



NEWPORT BEACH

City Council Staff Report

January 10, 2023
Agenda Item No. 13

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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TITLE: Ordinance No. 2023-1 and Resolution Nos. 2023-4 and 2023-5: General Plan Amendment to Increase the Development Limit for Bay Island

ABSTRACT:

For the City Council's consideration are amendments to the General Plan, Zoning Map, and Coastal Zoning Map for Bay Island. The amendments increase the maximum development limits from 23 dwelling units to 25 dwelling units and include correcting the land use maps. The amendments were initiated by Bay Island Club, Inc., which seeks to return development rights, consistent with Use Permit No. UP3618.

RECOMMENDATIONS:

- a) Conduct a public hearing;
- b) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 – Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, because this project has no potential to have a significant effect on the environment;
- c) Adopt 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);*
- d) Adopt Resolution No. 2023-5, *A Resolution of the City Council of the City of Newport Beach, California, Authorizing the Submittal of Local Coastal Program Amendment No. LC2022-003 to Change the Development Limit Specified for Bay Island from 23 Dwelling Units to 25 Maximum Dwelling Units (PA2022-087); and,*
- e) Waive full reading, direct the City Clerk to read by title only, introduce 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), and pass to second reading on January 24, 2023.*

DISCUSSION:

Bay Island was established over 100 years ago as a recreational club and developed as a residential island over the years. Accessed only by a pedestrian bridge, there are no vehicles allowed on the island. Accordingly, Bay Island has a long history of off-site parking that is provided in a parking garage located at 501 W. Bay Avenue.

On November 24, 1997, the City Council approved Use Permit No. UP3618 (Attachment PC 2 of Attachment F). The Use Permit implemented a Planned Residential Development Overlay District, which modified the Multi-Family Residential (MFR) zoning and development regulations for Bay Island. It created a development plan that included a maximum of 25 residential units (24 single-family building sites plus one residential caretaker site) and authorized off-site parking. The purpose of Use Permit No. UP3618 is to ensure that future development maintains the single-family detached character of Bay Island.

On July 25, 2006, the City Council approved Resolution No. 2006-76 adopting a comprehensive General Plan Update. With the adoption of the updated General Plan, the density of Bay Island was inadvertently decreased to a maximum of 23 residential dwelling units based on the existing number of dwellings that existed on Bay Island at the time; however, the caretaker's unit was not taken into account, nor the fact that one dwelling unit is currently constructed over two authorized building sites. Additionally, the land use map inadvertently mapped one building site with an open space designation and conversely mapped areas intended for open space as appropriate for residential use. These errors were subsequently carried over into the Zoning Code and Local Coastal Program.

The following amendments are requested to be approved by the City Council to correct the errors.

- **General Plan Amendment No. GP2022-001** – An amendment to the Land Use Element of the General Plan increasing the maximum development limit specified on Figure LU4 for Bay Island from 23 dwelling units to 25 dwelling units and correcting the associated map;
- **Local Coastal Program Amendment No. LC2022-003** – An amendment to the Local Coastal Program Implementation Plan (Title 21) of the Newport Beach Municipal Code (NBMC) increasing the maximum development limit specified on the Coastal Zoning Map for Bay Island from 23 dwelling units to 25 dwelling units and correcting the associated map; and
- **Zoning Code Amendment No. CA2022-005** – An amendment to the Zoning Code (Title 20) of the NBMC increasing the maximum development limit specified on the Zoning Map for Bay Island from 23 dwelling units to 25 dwelling units and correcting the associated map.

General Plan and Zoning Map

Bay Island is a single property with two General Plan Land Use designations. The building sites on the island are designated Multiple Residential Detached (RM-D) and the common areas are designated Open Space (OS). The RM-D designation is intended to provide primarily for multi-family residential development exclusively containing detached dwelling units. This General Plan amendment to the development limit and map corrections will apply to the RM-D designated building sites as reflected in the original entitlements (Exhibit B of Attachment A). The remaining portions of the island will retain the appropriate OS designation, which is intended to provide areas for a range of public and private uses to protect, maintain and enhance the community’s natural resources. Similar amendments are proposed to the Zoning Map to reflect corrections to density and zoning land use designations (Exhibit B of Attachment C).

