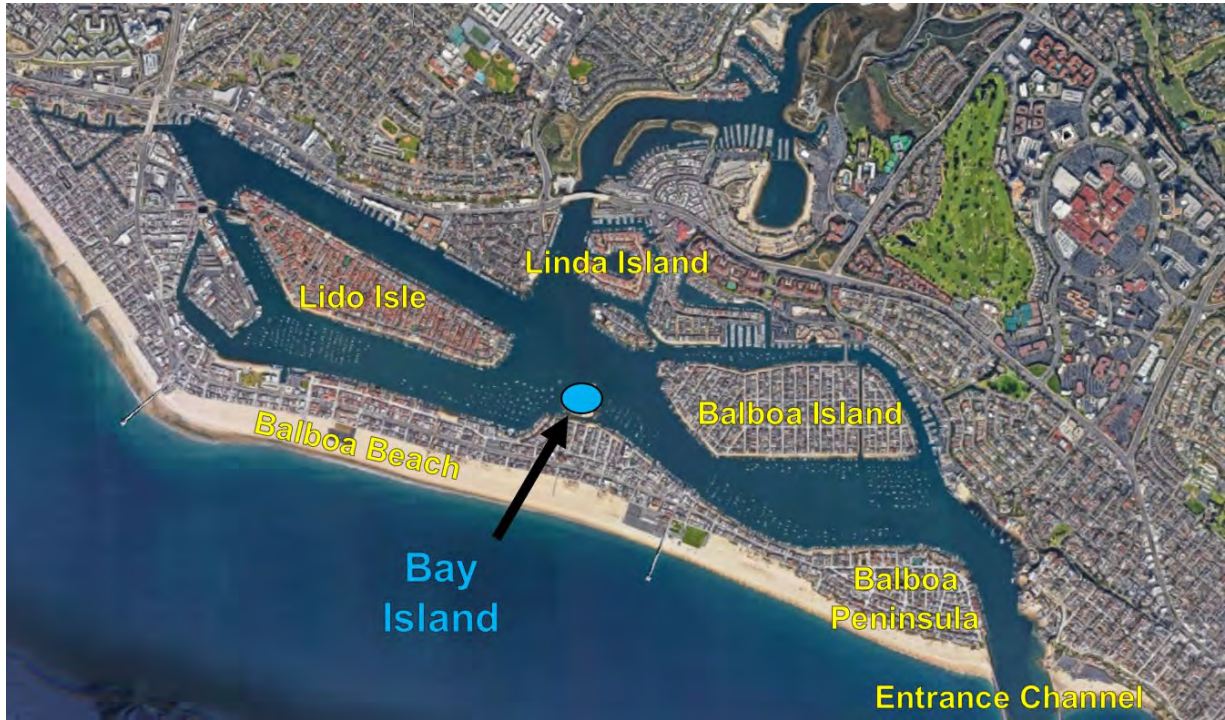
IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 25th day of January, 2023.

