



CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

December 7, 2023
Agenda Item No. 4

SUBJECT: Residences at 1400 Bristol Street (PA2022-0296)

- General Plan Amendment
- Planned Community Development Plan Amendment
- Major Site Development Review
- Affordable Housing Implementation Plan
- Traffic Study
- Development Agreement
- Environmental Impact Report Addendum

SITE LOCATION: 1400 and 1420 North Bristol Street

APPLICANT: The Picerne Group

OWNER: BCD Newport Beach II, LLC.

PLANNER: Liz Westmoreland, Senior Planner
949-644-3234, westmoreland@newportbeachca.gov

PROJECT SUMMARY

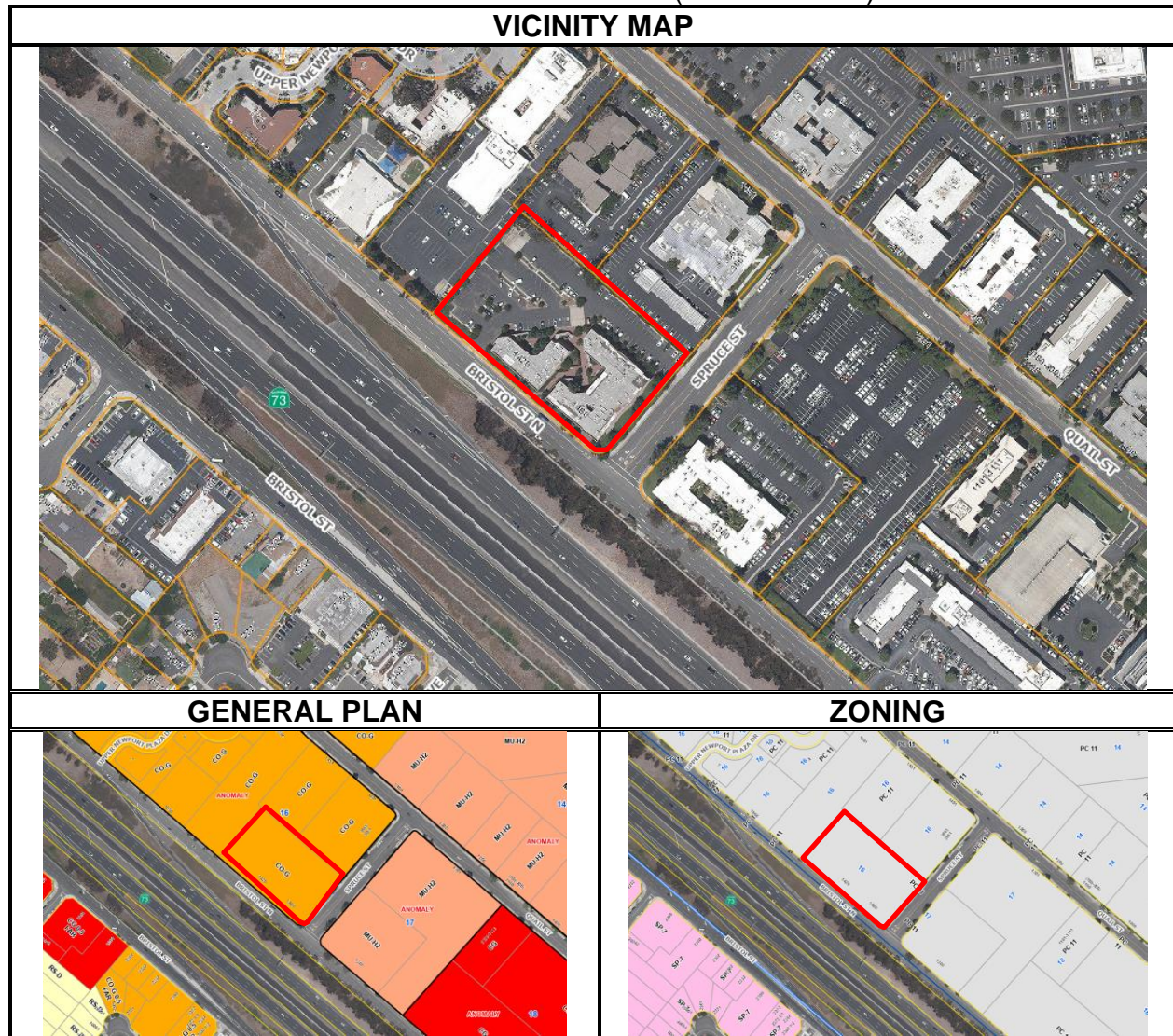
The Residences at 1400 Bristol Street project includes the demolition of two existing two-story office buildings and surface parking and the construction of 229 apartment units atop of 422-space parking structure. The project is located in the Newport Place Planned Community, at the northwest corner of Bristol Street North ("Bristol Street") and Spruce Street in the Airport Area. The project includes the construction of a pedestrian bridge that would connect to the approved residential apartment project at 1300 Bristol Street, across the Spruce Street right-of-way.

