



AGENDA

General Plan/LCP Implementation Committee

August 5, 2009

3:30 p.m.

City Council Chambers

1. Approve Action Minutes from June 10, 2009
Attachment No. 1 3:30-3:35pm
2. Amendment to City Council Policy A-18 (Measure S Guidelines) – Review
proposed changes and provide comments to staff
Attachment No. 2 3:35-3:55pm
3. Draft Zoning Code Review – Provide comments to staff on Parts 1, 2 and 3 of the
second public draft zoning code
Attachment No. 3 (Previously Distributed) 3:55-5:10pm
4. Future Meeting Dates – Direct staff to schedule future meeting dates
5:10-5:20pm
5. Items for Future Agenda 5:20-5:25pm
6. Public Comments on non-agenda items 5:25-5:30pm
7. Adjourn

Attachments:

1. Draft Action Minutes from June 10, 2009
2. Amendment to City Council Policy A-18
3. Draft Zoning Code – 2nd Public Draft (Previously Distributed)

Attachment No. 1
Action Minutes from June 10, 2009



CITY OF NEWPORT BEACH GENERAL PLAN/LCP IMPLEMENTATION COMMITTEE

DRAFT ACTION MINUTES

Action Minutes of the General Plan/LCP Implementation Committee held at the City Council Chambers, City of Newport Beach, on **Wednesday, June 10, 2009**

Members Present:

X	Ed Selich, Mayor, Chairman
X	Leslie Daigle, Council Member
X	Don Webb, Council Member
X	Barry Eaton, Planning Commissioner
X	Robert Hawkins, Planning Commissioner
X	Michael Toerge, Planning Commissioner

Advisory Group Members Present:

	Mark Cross
	Larry Frapwell
	William Guidero
X	Ian Harrison
X	Brion Jeannette
	Don Krotee
	Todd Schooler
	Kevin Weeda
	Dennis Wood

Staff Representatives:

	Sharon Wood, Assistant City Manager
X	David Lepo, Planning Director
X	Aaron Harp, City Attorney
	Patrick Alford, Senior Planner
X	James Campbell, Senior Planner
X	Gregg Ramirez, Senior Planner
X	Dan Campagnolo, Planning Systems Administrator
X	Makana Nova, Assistant Planner
X	Fern Nueno, Assistant Planner
	Melinda Whelan, Assistant Planner

E = Excused Absence

Committee Actions

1. Agenda Item No. 1 – Approval of minutes of April 15, 2008.

Action: Committee approved draft minutes.

Vote: Consensus

2. General Plan/LCP Implementation – Master Task List

Action: Committee received update of tasks from staff

Vote: None

3. Agenda Item No. 2. – Draft Zoning Code Review

A. Bluff Development Standards

Action: The Committee received an update showing the development zones for coastal bluffs that were established by the development lines approved at previous meetings.

- Include the coastal bluff and canyon development limit maps as in the zoning code.
- Include the coastal bluff and canyon development limits in the draft code as an overlay district.
- Delete section H.1 Minor Adjustment of Development limits.
- Retaining walls
 - Implement a City wide, 8-foot maximum height limit for retaining walls with a minimum 6-foot horizontal separation between retaining walls. Height shall be measured from natural and finished grade.
 - Provide examples of architectural details which will improve the aesthetic impact of retaining walls.
- Add 2945 Ocean Boulevard to the bluff development standards map so that further development down the bluff face shall not be permitted.
- Review the relevant coastal land use policies to rectify any inconsistencies with the proposed standards.
- Revise 183 Shorecliff to encompass the entire structure of existing development. A portion of the structure is obscured on the GIS aerial by vegetation.
- Add area B at the bottom section of 3317-3431 Ocean Boulevard.

Vote: Consensus

B. Canyon Development Standards

Action: The Committee and Advisory Members discussed and directed staff to:

- Return with revised regulations for the canyons once a determination on whether Buck Gulley and Morning Canyon will be designated a Very High Fire Severity Zones (VHFSZ) determination has been made.

Vote: Consensus.

C. Code Schedule

Action: Committee directed staff to incorporate the revised regulations in the draft code as recommended.