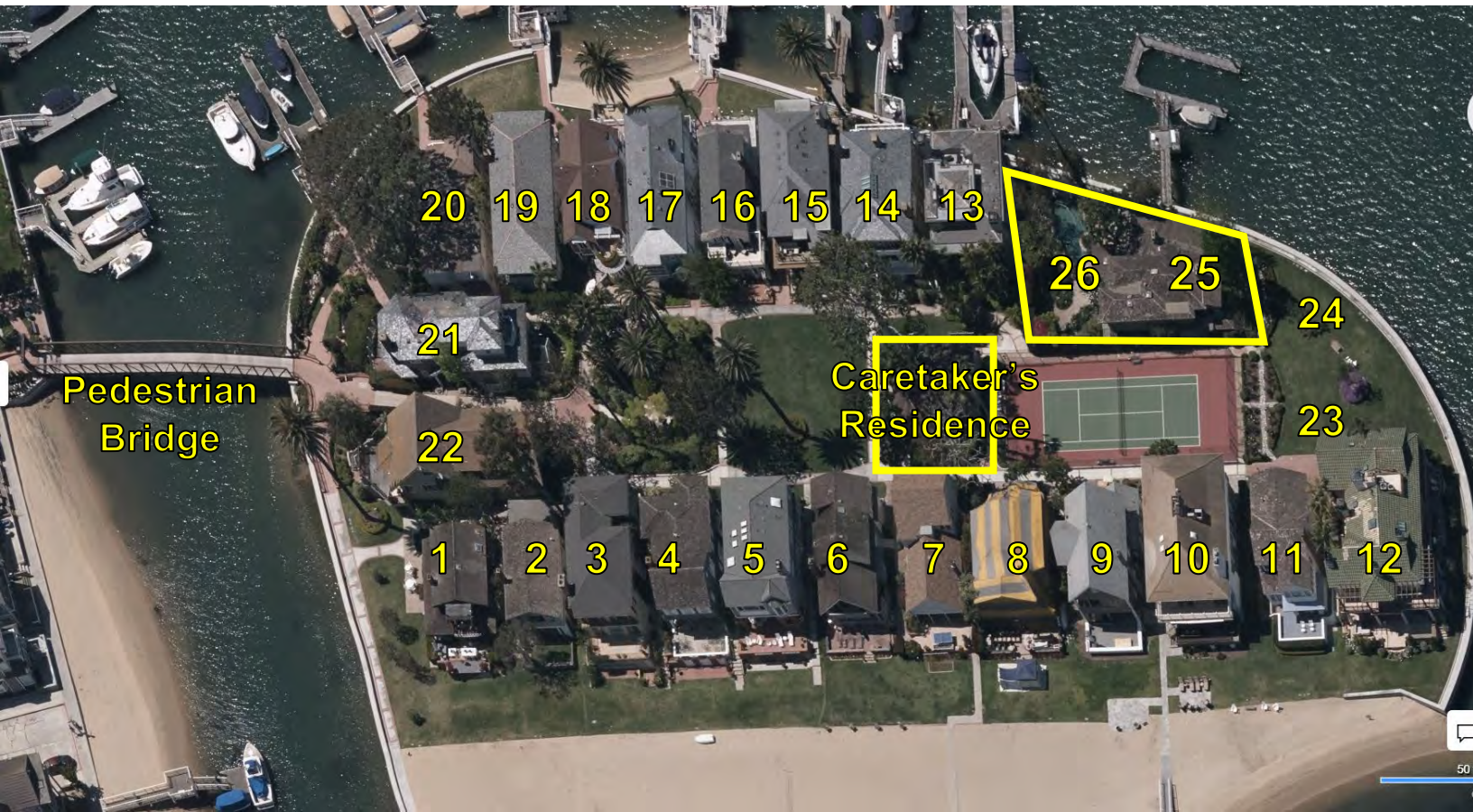


Leilani I. Brown
City Clerk
Newport Beach, California

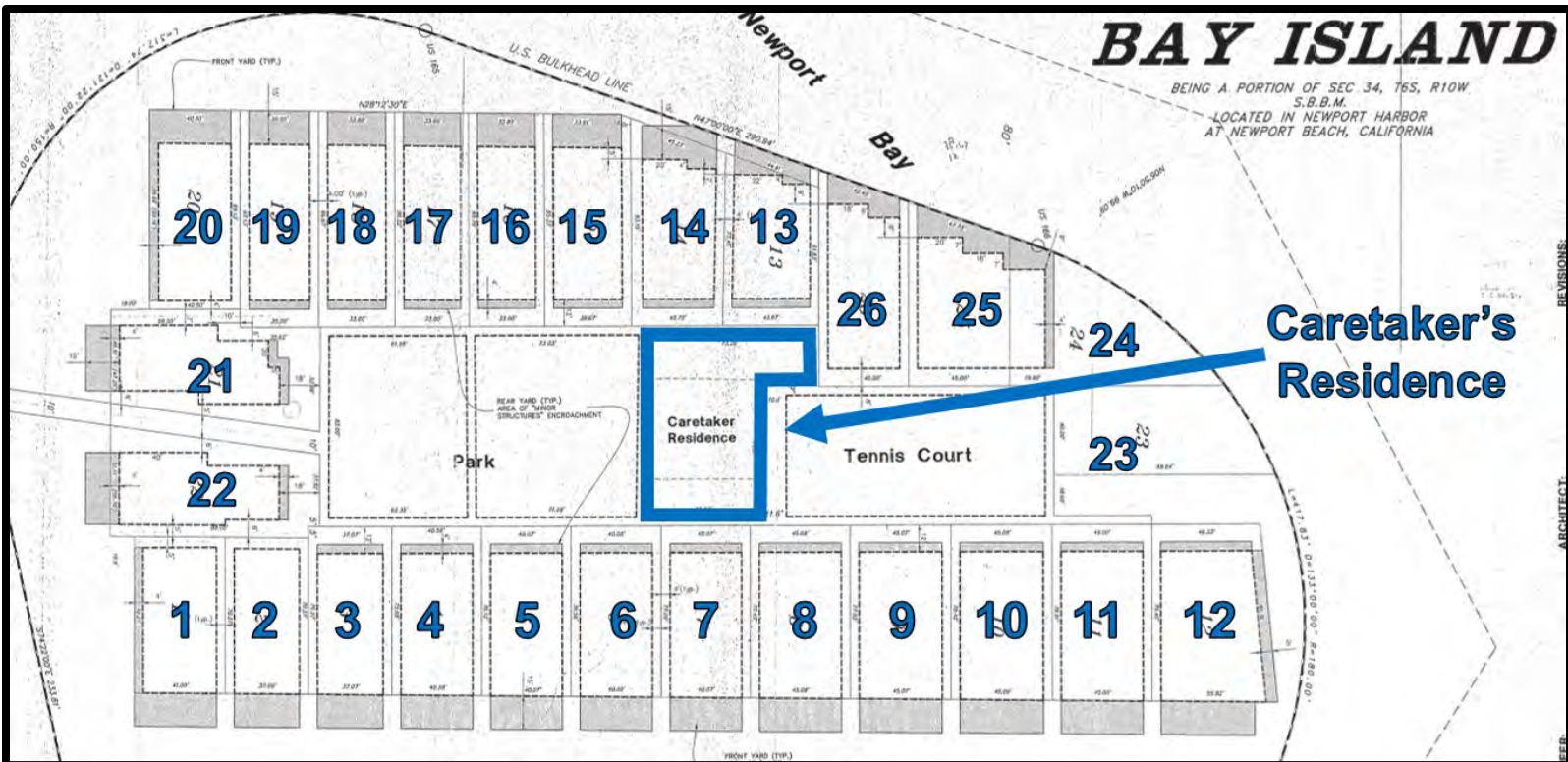


Exhibit 5 – Bay Island Vicinity Map

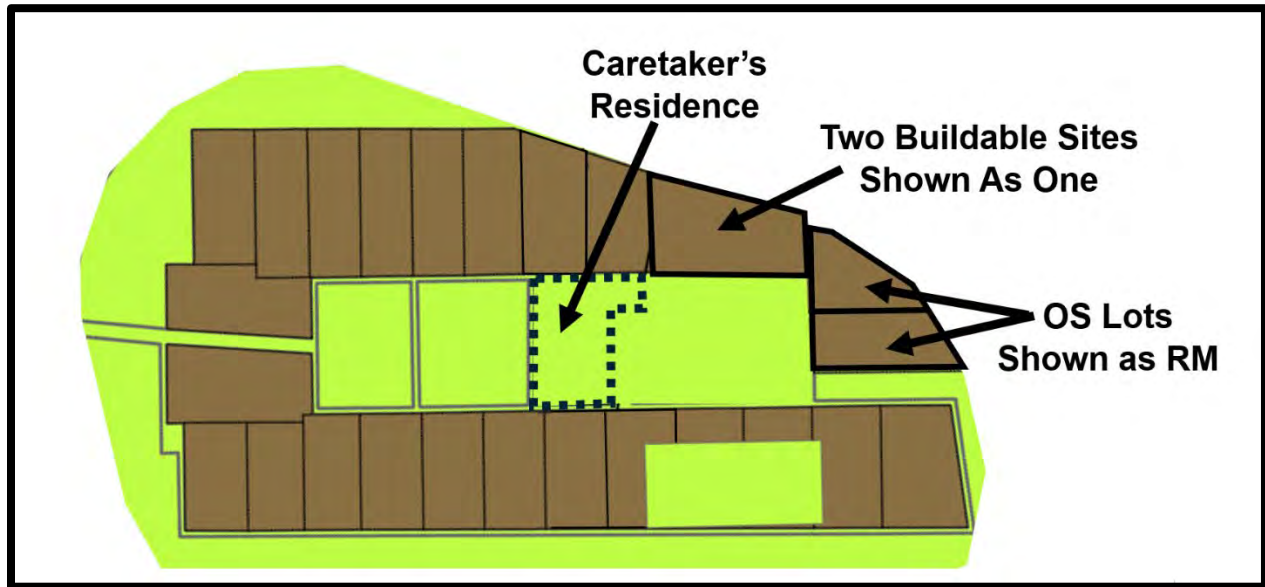




Aerial image of current development numbered per planned community map below.



The planned community map approved by the City Council in 1997, annotated with buildable site numbers and the unnumbered caretaker's residence.



Annotated excerpts of the current LUP/IP map (above) and proposed amended LUP/IP map (below).