RECOMMENDATION

- 1) Conduct a public hearing;
- 2) Find that potential environmental impacts have been previously mitigated through the implementation of the policies of the General Plan as evaluated in Program Environmental Impact Report for the 2006 General Plan Update (SCH No. 2006011119), and the City of Newport Beach Housing Element Initial Study/Negative Declaration (collectively, the PEIR); therefore, in accordance with Section 15164 of the California Environmental Quality Act (CEQA) Guidelines, an addendum to the previously adopted PEIR is the appropriate environmental documentation for the project; and

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- 3) Adopt Resolution No. PC2023-043 (Attachment No. PC 1) recommending the City Council adoption of Environmental Impact Report Addendum, and approval of General Plan Amendment, Planned Community Development Plan Amendment, Major Site Development Review, Affordable Housing Implementation Plan, Traffic Study, and Development Agreement, for the Residences at 1400 Bristol Street Project located at 1400 and 1420 North Bristol Street (PA2022-0296).



LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	General Commercial Office (CO-G)	PC-11	Office buildings
NORTH	CO-G	PC-11	Office building
SOUTH	N/A	N/A	California State Route 73
EAST	Mixed-Use Horizontal (MU-H2)	PC-11	Office building (future Residences at 1300 Bristol)
WEST	CO-G	PC-11	Office buildings

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INTRODUCTION

Project Setting

The subject property is located in the Newport Place Planned Community (PC-11) and approximately 2.38 acres in size. The site is currently designated for office uses by the General Plan and PC-11. The property is rectangular in shape, located at the northwest corner of Bristol Street and Spruce Street, and adjacent to existing office buildings and surface parking. The north office property located at 1401 Quail Street is currently being considered for residential development (Residences at 1401 Quail Street Project (PA2023-0040)). The subject property is currently improved with two two-story, office buildings consisting of 38,764-square-foot and a surface parking lot.

Project Description

The Applicant, the Picerne Group, is proposing to demolish the two existing office buildings and construct a 229-unit for-rent project atop a 422-space parking structure ("Project"). The parking structure includes one level on-grade (podium level) and two levels below grade with five levels of residential above the podium. Given that the site is designated for office use by the General Plan, the applicant requests a General Plan Amendment from General Commercial Office (CO-G) to Mixed-Use Horizontal (MU-H2) to allow residential use. The base density allotted to the property if designated MU-H2 is 89 dwelling units. This density is based on the conversion of the existing 38,764 square foot office buildings, consistent with the City's adopted land use conversion factors. The General Plan Amendment includes a request to increase the project's base density by 64 dwelling units for a total base of 153 dwelling units. The applicant also proposes a 50% density bonus to increase the total unit count to 229 pursuant to Government Code Section 65915 (Density Bonus Law) and Newport Beach Municipal Code (NBMC) Section 20. 32 (Density Bonus). The dwelling unit calculations are summarized below in Table 1.

Table 1: Dwelling Unit Summary

Units Based on Existing Nonresidential Uses	89
Additional Units Per Proposed General Plan Amendment	64
Total Base Units	153
Density Bonus (50%)	77
Total Units Permitted	230
Total Units Provided	229

The project includes a proposed pedestrian bridge that would extend from the project over the Spruce Street right-of-way to the approved residential apartment project at 1300 Bristol Street (Figure 1).