- Release the second draft of the Zoning Code on July 24.
- Review of second draft scheduled two weeks after release.

Vote: Consensus

4. Agenda Item No. 3 – Items for future agenda

Action: Cancel meeting for June 24th and continue discussion on Agenda Item 2B, Bluff Development Regulations at a future meeting.

Vote: Consensus

5. Agenda Item No. 5 - Public Comments on non-agenda items

None

6. Meeting Adjourned 5:30 p.m.

Attachment No. 2

Amendment to City Council Policy A-18



CITY OF NEWPORT BEACH

MEMORANDUM

TO: General Plan/LCP Implementation Committee

FROM: Sharon Wood, Assistant City Manager

DATE: August 5, 2009

RE: Amendment to City Council Policy A-18

Attached is a proposed amendment to City Council Policy A-18, with changes shown in underline/~~strikeout~~. This policy provides direction on implementing Measure S and Charter Section 423 with regard to General Plan amendments. Six areas of amendment to this policy are proposed to keep the policy up to date, to make it consistent with the City Charter and General Plan and to provide additional clarity, as follows:

1. Title changed to "Guidelines for Implementing Charter Section 423" to reflect inclusion of Measure S in City Charter.
2. Marinapark language deleted because no longer relevant.
3. Land use categories changed to those in 2006 GP.
4. "Peak hour trip" definition provides that Trip Rate Table shall be updated without an amendment to policy.
5. Variable FAR language deleted because this concept is no longer in General Plan.
6. Special uses language clarified.

Staff recommends that the Committee recommend approval of the amendment to the City Council.

MEASURE S GUIDELINES FOR IMPLEMENTING CHARTER SECTION 423

(1) INTRODUCTION

On November 7, 2000, the Newport Beach electorate approved Measure S (Exhibit A). Measure S amended the Newport Beach City Charter by adding Section 423. In general terms, Section 423 requires voter approval of certain amendments of the Newport Beach General Plan (General Plan). Measure S “encourages” the City Council to adopt implementing guidelines that are consistent with its purpose and intent. The City Council has, consistent with Measure S, conducted a series of public meetings to receive input from the public on Measure S and these Guidelines. The City Council has determined, based on staff analysis and public input, that these Guidelines are consistent with the express purpose of Measure S.

On November 6, 2006, the Newport Beach electorate approved Measure V, a comprehensive update and amendment of the General Plan Land Use Element. The Land Use Element approved by Measure V presents land use entitlement information in new tables and maps, and regulates non-residential entitlement by floor area ratio (FAR) differently than the Land Use Element that was in effect when Measure S was approved. The City Council has determined, based on staff analysis and public input, that these Guidelines, as amended for consistency with the 2006 Land Use Element, are consistent with the purpose of Measure S.

(2) DEFINITIONS

The definitions and terms in this section are intended to be consistent with the purpose and intent of Measure S. Certain definitions and terms are intended to generally conform to the definitions in, and terminology of, the most current edition of “Trip Generation,” a multi-volume publication of the Institute of Transportation Engineers (ITE Manual). The ITE Manual is the primary reference used by transportation professionals seeking trip generation information. Measure S requires use of the ITE Manual as a basis for calculating the Peak Hour Trips generated by a use permitted by an Amendment.

- A. Allowed and Proposed Use. The term “allowed use” means any land use(s) permitted by the General Plan on property or in an area. An allowed use may be defined in terms of a residential use and/or a non-residential use generally applicable to an area or property or a particular land use applicable to specific parcel. A “proposed use” is a land use that would be permitted after an Amendment is approved.