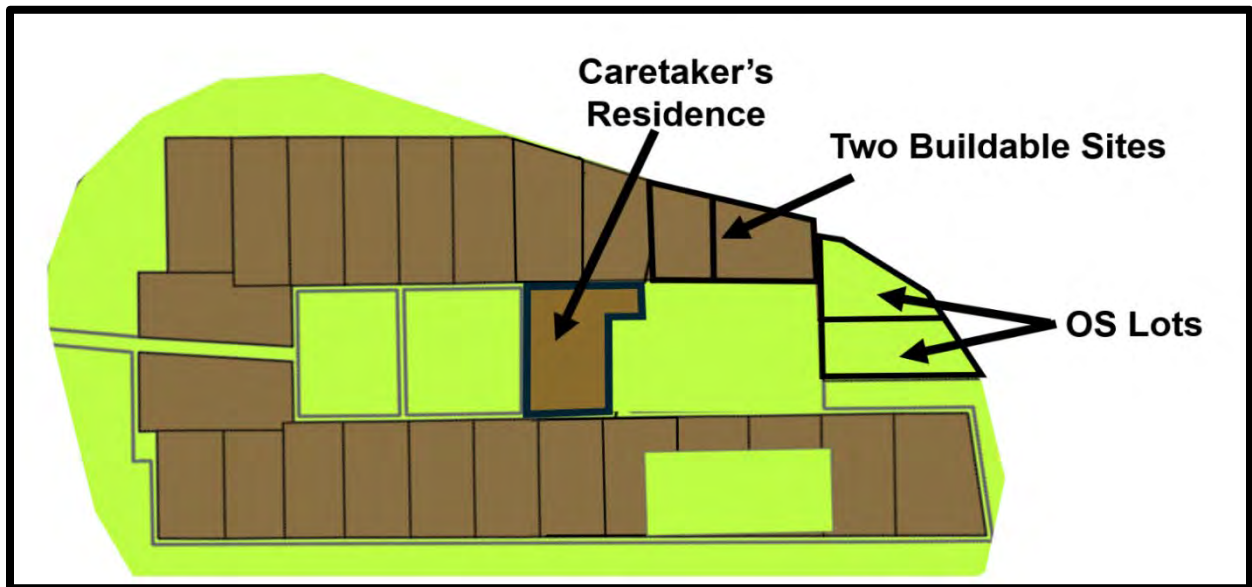