Figure 1: Pedestrian Bridge

The Applicant's full project description is provided as Attachment No. PC 2.

The following approvals are requested to implement the Project as proposed:

- **General Plan Amendment (GPA)-** A request to change the existing General Plan land use designation from General Commercial Office (CO-G) to Mixed Use Horizontal 2 (MU-H2) and add 64 dwelling units above the General Plan allowance to Anomaly 16 of the General Plan Table LU2 (Anomaly Locations);
- **Planned Community Development Plan Amendment-** An amendment to the Newport Place Planned Community (PC-11) to include the project site within the Residential Overlay;
- **Major Site Development Review** - A site development review in accordance with the Newport Place Planned Community and Section 20.52.80 (Site Development Reviews) of the Newport Beach Municipal Code ("NBMC"), for the construction of the Project;
- **Affordable Housing Implementation Plan ("AHIP")** - A plan specifying how the Project would meet the City's affordable housing requirements, in exchange for a request of 50 percent increase in density. The Applicant seeks six (6) development standard waivers related to park land dedication, building setbacks,

building height, private open space for each residential unit, common open space for the entire Project, and overall residential project density pursuant to Chapter 20.32 (Density Bonus) of the NBMC and Government Code Section 65915 (Density Bonus Law). The Applicant also seeks one development concession related to the mix of affordable units, pursuant to Chapter 20.32 (Density Bonus) of the NBMC and Government Code Section 65915;

- **Traffic Study** - A traffic study pursuant to Chapter 15.40 (Traffic Phasing Ordinance) of the NBMC;
- **Development Agreement** – A Development Agreement between the Applicant and the City, pursuant to Section 15.45.020(A)(2)(a) (Development Agreement Required) of the 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
- **Addendum to the 2006 General Plan Update Program Environmental Impact Report** (“Addendum”) - Pursuant to the California Environmental Quality Act (“CEQA”), the Addendum addresses reasonably foreseeable environmental impacts resulting from the Project.

Project Components:

Residential Development

The proposed multi-unit residential building is designed as a “podium style” structure that consists of five stories over one level of on-grade parking and two levels of subterranean parking. The building height would be approximately 85 feet, including architectural elements, parapet, rooftop mechanical equipment, and roof access.

The 229 apartment units include 40 studio units, 126 one-bedroom units, and 63 two-bedroom units. The studio units would be 515 square feet, the one-bedroom units would range from 613 to 896 square feet, and the two-bedroom units are proposed to range from 1,049 to 1,469 square feet.

Of the 229 units, 23 units would be affordable and restricted to very-low-income households. The remaining 203 units would be market-rate, for-rent apartment units. While there is an overall unit mix of studio (17.5%), one-bedroom (55%), and two-bedroom (27.5%) units, almost all of the affordable units are one-bedroom or studio units (refer to Table 2 below). This does not meet the standards of Section 20.32.110 (Design and Distribution of Affordable Units) of the NBMC, which requires affordable units in a density bonus project to reflect the same range of unit types in the development as a

whole. However, the applicant is requesting relief through an incentive/concession¹ from State Density Bonus Law, further discussed below.

Table 2: Unit Mix

Unit Type	Total Units	Very Low Income Units
Studio	40	14
1 Bedroom	126	8
2 Bedroom	63	1
Total	229	23

The Project would include a modern contemporary architectural style with articulated facades composed of a mix of stucco, fiber cement board siding, and tile veneer façade accents. The color scheme would be white, dark grey, and beige. Metal awnings and metal railings on the private decks would further provide façade articulation. The architectural design of the Project reflects the surrounding office context. Its contemporary forms complement the existing office buildings to create a building that respects the current condition while creating a distinctly unique identity. The Project corners are enhanced with rich materials to bring attention to and articulate the prominent areas of the Project. The applicant's approach to the building site orientation was to create a sheltered refuge in the center of the project by enclosing the courtyards shielding them from the busy roadways of Bristol Street and Spruce Street.



Figure 2: Rendering from Bristol Street

¹ The terms incentive and concession are used interchangeably.