- B. Amendment. The word "Amendment" means any proposed amendment of the General Plan that is first considered and/or approved by the City Council subsequent to December 15, 2000 and that increases the number of peak hour trips, ~~(traffic,)~~ floor area (intensity) or dwelling units (density) ~~or floor area~~ when compared to the General Plan prior to approval. In all cases an Amendment shall state the proposed entitlement in density and/or intensity and, in the case of intensity, the category of non-residential use.
- C. Approval. ~~Subject only to the exception specified in the third sentence of this Section, the~~ word "approve" (and any variations such as approved or approval) means, in the context of the City Council's decision on an Amendment, that four members of the City Council have, after the City has complied with the "mandatory procedures" described in Section (4)(A) voted affirmatively to adopt a resolution that contains the text of a proposed Amendment. In the context of the voter's decision on an Amendment, the word "approve" (and any variations such as approved or approval) means that a majority of those voting in the election have voted in favor of the Amendment. ~~The City Council shall be deemed to have "approved" an Amendment if, prior to July 1, 2003, the Council and the applicant for an Amendment concerning public property currently designated as Recreation and Open Space have entered into a written agreement providing for submission of the Amendment directly to the voters after consideration of the Amendment and a fiscal impact report by the City Council and Planning Commission at noticed public hearings as well as the certification of an Environmental Impact Report prepared pursuant to CEQA and the CEQA Guidelines. The approval of any agreement described in this Section shall not be construed as a precedent for City Council approval of any other agreement except to the extent of those agreements between the City and a project proponent that are expressly authorized by Section 423.~~
- D. Dwelling Unit. The term "dwelling unit" means "dwelling unit" as defined in Section 20.03.030 of the Newport Beach Municipal Code (Code).
- E. Entitlement. The word "entitlement" means the maximum amount of floor area or dwelling units authorized by the General Plan for each allowed use on any property and/or in any area. The term entitlement when preceded by the word "proposed" shall mean the entitlement requested by an Amendment. —Proposed Amendments for parcels or areas entitled for special uses ~~that have not been approved prior to July 1, 2003~~ shall, when

considered by the Planning Commission and City Council and when submitted to the voters, describe the proposed entitlement in both floor area and the appropriate unit of measurement for that special use as utilized in the Trip Rate Table.

- F. Floor Area. The term “floor area” shall be defined as follows (taken from Section 20.03.030 of the Code - “Floor area, gross”):

“The total enclosed area of all floors of a building measured to the outside face of the structural members in exterior walls, and including halls, stairways, elevator shafts at each floor level, service and mechanical equipment rooms, and basement or attic areas having a height of more than seven feet.”

- G. Non-residential Use. The term non-residential use means any land use other than a residential use that is authorized by the General Plan -and that generates any peak hour trips. The term non-residential use includes the land uses specified in Sections 20.05.040 (public and semi-public), 20.05.050 (commercial), 20.05.060 (industrial) and 20.05.070 (agriculture) of the Zoning Code. For the purposes of these Guidelines, and specifically the Trip Rate Table, the non-residential use categories are: (1) “Commercial” (which includes the General Plan designations of “Retail Service Neighborhood Commercial”, “Administrative Professional Financial Corridor Commercial”, “General Commercial” and “Recreational and Marine Commercial” and “Visitor Serving Commercial”); (2) “Commercial Office” (which includes the General Plan designations of “General Commercial Office”, “Medical Commercial Office” and “Regional Commercial Office”); (3) “General Industrial”; (4) “Airport Office and Supporting”; (5) the non-residential portions of “Mixed Use” categories; - and (6) “Public, Semi Public & Institutional.” (which includes the General Plan designations of “Public Facilities”, “Private Institutions”, “Open Space”, “Parks and Recreation” and “Tidelands and Submerged Lands:).”

- H. Peak Hour Trips. The term “peak hour trips” means the number of vehicle trips equal to the applicable peak hour trip rate specified in the Trip Rate Table (Exhibit B) for any allowed use or proposed use multiplied by the entitlement (using the appropriate quantity of the relevant “unit” of measurement specified in the Trip Rate Table). When these Guidelines require a statement or calculation of peak hour trips, the morning and evening peak hour trips shall each be provided and listed separately.

Exhibit B shall be updated annually or as often as ITE revises the Trip Rate Table, and this update shall not be considered an amendment to this policy.

