

Attachment D

Planning Commission Draft Meeting Minutes

**NEWPORT BEACH PLANNING COMMISSION MINUTES
CITY COUNCIL CHAMBERS – 100 CIVIC CENTER DRIVE
THURSDAY, OCTOBER 23, 2025
REGULAR MEETING – 6:00 P.M.**

I. CALL TO ORDER - 6:02 p.m.

II. PLEDGE OF ALLEGIANCE – Commissioner Ellmore

III. ROLL CALL

PRESENT: Chair Tristan Harris, Secretary Jonathan Langford, Commissioner Curtis Ellmore, Commissioner Michael Gazzano, Commissioner Mark Rosene

ABSENT: Vice Chair David Salene, Commissioner Greg Reed

Staff Present: Acting Community Development Director Jaime Murillo, Deputy City Attorney Jose Montoya, Associate Planner Jenny Hannsun, Assistant Planner Jerry Arregui, and Administrative Assistant Clarivel Rodriguez

IV. PUBLIC COMMENTS – None

V. REQUEST FOR CONTINUANCES – None

VI. CONSENT ITEMS

ITEM NO. 1 MINUTES OF OCTOBER 9, 2025

Recommended Action: Approve and file

Chair Harris opened public comment.

Jim Mosher reported that he did not see any corrections that need to be made to the October 9, 2025, meeting minutes and congratulated the staff. He noted that Secretary Langford's first name "Jonathan" is misspelled as "Jonathon" on the meeting's Agenda.

Chair Harris closed public comment.

Motion made by Commissioner Ellmore and seconded by Secretary Langford to approve the meeting minutes of October 9, 2025.

AYES: Ellmore, Gazzano, Harris, Langford, and Rosene

NOES: None

ABSTAIN: None

ABSENT: Reed, and Salene

VII. PUBLIC HEARING ITEMS

**ITEM NO. 2 EAST COAST HIGHWAY RESTAURANT SPACE (PA2024-0198)
Site Location: 3840 East Coast Highway**

Summary:

A request for a conditional use permit to establish a new 2,155-square-foot café style restaurant by remodeling and expanding a vacant restaurant space within Suite B into the adjacent vacant office space within Suite A. While a specific tenant has not yet been identified, the request includes the allowance for alcohol service through a Type 41 (On-Sale Beer and Wine – Eating Place) California Department of Alcohol Beverage Control (ABC)

License and operating hours from 6 a.m. to 10 p.m., daily. No live entertainment, dancing, or late-hour operations (i.e., after 11 p.m.) are proposed. Also included in the request is a 16-space parking waiver to accommodate the expanded restaurant. Approval of the project will supersede Use Permit Nos. UP1848 and UP2006A.

Recommended Actions:

1. Conduct a public hearing;
2. Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment; and
3. Adopt Resolution No. PC2025-022 approving the Conditional Use Permit filed as PA2024-0198.

Assistant Planner Jerry Arregui used a presentation to present the project location, zoning, and surrounding land uses, future project description, existing conditions, requested approvals required by the City. He reported on receiving only one public comment generally supporting the applications but also expressing concerns about the parking waiver.

In response to Secretary Langford's inquiries, Assistant Planner Arregui clarified that nothing will be changed in the rear of the building and there are no changes to the rear setback. He clarified that a Parking Management Plan was incorporated into the Parking Study, and the corresponding Condition of Approval allows the plan to be enforced.

In response to Commissioner Rosene's inquiry, Assistant Planner Arregui clarified that the Parking Study found the operations would peak early in the day due to the café-style use. He reported that the intention of the property owner is to lease to a breakfast-serving restaurant. He added that the hours in the proposal extending to 10:00 p.m. are intended to allow for flexibility in searching for a tenant.

In response to Chair Harris' inquiries, Assistant Planner Arregui reported that Mama D's Italian Kitchen, located a block from the site and also has residential units on its property, does not provide any parking. He added that a parking waiver was approved for the restaurant in 2017 and while there were no offsite parking agreement, there were informal parking agreements with neighboring property owners. He stated that the property owner in this proposal will also be encouraged to work with neighboring property owners for the potential creation of parking agreements. He confirmed that the parking agreements for Mama D's are informal and not required.

Chair Harris opened the public hearing.

Theory R Properties Vice President Buddy Molway, speaking for the building owners, confirmed that they are pursuing potential restaurant operators focused on breakfast and lunch. He added that they cannot sign a lease with a restaurant until they can guarantee the space, which is part of why the hours of operation are so broad. He added that they are looking for a family-friendly tenant who will add to CdM's vibrance, and they have identified several good potential operators who focus on a breakfast café-style restaurant.

In response to Chair Harris' inquiry, Mr. Molway confirmed that the applicant agrees with all recommended Conditions of Approval.

In response to Commissioner Rosene's inquiries, Mr. Molway agreed that it is somewhat unusual in that they do not yet know the tenant for this CUP application. He agreed with Condition of

Approval Nos. 6 and 13, which limit the property to a café-style restaurant.