Vehicular Access, Parking, and Pedestrian Bridge

Vehicular access to the project site is currently and would continue to be provided from one driveway on Bristol Street and one driveway on Spruce Street. Vehicular access and circulation are shown below on Figure 3. Because Bristol Street is a one-way roadway, the driveway will only allow right turns in and out. The driveway at Spruce Street will provide full access (i.e., right and left turns in and out). The driveway entrance on Bristol Street North would be relocated approximately 65 feet to the northwest (further away from the intersection at Spruce) and it will provide controlled access to the resident garage entry. The driveway entrance on Spruce Street would lead to another gated entry for residents and guests. The gated entry on Spruce Street would remain open during business hours for guests. After business hours, guests would use a free-standing call box for entry. A designated turn out area is proposed within the Bristol Street North entry for loading, deliveries, and trash pick-up. Separately, a turnout area on Spruce Street will be provided for ride share pick up and drop offs.

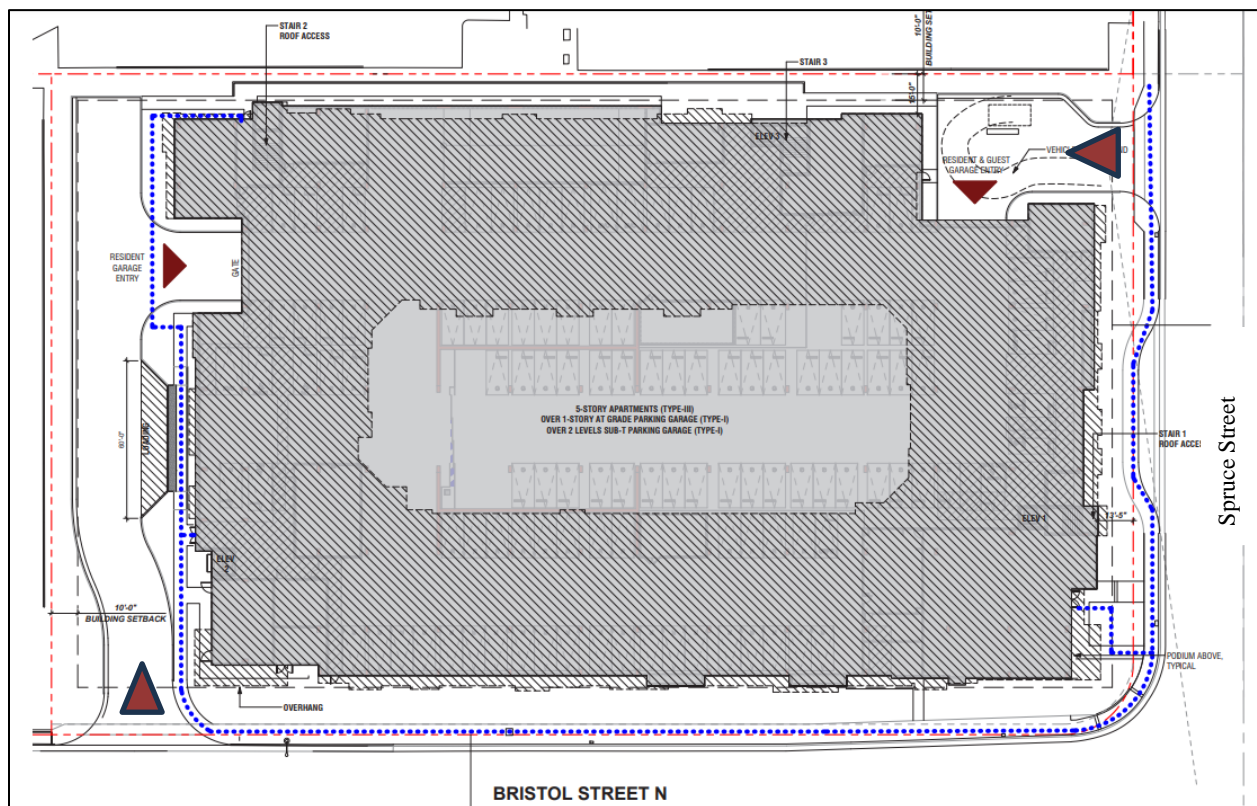


Figure 3 Vehicular Circulation

Guest parking would be provided on the ground level from the Spruce Street entrance. All guest parking would be separated from resident parking by roll up gates. The Bristol Street entrance leads to a resident only access with assigned parking. Subterranean parking would be restricted to residents with key-card access.

