



NEWPORT BEACH

City Council Staff Report

July 23, 2024
Agenda Item No. 15

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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TITLE: Exclusive Negotiating Agreement with Burnham-Ward Properties, LLC for the Lease and Redevelopment of a Portion of the Balboa Yacht Basin Property Located at 829 Harbor Island Drive

ABSTRACT:

At the City Council study session on June 13, 2023, an overview of Balboa Yacht Basin (BYB) property was presented to the City Council. The BYB was constructed in the late 1940s, and is a mixed-use property with a marina, shipyard and other commercial uses. The improvements on a portion of the BYB have reached the end of their useful life and require a significant investment to continue operating and generating revenue. City Council directed staff to solicit proposals to ground lease and redevelop a portion of the BYB. On April 9, 2024, during a study session, City Council was presented with two proposals for the BYB redevelopment and directed staff to proceed with the proposal from Burnham-Ward Properties, LLC (BWP), perform public outreach, and return to Council with an agreement. For the City Council's consideration is a two-year exclusive negotiating agreement (ENA) (Attachment A), between the City and BWP, to allow negotiation of a lease agreement for a portion of the BYB for redevelopment of the property.

RECOMMENDATIONS:

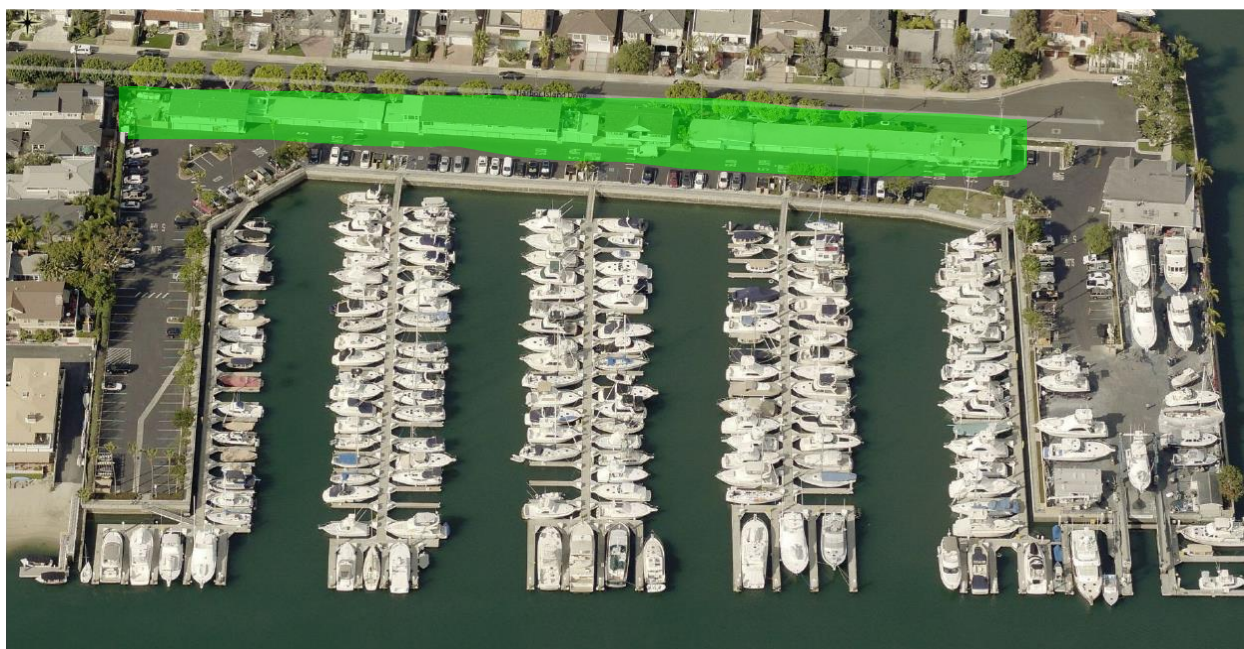
- a) Find this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2), 15060(c)(3), and 15378 of the CEQA Guidelines, because this action is not a project and has no potential to have a significant effect on the environment; and
- b) Authorize the City Manager and City Clerk to execute a two-year Exclusive Negotiating Agreement with Burnham-Ward Properties, LLC, for negotiation of a lease for redevelopment of a portion of the City-owned Balboa Yacht Basin property located at 829 Harbor Island Drive, in a form substantially similar to the agreement attached to the staff report.

DISCUSSION:

Balboa Yacht Basin

BYB is located at 829 Harbor Island Drive, Newport Beach, and includes a 172-slip marina, on-site parking, a shipyard and marine store, a restaurant, offices, three residential apartments and storage garages, which the City leases to various tenants.

The building on the north end of the site (highlighted in aerial below) (Premises) was built in the 1940s and contains approximately 14,362 square feet of improvements on approximately 17,500 square feet of land.



BYB with proposed redevelopment area highlighted.

The tenant uses in the Premises include the Galley Café restaurant, three office tenants, three residential apartment units, and 32 storage garages. The Premises also includes a small 0.05-acre park (Myrtle Park) and various amenities and spaces to support operation of the marina and property, including restrooms and showers, oil collection, impounded vessel storage, and janitorial and utility closets.

The buildings within the Premises have reached the end of their useful life and require substantial investment to continue operating or to renovate.

Request for Proposals

In June 2023, the City Council was provided an overview of the BYB at a study session meeting and directed staff to solicit proposals from developers interested in ground leasing the Premises to redevelop, lease and operate the aged structures. In December 2023, the City issued a Request for Proposals (RFP) No. 24-19, seeking proposals from qualified parties interested in ground leasing and redeveloping the Premises.