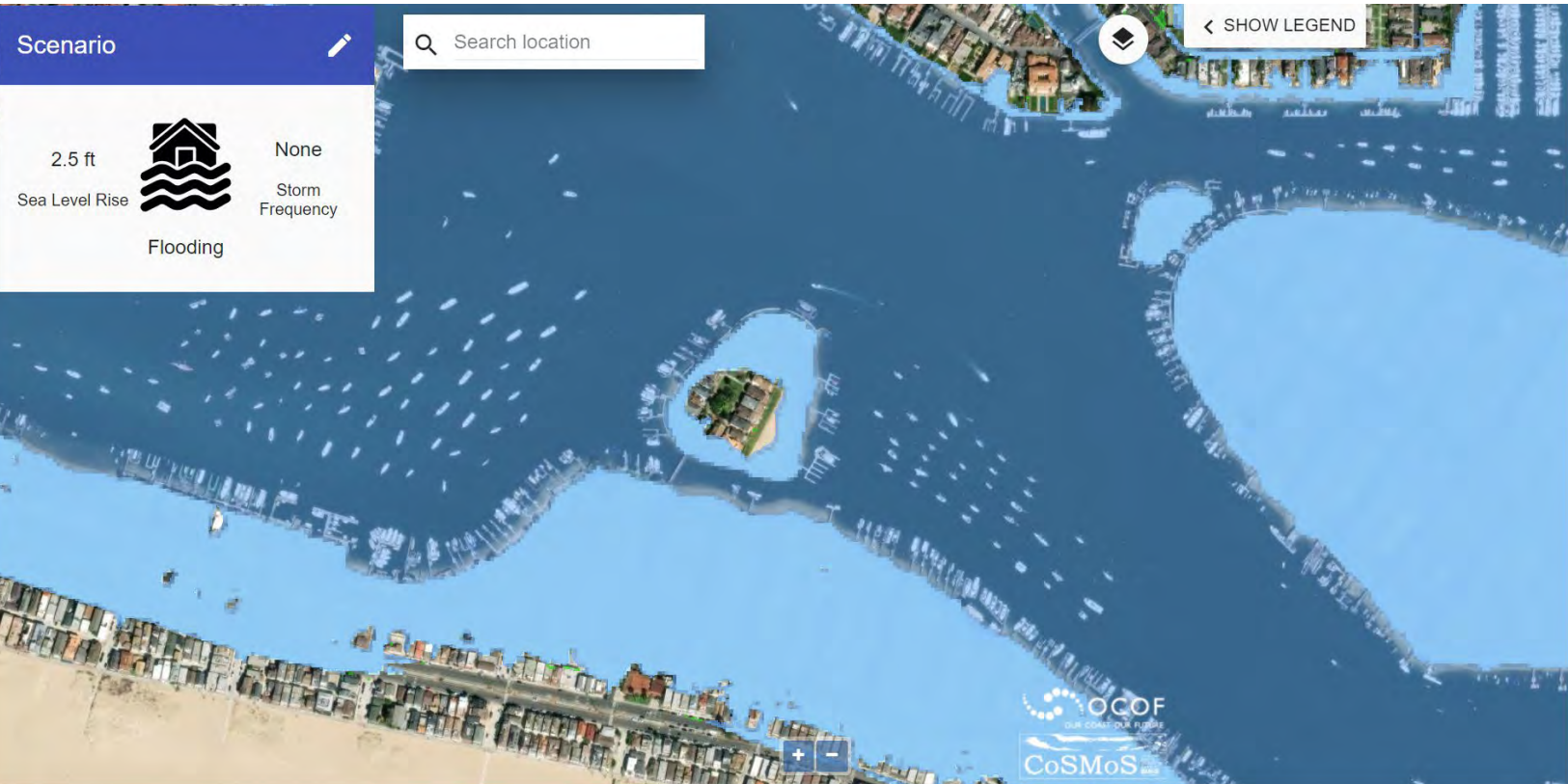
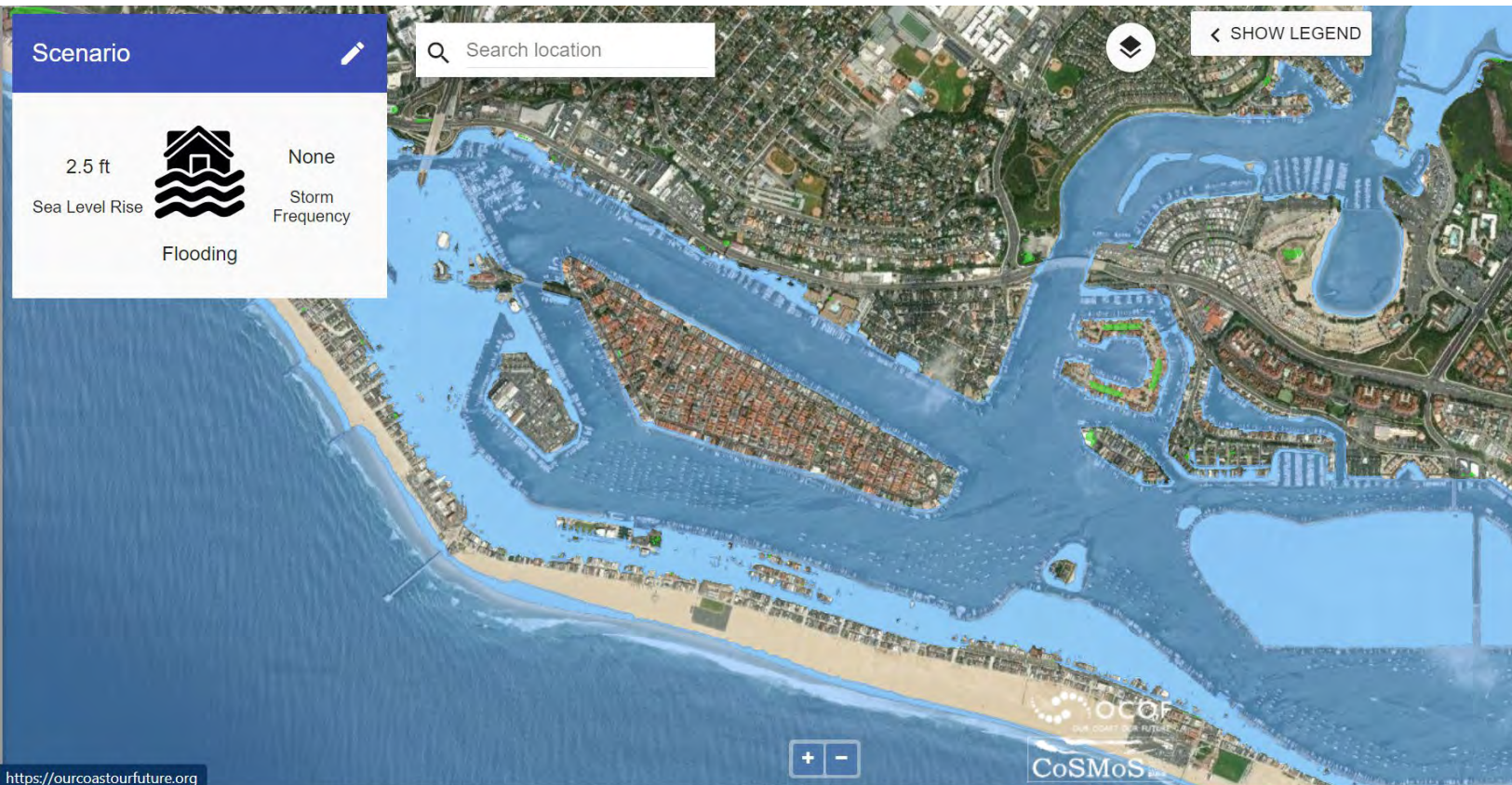