As a Density Bonus project, the Project is required to provide 261 parking spaces. The Project proposes to provide 422 parking spaces. The parking ratio would be 1.84 parking spaces per dwelling unit inclusive of guest parking, which would exceed Government Code Section 65915(p) and NBMC Section 20.32.060 (Parking Requirements in Density Bonus Projects) requirements as summarized in Table 3.

Table 3: Parking Summary

Level	Resident			Guest			Total
	Resident	Accessible	EV	Guest	Accessible	EV	
Ground Level	57	3	3	42	3	1	109
Subterranean Level 1	131	5	17	0	0	0	153
Subterranean Level 2	160	0	0	0	0	0	160
Total	348	8	20	42	3	1	
	Total Resident: 376			Total Guest: 46			422
EV=Electric Vehicle Source: TCA Architects, 2023.							

The project includes a steel truss pedestrian bridge that extends from the proposed project over the Spruce Street right-of-way to the approved residential apartment project at 1300 Bristol Street. The pedestrian bridge would be located on the second story, at the southern corner of the building. The bridge would include a 9-foot-wide pathway and span approximately 108 feet and provide a minimum 17-foot clearance for emergency vehicles. The pedestrian bridge is intended to provide connectivity between the two residential projects and allow sharing of amenities between the sites. The properties are owned and will be operated by the same entity. The applicant will be required to enter into a lease agreement with the City of Newport Beach subject to the payment of fees for the use of air-space over the City's right-of-way. The pedestrian bridge has been conditioned to comply with Caltrans standards for bridge construction.

Project Amenities

The proposed project includes a variety of private on-site recreation and amenities for residents and guests including a clubroom, pool deck, roof deck, and other uses summarized below:

Table 4: Project Amenities

PROVIDED	
Business Center	3,400 SF
Mail Room	1,004 SF
Club Room	3,282 SF
California Room	1,850 SF
Media Center	1,469 SF
Pool RR/Showers	960 SF
Roof Lounge Area	817 SF
Roof Deck	1,510 SF
Dog Spa	463 SF
TOTAL	
14,755 SF	

Construction Phasing

Implementation of the proposed Project occur over an approximately 24-month period. Demolition and construction activities are assumed to commence in Summer 2024 and conclude in Spring 2026. The applicant has submitted a draft construction management plan, subject to staff approval that will be finalized prior to the issuance of a building permit and is included as Attachment No. PC 3.

Off-Site Improvements

The Sewer Capacity Study prepared by Tait & Associates, Inc. dated August 11, 2023, concludes that there is insufficient capacity in a downstream segment of pipe to support the project along with other approved and planned residential development in the area. Figure 4 below shows the location of a 435-foot long segment of pipe near the intersection of Newport Place and Dove Street where an existing 10-inch vitrified clay pipe (VCP) pipe will need to be replaced by a 12-inch main. As conditioned, the applicant will either replace the existing segment of pipe (and be potentially reimbursed by future applicants and the City), or the City will replace the line and all applicants will pay their fair share of the costs. Alternatively, the City may choose a different method to finance the cost of the improvement. No other off-site improvements other than typical utility connections are proposed or required as part of the project (other than the pedestrian bridge that would cross the public right-of-way).