Two proposals were received and vetted through the City's formal RFP evaluation process. At the study session on April 9, 2024, both proposals were presented to the City Council for consideration:

1. The proposal from BWP proposed to replace or substantially remodel the existing buildings, retain and potentially add outdoor dining space for the Galley Café, expand the number and square footage of office units, expand the number and square footage of storage units, enhance Myrtle Park, and continue to provide marina-related amenities like restrooms and showers, and oil collection facilities. BWP proposed to oversee and finance the redevelopment project and manage the leasing and property management of the tenant spaces under a long-term ground lease, with a portion of the revenues paid to the City.
2. The second proposal from Basin Neighborhood Partners, LLC, proposed to remove the existing buildings and construct 10 new single-family residences, expand Myrtle Park, construct a new public park, provide two small office units, continue to provide marina-related amenities like restrooms and showers, provide approximately 40 small storage units, and proposed to leave the restaurant related improvements as-is and exclude Galley Café from the proposed project. Under its proposal, Basin Neighborhood Partners, LLC would develop and sell the homes, with the land for each residence ground leased to the home buyer by the City with annual rent revenue paid to the City, similar to the nearby Beacon Bay neighborhood.

Ultimately, the City Council directed staff to proceed with the proposed project from BWP, to replace the existing facilities with an equivalent use, eliminate the existing residential units, and preserve the Galley Café and other marine-related amenities.

Public Outreach

In addition to directing staff to proceed with BWP, City Council directed staff to perform public outreach. Information about the BYB, its existing condition, the proposed scope of the redevelopment project, the proposal from BWP, a community survey, and information about a townhall meeting were posted to the City's website in early May 2024. Postcards with the townhall information and a link to the website and to the survey were mailed to all BYB tenants and residents in the nearby neighborhoods of Beacon Bay, Promontory Bay, and Harbor Island Road in May, with a reminder postcard sent in early June.

A townhall meeting was held on June 17, 2024, to collect additional community input on the proposed redevelopment project and the proposal from BWP. The meeting was well attended, and many attendees provided comments during the meeting. Attendees shared their concerns regarding the proposed project by BWP, including availability of parking during peak summer months, whether the new storage unit configuration would be easily accessible and large enough to accommodate the items currently stored in the garages, and the impact of additional building height and office density to the views and street parking for nearby homeowners.

As of the date of the townhall, the City received 88 responses to the survey. The survey responses were aggregated and shared with the attendees of the townhall meeting and BWP.

Several themes emerged from the survey responses, including a request to limit the project height to be consistent with the current structures, providing exterior access to the new storage units, providing a sidewalk along Harbor Island Drive, improving security in the marina, and providing more marina amenities like Wi-Fi, an ice machine and coffee cart. Concern over the proposed project's impacts to parking and trash were also consistently included in the survey responses. Upon approval of the ENA, BWP will work to incorporate feedback from the survey results and community into its redevelopment plan and in negotiating the terms of the ground lease.

California Surplus Land Act

Assembly Bill 1486 was signed into law in 2019, went into effect in 2020, and made significant changes to the California Surplus Land Act (SLA) (Government Code §54222). With further updates to the legislation in 2024, and in compliance with §54221(b)(4), this staff report shall serve as the published notice, which is available for public comment, that upon City Council approval of this item, the Premises shall be considered "exempt surplus land" no less than 30 days from July 23, 2024, after which time the City may proceed with leasing the Premises. The effective date of the proposed ENA shall be no earlier than August 22, 2024. Additionally, pursuant to the requirements under the SLA guidelines, notice of this report will also be submitted to the entities that have notified the California Department of Housing and Community Development of their interest in surplus land as required by SLA.

Exclusive Negotiating Agreement

The ENA establishes a period of time during which the City and BWP will cooperate to refine the proposed project and provides BWP exclusive right to negotiate a lease agreement, as summarized below:

1. The length of the agreement will be for two years, with up to one six-month extension option, unless terminated as provided by the agreement.
2. The following non-exclusive list of items shall be the subject of negotiations during the term of the agreement:
 - a. Annual ground lease payment to the City;
 - b. Scope of development for redevelopment of the Premises;
 - c. Site plan, elevations and utility plan depicting the building locations, size, uses, parking, access, landscaping and circulation;
 - d. Pro forma for the project;
 - e. Financing plan for the project;
 - f. Assessment of the condition of the existing improvements and scope of any necessary abatement work;

- g. Scope of entitlements required for the project; and
 - h. Schedule for the project.
3. The City and BWP shall negotiate the terms of a lease agreement during the term of the ENA to achieve the objectives and tasks described in the agreement.
 4. BWP shall be responsible for all costs and expenses incurred by the City related to the agreement, including the cost of staff time, consultant fees, and attorneys' fees, and shall submit a deposit to the City, to be used to cover said costs.
 5. Prior to entering the site to perform any investigations, BWP shall provide certificates of insurance to the satisfaction of the City's risk manager, naming the City as additional insured.

The ENA has been prepared by the City Attorney's Office . BWP has reviewed the terms of the ENA.

FISCAL IMPACT:

There is no fiscal impact related to this item. If approved, staff will return with a lease agreement that will include a detailed analysis of the revenues related to the BYB. Revenues collected for the existing tenants will continue to be posted to the Tidelands Fund (10050505), Tidelands Capital Fund (10103), and General Funds (01050505) accounts in the Community Development Department. The revenues collected from the existing tenants are included in the budget for fiscal year 2024-2025.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENT:

Attachment A – Exclusive Negotiating Agreement