Mr. Mosher agreed with Commissioner Rosene's concerns about approving a CUP without an identified operator, adding that it is unusual. He stated that the project would be inconsistent with the Zoning Code in terms of parking. He reported that Conditional of Approval No. 11 has a typographical error where "that" should be "than" and "and" should probably be "or" to better meet the intent of the condition. He added that Condition of Approval No. 13 is also grammatically incorrect due to either including the word "and" or the possible needed omission of words following the "and". He added that this Condition is critical as Commissioner Rosene is relying on it to ensure that the eventual tenant is a café-style restaurant. He expressed concerns about having staff parking on the roof because it contains the only handicapped-accessible space and encouraged this space to be reserved for guests.

Theory R Properties Founder and Chairman Gary Daichendt added that the elevator to the roof is intended to help in the loading and unloading of handicapped guests who are not driving themselves for better access. He noted that there are also regularly empty parking spaces in front of the building for handicapped drop-offs and pick-ups. He clarified that there is also the potential for a handicapped employee. He added that interested tenants are café-centric because it is what fits the venue and neighborhood.

Assistant Planner Arregui thanked Mr. Mosher for noting the grammatical mistakes. He clarified that Condition No. 11 should use the word "than" and keep the "and". He added that "and" should be struck from Condition No. 13.

Acting Community Director Jaime Murillo added that Condition of Approval No. 45 can be modified to require employees to park within the five standard parking spaces so that the accessible space can be available for customers or employees who are disabled .

In response to Chair Harris' inquiry, Acting Community Director Murillo clarified that restaurants come and go, and staff looks at whether a new restaurant is in substantial conformance with the original approval. He stated that staff would take a similar stance here if something other than a café with more of an evening-heavy use moves into the space. He added that peak parking demand in the area occurs around lunchtime, with it lessening in the evening when offices are closed. He added that this assertion led to staff providing more flexibility with the closing hours.

Chair Harris closed the public hearing.

Commissioner Gazzano recommended editing the language of Condition of Approval No. 45 to include a phrase such as "consistent with the Americans with Disabilities Act"

Acting Community Director Murillo confirmed that staff can modify the language of Condition of Approval No. 45 to meet this intent.

Secretary Langford stated that CdM needs something like this. He noted that the CdM Commercial Corridor Study is coming to the City Council in a couple of weeks and added that the findings will likely call for ways to attract businesses such as this proposed café.

Motion made by Secretary Langford and seconded by Commissioner Ellmore to approve the item with amendments to Condition of Approval Nos. 11, 13, and 45.

AYES: Ellmore, Gazzano, Harris, Langford, and Rosene
NOES: None
ABSTAIN: None

ABSENT: Reed, and Salene

ITEM NO. 3 MACARTHUR COURT (PA2025-0090)

Site Location: 4665, 46575, 4680, 4685, and 4695 MacArthur Court, and 4470 Campus Drive

Summary:

A request for a development agreement and affordable housing implementation plan for the future development of MacArthur Court Campus, a mixed-use campus consisting of two new five-story residential buildings containing 700 residential units (MacArthur Court Apartments), and a new 10,000-square-foot retail building. The project would include the demolition of approximately 126,837 square feet of existing office buildings and retention of two existing high rise office towers and an existing parking garage. The applicant requests the following approvals to vest the development rights for the project:

- **Development Agreement (DA)** - A development agreement between the applicant and the City, pursuant to Chapter 15.45 (Development Agreements) of the Newport Beach Municipal Code (NBMC), which would provide the applicant with the vested right to develop the project for a term of 10 years and to provide negotiated public benefits to the City; and
- **Affordable Housing Implementation Plan (AHIP)** - A preliminary plan specifying how the project would contribute affordable housing as a public benefit, by providing affordable housing units equivalent to 7% of up to 700 market rate residential units, or up to 49 affordable housing units. The applicant will identify an appropriate site for development of the 49 affordable units at a future date.

The Project would require approval of a future Site Development Review prior to building permit issuance, as no specific design for the Project is included.

Recommended Actions:

1. Conduct a public hearing;
2. Find this project is not subject to further environmental review pursuant to Section 21083.3 of the California Public Resources Code (PCR) and Section 15183 of the CEQA Guidelines because the project is consistent with the previously certified Program Environmental Impact Report (SCH No. 2023060699); and
3. Adopt Resolution No. PC2025-023 recommending City Council approval of the Development Agreement and Affordable Housing Implementation Plan filed as PA2025-0090.

Acting Community Director Murillo clarified that this is not the approval of the actual mixed-use housing project but only the Development Agreement (DA) and Affordable Housing Implementation Plan (AHIP).

Associate Planner Jenny Hannsun used a presentation to present the future project location and description, surrounding land uses, zoning, existing conditions, and the requested approvals required by the City..