- I. Peak Hour Trip Rate. The term “peak hour trip rate” means the morning and evening average weekday rate during the peak hour of the adjacent street traffic for an allowed use and proposed use (as specified in the Trip Rate Table and as derived from the ITE Manual). ~~The peak hour trip rate for any non-residential use is specified in the Trip Rate Table.~~ In the event the Trip Rate Table does not contain a peak hour trip rate for an allowed use or a proposed use, the peak hour trip rate shall be based on the morning and evening weekday average peak hour trip rate for the most comparable land use in the Trip Rate Table. The most comparable land use in the Trip Rate Table shall be determined by the City Council based on recommendation of the Planning Director and the Transportation and Development Services Manager (Traffic Engineer). The morning and evening peak hour trip rates shall be listed separately.
- J. Prior Amendment. The term “Prior Amendment” means an Amendment that:
1. Affects property or an area within the same statistical area as an Amendment that is being considered by the Planning Commission and/or City Council; and
 2. Was approved by the City Council after December 15, 2000; and
 3. Was approved within ten years prior to the date the City Council approved the Amendment being evaluated pursuant to Section 423 and these Guidelines; and
 4. Was determined by the City Council, or by a final judgment of a court of competent jurisdiction, not to require voter approval pursuant to Section 423 and these Guidelines.
- K. Residential Use. The term “residential use” means General Plan entitlement that is stated in terms of dwelling units.
- L. Statistical Area. The term “statistical area” shall mean one of the statistical areas identified (on ~~page 89~~ Figure LU3) in the Land Use Element of the General Plan approved by the City Council on ~~October July 24, 1988~~ July 24, 2006

(Exhibit C). The term statistical area also means any new statistical area(s) established for property annexed to the City subsequent to ~~October 24, 1988~~ July 25, 2006 and in such event Exhibit C shall be modified to depict any new statistical area(s).

(3) METHODOLOGY

Section 423 requires voter approval of any major amendment to the Newport Beach General Plan. According to Section 423, a "major amendment" is one that significantly increases traffic, intensity or density of allowed and proposed uses. This Section describes the methodology and assumptions to be used for purposes of calculating the traffic (maximum peak hour trips), intensity (floor area) and density (dwelling units) of allowed uses and proposed uses.

- A. Traffic/Peak Hour Trips. The purpose of this Section is to assist the City Council, Planning Commission, staff, the public and property owners in understanding and calculating the traffic generated by allowed and proposed uses. Section 423 specifies that Section 423 requires "voter approval" of any "major amendment to the Newport Beach General Plan." According to Section 423, a "'major amendment' is one that significantly increases the maximum amount of traffic that allowed uses could generate." The term "significantly increases" means "over 100 peak hour trips (traffic)." Measure S and Section 423 do not define the terms "allowed uses" and "maximum amount of traffic" and they do not specify a method of calculating any increase in the maximum traffic resulting from an Amendment. The General Plan contains non-residential use categories that authorize a wide range of land uses with variations in trip generation rates that make infeasible the use of the highest peak hour trip rate of any allowed use. Accordingly, for property or geographical areas for which entitlement is specified in terms of one or more non-residential use category, the peak hour trip rate specified in the Trip Rate Table represents a blend of the ITE trip rates for the most prevalent uses within each category. The City Council has determined that the methodology and assumptions in these Guidelines represent the most reasonable method of determining the amount of traffic that is allowed under the existing General Plan and the increase in peak hour trips resulting from an Amendment. The following methodology shall be used for calculating the peak hour trips of an allowed use and the increase, if any, in the peak hour trips resulting from a proposed use if an Amendment is approved:

1. Allowed Use. The peak hour trips that an allowed use could generate shall be calculated by multiplying the entitlement for the property or area by the morning and evening peak hour trip rate for the allowed use as specified in the Trip Rate Table. If the allowed use is designated in terms of one or more non-residential use category, the peak hour trip rate from the Trip Rate Table for the applicable non-residential use category shall be used. If the allowed use or uses are designated in terms of one or more specific land uses, the peak hour trip rate from the Trip Rate Table for each specific use shall be used in proportion to the amount of entitlement for each specific use.
 2. Proposed Use. The peak hour trips that a proposed use could generate shall be calculated using the methodology specified in Subsection 1.
 3. The increase, if any, in peak hour trips resulting from an Amendment shall be calculated by subtracting the morning and evening peak hour trips determined pursuant to Subsection 1 from the morning and evening peak hour trips, respectively, determined pursuant to Subsection 2.
- B. Intensity/Floor Area. The purpose of this Section is to assist the City Council, Planning Commission, staff, the public and property owners in understanding and calculating the "intensity of allowed uses" (allowed intensity) permitted by the General Plan for any parcel or area that is designated, or proposed to be designated for Non-Residential Uses and the allowed intensity resulting from approval of an Amendment (proposed intensity). The Land Use Element, with the exception of those special land uses described in sSubsection 2, employs the following methods of specifying allowed intensity: (a) allocating a specific amount of floor area (specific floor area allocation); or (b) assigning a ~~fixed~~ floor area ratio (~~fixed~~ floor area ratio), with the allowed intensity calculated by multiplying the applicable floor area ratio ("FAR") by the gross land area of the parcel; ~~(c) assigning a variable floor area ratio from the "base FAR" of 0.5 to a maximum FAR of 0.65, 0.75, 1.00, or 1.25 ("maximum permitted FAR"), with the allowed intensity calculated by multiplying the applicable FAR by the gross land area of the parcel.~~
1. Methodology. Except for "special uses" covered in subsections 2 and 3, ~~the~~ increase in intensity resulting from approval of an

Amendment shall be calculated by subtracting the allowed intensity from the proposed intensity. Both ~~existing~~allowed and proposed intensity shall be calculated as follows:~~calculated in accordance with the methodology specified in this section.~~

- (a) ~~For a parcel or area that is not entitled or proposed to be entitled in terms of a variable FAR, the allowed intensity and proposed intensity shall be;~~ (i) the specific floor area allocation; or (ii) the ~~fixed~~applicable FAR multiplied by the gross land area.
- (b) ~~For an parcel or area that is entitled or is proposed to be entitled in terms of a variable FAR, the allowed intensity and proposed intensity shall be the greater of;~~ (i) the "base FAR" (0.5) multiplied by the gross land area; (ii) the FAR of the existing land use if, and only if, that land use is an allowed use pursuant to the General Plan; or (iii) a floor area not greater than the maximum permitted FAR if, and to the extent that, all the conditions in subsection (c) are satisfied.
- (c) ~~For a parcel or area for which some or all of the existing and/or proposed entitlement is stated in terms of a variable FAR the allowed intensity and the proposed intensity shall be the maximum permitted FAR only if, and only to the extent, that;~~ (i) the Amendment is conditioned on the recordation of a covenant that restricts that portion of the property or area for which the maximum permitted floor area is applicable to those uses which qualify as "maximum FAR" land uses as that term is generally described in the Land Use Element of the General Plan (lower traffic generating uses) and as specified in the Zoning Code; (ii) that portion of the property that is subject to the covenant is developed and used exclusively for maximum FAR uses; (iii) the covenant includes an obligation on the part of the owner to remove all floor area and otherwise fully comply with the provisions of Zoning Code if that portion of the property covered by the covenant ceases to be used for maximum permitted FAR uses; and (iv) the covenant requires the City to enforce the restrictions and specifies that the cost of enforcement shall constitute a lien on the property

~~unless paid within thirty (30) days after owner receives a request for payment.~~

2. Special Uses. The Land Use Element has historically entitled land uses on the basis of the most common "unit of measurement" utilized in the ITE Manual for calculating the peak hour traffic generated by that land use. The use of the appropriate "unit of measurement" ensures that the Land Use and Circulation Elements are, as required by State law, properly correlated. Floor area is the most common unit of measurement in the ITE Manual but a different metric is used to measure peak hour trips in the case of certain land uses such as hotels (rooms) and theatres (seats) because ~~of~~ those metrics better reflect the traffic generation characteristics of those uses. Consistent with the ITE Manual, the City has historically entitled some large hotels in terms of rooms and two large theaters in terms of seats. The City has, in the "Estimated Growth Tables" LU2 Anomaly Locations, either for those statistical areas in which special uses are located, assigned approximately 1,000 square feet of floor area for each hotel room or indicated the number of hotel rooms allowed on the site. Table LU2 also indicates the number of theater seats allowed on certain sites, while the intensity limit for other sites where theaters are allowed is indicated in Table LU1 Land Use Plan Categories. For the purposes of this policy, the rate of 1,000 square feet per hotel room and 15 square feet for each theater seat shall be used for those locations where special uses are located.