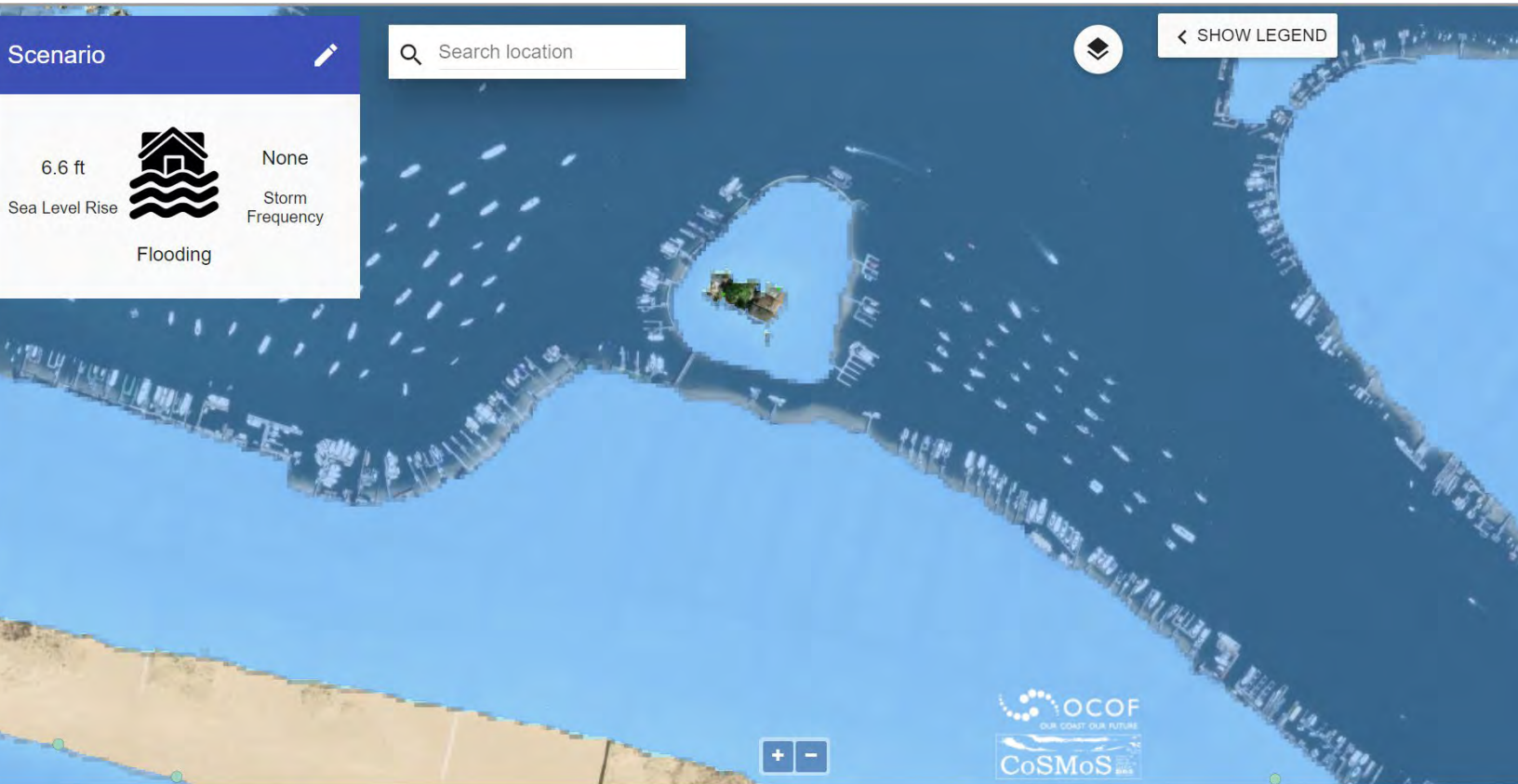