Charter Section 423 (Measure S) Analysis

Pursuant to City Charter Section 423 and Council Policy A-18, proposed General Plan amendments are reviewed to determine if a vote of the electorate would be required because a project (separately or cumulatively with other projects in the same Statistical Area over the prior 10 years) exceeds certain thresholds provided in Section 423 of the City Charter. The proposed General Plan Amendment is in Statistical Area D3 and there are no prior amendments approved less than 10 years ago. Table 1 below shows the increases attributable to the subject amendment, thereby demonstrating that no vote would be required.

Table 1: Charter Section 423, Measure S Analysis for Statistical Area D3				
Amendment	Increased Density	Increased Intensity	Peak Hour Trip Increase	
			AM	PM
GP2022-001 (PA2022-087)	2	0	1.4	1.88
Threshold	100	40,000	100	100
Remaining	98	40,000	98.6	98.12
Vote Required?	No	No	No	No

Planning Commission Review

On September 8, 2022, the Planning Commission conducted a duly noticed public hearing to consider the amendments (Attachments E and F). One public comment was submitted in opposition to the amendment (included in Attachment F). At the meeting, the Planning Commission adopted Resolution No. PC2022-023 (Attachment D) recommending approval of the amendments to City Council.

Local Coastal Plan

The Multiple Residential (RM) Coastal Zoning District is intended to provide for areas appropriate for multi-unit residential developments containing attached or detached dwelling units. The project corrects an error in the maximum number of dwelling units at Bay Island and the land use designations. Portions of the island originally entitled as open space will be designated as within the Open Space (OS) Coastal Zoning District, and the portion of the island developed with the caretaker's residence will be designated as RM. These updates will also be reflected in the Coastal Land Use Plan map (Exhibit C of Attachment B).

Future redevelopment at Bay Island, including construction or demolition of any dwelling units would continue to require conformance with applicable RM Coastal Zoning District development and parking standards and would require discretionary approval through a coastal development permit. Approval of a coastal development permit requires consistency with all applicable sections of the Local Coastal Program, including, but not limited to, policies related to water quality, public access and views, and coastal hazards.

SB18 Tribal Consultation Guidelines

Pursuant to Section 65352.3 of the California Government Code, a local government is required to contact the appropriate tribes identified by the Native American Heritage Commission (NAHC) each time it considers a proposal to adopt or amend the General Plan. If requested by any tribe, the local government must consult for the purpose of preserving or mitigating impacts to cultural resources. Twelve tribe contacts were provided notice on June 23, 2022. One additional tribe was provided notice on September 8, 2022. Section 65352.3 of the California Government Code requires 90 days to allow tribe contacts to respond to the request to consult unless the tribe contacts mutually agree to a shorter time period. The City has received one response from Gabrieleno Band of Mission Indians – Kizh Nation, requesting a consultation. This consultation was held on September 28, 2022, stating no issues with the project as proposed.

FISCAL IMPACT:

There is no fiscal impact related to this item.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.

Class 3 exempts the construction of up to three single-family residences. The project would authorize the future development of up to two additional single-family residences at Bay Island and therefore qualifies within this exemption. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

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).

ATTACHMENTS:

- Attachment A – City Council Resolution No. 2023-4
- Attachment B – City Council Resolution No. 2023-5
- Attachment C – City Council Ordinance No. 2023-1
- Attachment D – Planning Commission Resolution No. 2022-023
- Attachment E – September 8, 2022 Planning Commission Minutes
- Attachment F – September 8, 2022 Planning Commission Staff Report