3. Special Uses/Methodology. The "allowed intensity" of a parcel or area that is entitled using hotel rooms or theater seats as a unit of measurement shall be calculated on the basis of 1,000 square feet per hotel room or 15 square feet per theater seat. The "allowed intensity" of a parcel or area that is entitled in a unit of measurement other than floor area, hotel rooms or theater seats shall be calculated on the basis of the greater of the floor area specified in the "Density/Intensity" column of Table LU1 Land Use Plan Categories or Table LU2 Anomaly Locations, the Estimated Growth Table for the Statistical Area in which the parcel or area is located or the amount of floor area of the allowed uses existing on the parcel at the time the application for the Amendment is filed.

- C. Density/Dwelling Units. The dwelling units authorized in the General Plan for property or an area before and after an Amendment shall be determined on the basis of the maximum number of Dwelling Units allowed on the property or area before and after the Amendment.
- D. Trip Rate Table. The Trip Rate Table contains the morning and evening average weekday peak hour trip rate for each land use specified in the ITE Manual. The information in the Trip Rate Table is based on the vehicle trip rates and related data in the ITE Manual. The term "unit" in the Trip Rate Table refers to the "unit of measurement" or "independent variable" that was used in the trip generation studies that form the basis of the trip rates reflected in the ITE Manual.
- E. Entitlement Table. The Entitlement Table shall describe, by Statistical Area, the peak hour trip (traffic), floor area (intensity) and dwelling unit (density) and floor area increases, if any, of each Amendment approved by the City Council subsequent to December 15, 2000. The Entitlement Table shall not include any Amendment approved by the voters and an Amendment shall be removed from the Entitlement Table ten (10) years after approval by the City Council.
- F. Multiple Amendments. The City Council may have occasion to approve more than one Amendment affecting the same Statistical Area at the same meeting. In such event, the Amendments shall be deemed approved in the following order:
1. The Amendment(s) with the earliest date(s) of initiation or application (for example GPA 2001-001) shall be deemed approved before an Amendment with a later date of initiation or application (for example 2002-002).
 2. In the event that more than one Amendment was initiated or applied for at the same time, the Amendments shall be deemed approved in numerical order (for example GPA 2001-001 would be deemed approved before GPA 2001-002).
- G. Change in Land Use Category. In the case of an Amendment that proposes a change in land use from non-residential to residential or vice versa no floor area credit shall be given for allowed density (dwelling units) and no density credit shall be given for allowed intensity (floor area). For example,

in the case of a Residential parcel with an allowed density of 20 dwelling units the allowed intensity is zero square feet of floor area and in the case of a Non-residential parcel with an allowed intensity of 100,000 square feet, the allowed density is zero dwelling units. However, traffic (peak hour trip) credit shall be in accordance with the entitlement multiplied by the appropriate peak hour trip rate.

(4) PROCEDURES

This Section describes procedures to be followed prior to City Council approval of an Amendment and the submittal of that Amendment to the voters.

- A. Mandatory Procedures. The City Council shall not approve an Amendment unless and until the Planning Commission and City Council have first conducted noticed public hearings as required by law and prepared and certified any environmental document that is required by the California Environmental Quality Act (CEQA) and the CEQA Guidelines. The City Council shall, at the same time the Amendment is considered and decided, consider and decide any discretionary land use approval or permit that is related to the Amendment and for which an application has been submitted.
- B. Staff Reports. The Planning Department shall prepares Planning Commission and City Council staff reports for each Amendment. All Planning Commission and City Council staff reports on an Amendment shall contain information relevant to whether the Amendment, if approved, would require voter approval pursuant to Section 423. The reports shall include the following information:
1. In the case of an Amendment where the existing and/or proposed use is a residential use, the number of dwelling units allowed by the General Plan before and/or after the Amendment;
 2. In the case of an Amendment where the existing and/or proposed use is a non-residential use, the amount of floor area (and relevant unit of measurement from the Trip Rate Table if different than floor area) allowed by the General Plan before and/or after the Amendment;
 3. In all cases, the number of peak hour trips allowed by the General Plan before and after the Amendment;