Exhibit 6 – CoSMoS and FEMA Maps

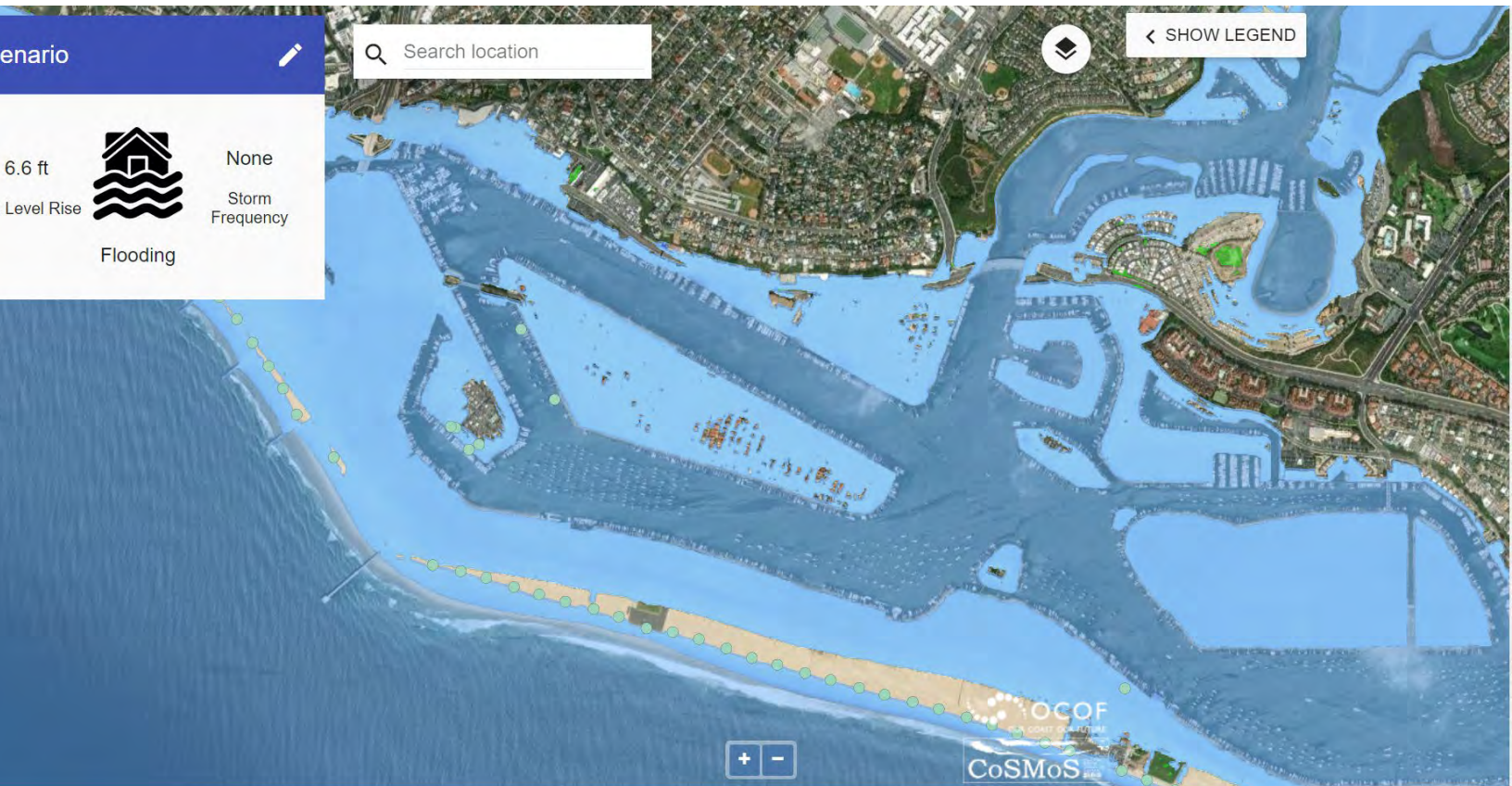




CoSMoS screenshots showing Bay Island (above) and the entire Newport Beach coastal zone (below) with 2.5 ft. of sea level rise and no storm event