She reported that the DA would have a 10-year term with a \$17,000 Public Benefit Fee for residential units built on or after July 1, 2028. She added that there would be a \$3.25 million payment for improvements along MacArthur Boulevard, a public one-acre easement for open space, Development Impact Fees, and the AHIP. She clarified that the DA is still under review and there will be minor changes before it is presented to the City Council.

Associate Planner Hannsun reported that the Voluntary AHIP requires the provisions for affordable housing in an amount equal to 7% of the requested market-rate residential units. She added that up to 700 market-rate units can be constructed on the project site, with the affordable housing units to be constructed off-site. She stated that the first building permit for affordable housing will be issued by January 31, 2029, and, if the units are not constructed, either suitable land will be dedicated to the City or a fee of \$36,690 per market rate unit will be paid by the developer.

In response to Secretary Langford's inquiries, Acting Community Development Director Murillo clarified that the 700 residential unit cap is allocated from the overall development limit for the airport area. He added that there is no location identified for the 49 affordable housing units and clarified that they would be separate from the 700 on-site units. He confirmed that the 49 affordable housing units would be subject to a separate entitlement process from the main development in the future.

In response to Secretary Langford's inquiry, Associate Planner Hannsun confirmed that this site would be held to the same development standards as other Housing Opportunity sites.

In response to Chair Harris' inquiry, Associate Planner Hannsun clarified that the affordable housing units would be equal to 7% of whatever overall number of market-rate housing units are eventually built.

In response to Chair Harris' inquiry, Commissioners Rosene, Ellmore, and Gazzano, and Secretary Langford, disclosed ex Parte communications with the applicant's consultant. Chair Harris clarified that the applicant's consultant contacted him, but they did not meet.

Chair Harris opened the public hearing.

CAA Planning Chief Executive Officer Shawna Schaffner, speaking on behalf of the Irvine Company, stated that Associate Planner Hannsun's thorough staff report leaves her with nothing to add. She stated that the applicant received a letter yesterday from the Western States Regional Council of Carpenters, and it has been responded to with the feeling that no further issues to discuss have been raised. She agreed with the staff's opinion of Condition of Approval No. 5 being struck as it is irrelevant in this case.

Mr. Mosher stated that it is unusual to approve a DA without a specific project while locking in the current zoning for a future development that has not yet been planned. He noted a contradiction between the CEQA documentation stating that the entire site is within the HO-1 Subarea when the site diagram says otherwise. He noted that a recent ministerial director's determination change added the rest of the site to the HO-1 Subarea despite the Land Use Element saying that additions can only be made through rezoning. He added that an October 10th decision by the California Court of Appeals found the concept of housing overlay zones to be invalid. He added that the applicant will be securing a development entitlement that may prove to be invalid and expressed his discomfort with the item.

Western States Regional Council of Carpenters Representative Leonard De La Rosa encouraged the construction to require local hires, pay a prevailing wage, and utilize State-certified apprentices. He lauded the benefits of hiring a local workforce, including the lessening of negative climate impacts due to shorter commutes to the job site.

Ms. Schaffner noted that the housing overlay's boundaries cross parcel lines and added that staff has addressed the way the zones do not cover the entirety of the parcels. She stated that the applicant does not view the housing overlay's boundaries as a problem with this application.

Acting Community Development Director Murillo confirmed that a director's determination clarified a discrepancy in the boundaries of the housing overlay within these parcels. He added that the determination contains extensive details about why it is appropriate to include the entirety of the parcels.

Chair Harris closed the public hearing.

Chair Harris stated that the AHIP is fair and realistic.

Motion made by Chair Harris and seconded by Secretary Langford to approve the item.

AYES: Ellmore, Gazzano, Harris, Langford, and Rosene

NOES: None

ABSTAIN: None

ABSENT: Reed, and Salene

VIII. STAFF AND COMMISSIONER ITEMS

ITEM NO. 4 MOTION FOR RECONSIDERATION - None

ITEM NO. 5 REPORT BY THE COMMUNITY DEVELOPMENT DIRECTOR OR REQUEST FOR MATTERS WHICH A PLANNING COMMISSION MEMBER WOULD LIKE PLACED ON A FUTURE AGENDA

Acting Community Development Director Murillo reported that the November 6th meeting will be canceled due to a lack of scheduled public hearings. He added that the next meeting will be on November 20th, featuring a medical office condominium map. He stated that the November 20th meeting will also include a discussion item about the ongoing General Plan update.

ITEM NO. 6 REQUESTS FOR EXCUSED ABSENCES – None

IX. ADJOURNMENT – With no further business, Chair Harris adjourned the meeting at 6:54 p.m.

The agenda for October 23, 2025, Planning Commission meeting was posted on Thursday, October 16, 2025, at XXXXX p.m. in the Chambers binder, on the digital display board located inside the vestibule of the Council Chambers at 100 Civic Center Drive, and on the City's website on Thursday, October 16, 2025, at XXXXX p.m.

Tristan Harris, Chair

Jonathan Langford, Secretary