4. A table that identifies each Prior Amendment (see definition in Section (2)J) including any increase in Peak Hour Trips, Floor Area, Dwelling Units and/or Dwelling Units Peak Hour Trips, and the date on which each Prior Amendment was approved;
 5. A table that adds eighty percent (80%) of the increases in peak hour trips, ~~dwelling units and floor area~~ and dwelling units resulting from Prior Amendments (see definition in Section (2)J) to the increases in peak hour trips, floor area ~~dwelling units and/ or dwelling units~~ floor area—(as appropriate) resulting from the Amendment under consideration.
 6. The Entitlement Table referenced in Section (3)E.
 7. Information about the Amendment, any associated project or land use approval and the environmental analysis that would help the Planning Commission and City Council make informed recommendations or decisions on the Amendment and help the public develop informed opinions about the Amendment.
- C. City Council Review. The City Council shall determine at the noticed public hearing at which any Amendment is approved if, based on the administrative record for the Amendment including any testimony presented at that hearing, the Amendment requires voter approval pursuant to Section 423. The City Council shall submit an Amendment to the voters if:
1. ~~1.~~ 1.—The Amendment modifies the allowed use(s) of the property or area that is the subject of the Amendment such that the proposed use(s) generate(s) more than one hundred morning or evening peak hour trips than are generated by the allowed use(s) before the Amendment; or
 2. 2. The Amendment authorizes an increase in floor area for the property or area that is the subject of the Amendment that exceeds forty thousand (40,000) square feet when compared to the General Plan before approval of the Amendment; or

23. The Amendment authorizes an increase in the number of dwelling units for the property or area that is the subject of the Amendment that exceeds one hundred (100) dwelling units when compared to the General Plan before approval of the Amendment; or
3. ~~The Amendment modifies the allowed use(s) of the property or area that is the subject of the Amendment such that the proposed use(s) generate(s) more than one hundred morning or evening peak hour trips than are generated by the allowed use(s) before the Amendment; or~~
4. The increase in morning or evening peak hour trips, floor area or dwelling units or ~~floor area~~ resulting from the Amendment when added to eighty percent (80%) of the increases in morning or evening peak hour trips, floor area or dwelling units or ~~floor area~~ resulting from Prior Amendments (see definition in Section (2)) exceeds one or more of the voter approval thresholds in Section 423 as specified in ~~s~~Subsection 1, 2 or 3.
- D. Calling an Election. In the event the City Council determines that the Amendment requires voter approval, the City Council shall, at the noticed public hearing at which the Amendment was approved or a subsequent noticed public hearing held no more than sixty (60) days after making the determination, adopt a resolution calling an election on the Amendment. The City Council shall schedule the election on the Amendment at the next regular municipal election (as specified by the City Charter) or at a special election if the City and the proponent of the Amendment have entered into a written agreement to share the costs of the special election. The City Council shall, at the time the election is called, direct the City Attorney to prepare an impartial analysis of the Amendment. The impartial analysis shall contain information about the Amendment, any related project or land use approval, and the environmental analysis conducted of the Amendment that will help the electorate make an informed decision on the Amendment. In the absence of an ordinance or Charter provision that establishes a procedure for submittal of arguments or rebuttals relative to City measures, the City Council shall, at the time a decision is made to submit an Amendment to the voters, adopt a resolution that authorizes the filing of arguments and rebuttals in accordance with the general procedures specified in the Elections Code.

- E. Exclusive Method. Effective November 3, 2004, in the absence of a mandatory duty arising from an initiative petition, referendum petition, court order or other mandatory legal obligation, Section 423 and the procedures outlined in these Guidelines represent the sole and exclusive method by which the City Council considers, approves and submits for voter approval an Amendment that is subject to Section 423. The City Council has also determined that nothing in Section 423 prevents the City Council from submitting any matter other than an Amendment to the voters as an advisory measure.

Adopted - March 27, 2001

Amended - June 8, 2004

Amended - July 13, 2004

Amended -

Attachment No. 3

Draft Zoning Code – Public Draft No. 2
(Previously Distributed)

Public Draft No. 2 of the Zoning Code can be accessed on-line at:

www.newportbeachca.gov/index.aspx?page=1284