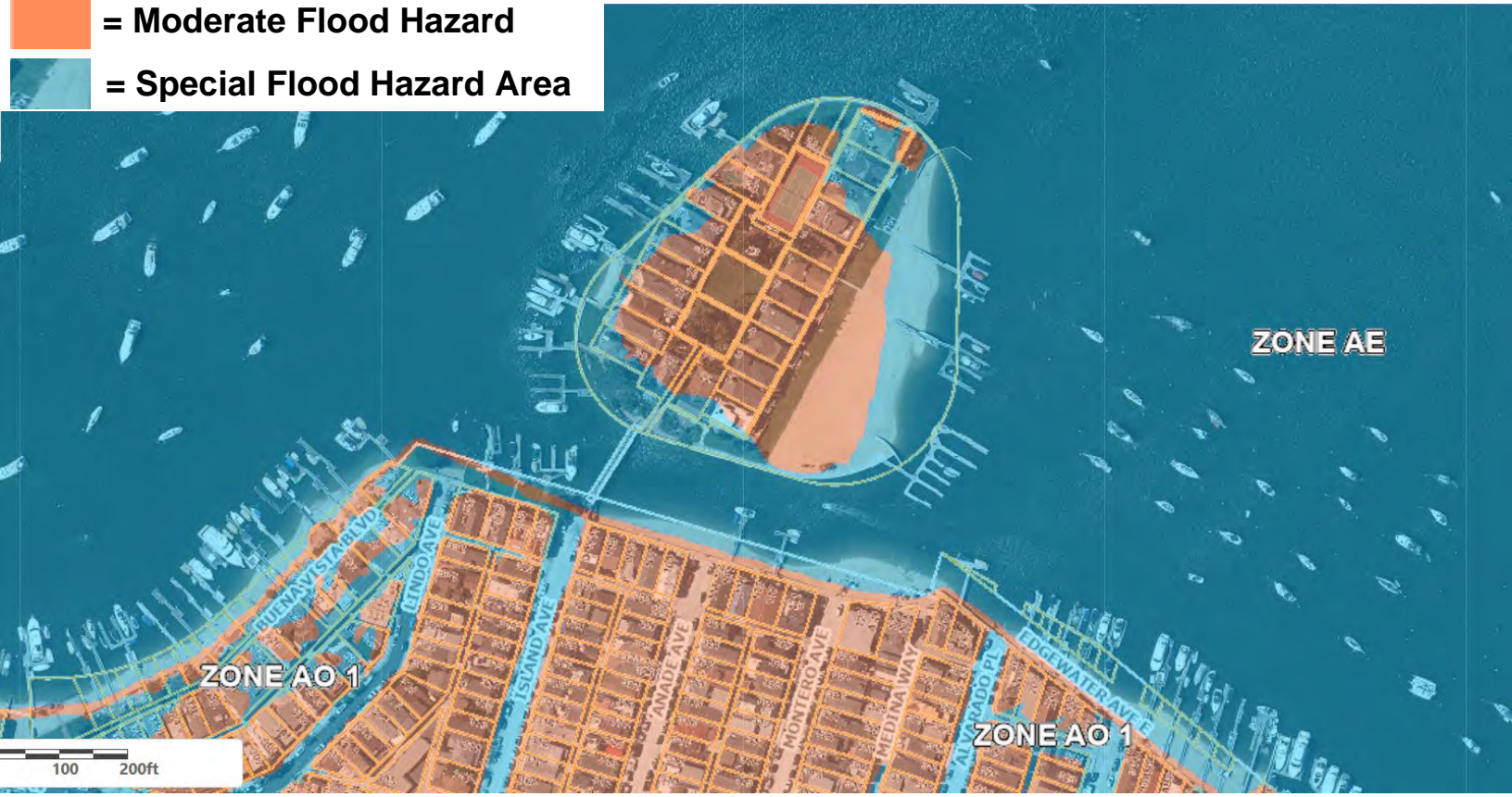




CoSMoS screenshots showing Bay Island (above) and the entire Newport Beach coastal zone (below) with 6.6 ft. of sea level rise and no storm event.



 = Moderate Flood Hazard
 = Special Flood Hazard Area



FEMA Flood Insurance Rate Maps showing Bay Island (above) and the entire Newport Beach coastal zone (below) with 2.5 ft. of sea level rise and no storm eve