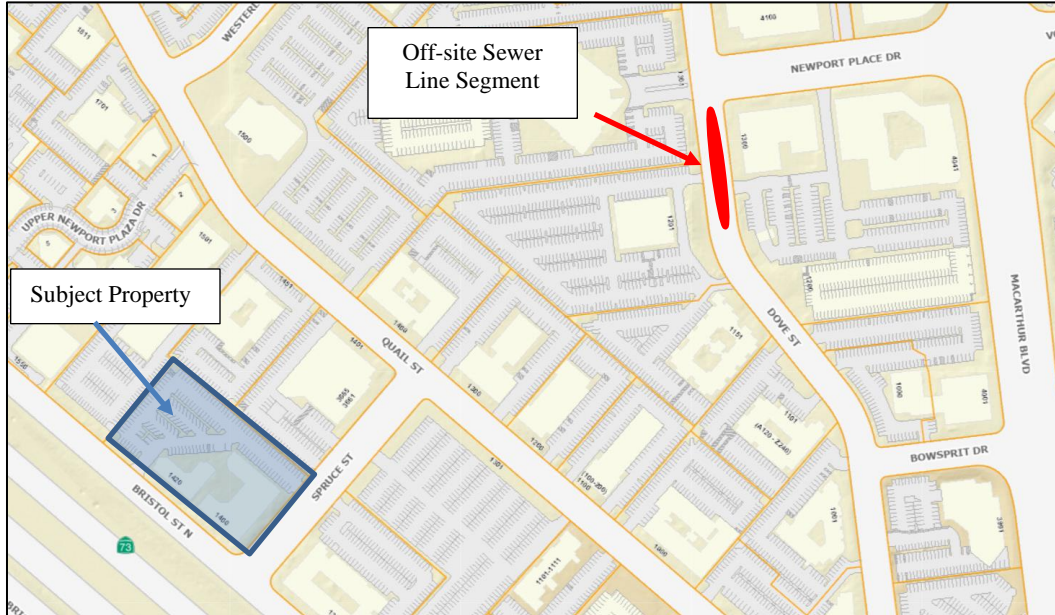


Figure 4: Off-Site Sewer Improvements

DISCUSSION

General Plan Amendment

The subject property is located in the Airport Area and is currently designated as General Commercial Office (CO-G) by the General Plan Land Use Element. The applicant is requesting to change the land use designation of the subject property from the CO-G designation to Mixed-Use Horizontal 2 (MU-H2), which provides for a horizontal intermixing of uses that may include regional commercial office, multifamily residential, vertical mixed-use buildings, industrial, hotel rooms, and ancillary neighborhood commercial uses.

The MU-H2 designation applies to a majority of properties in the Airport Area and allows a maximum of 2,200 residential units as replacement of existing office, retail, and/or industrial uses at a maximum density of 50 units per net acre. Any eligible density bonus allowed by Government Code Section 65915 (State density bonus law) and NBMC Chapter 20.32 (Density Bonus) and the requested 64 GPA units are not included in the 2,200-unit policy allowance. Presently, there are a total of 353 units remaining and available to be entitled. With the approval of this project, there would be 264 ($353 - 89 = 264$) dwelling units remaining (exclusive of density bonus units and units authorized through General Plan Amendments).

Residential units approved, proposed and remaining within the MU-H2 designation of the Airport Area are listed in the table below.

Airport Area Residential Units						
Residential Development Allocation	Base Units				Density Bonus Units	Project Totals with Density Bonus
	Replacement Units	Additive Units	Transferred Units	Total Units		
General Plan Unit Limit (MU-H2)	1,650	550	0	2,200		
Approved Projects						
Uptown Newport	632	290	-77	845	322	1,167
Newport Crossings	259	0	0	259	91	350
Newport Airport Village	329	0	0	329	115	444
Residences at 4400 Von Karman		260	0	260	52	312
Residences at 1300 Bristol	77	0	+77	154	39	193
Projects Under Review						
Residences at 1400 Bristol	89	0	0	89	77	229*
Remaining Development Allocation	264	0		264		
*Project total reflects actual proposed project inclusive of density bonus units and GPA units. However, the density bonus units and GPA units are not restricted by the 2,200 residential unit limit identified in the 2006 General Plan.						

The GPA also includes a revision to Anomaly 16 of the General Plan Table LU2 (Anomaly Locations) to allow 64 additional residential dwelling units at the Property. Conversions of existing commercial space to dwelling units and density bonus units are not tracked within Table LU2.

The GPA and the resulting land use change are compatible with the existing surrounding uses and planned land uses identified by the General Plan, because the project would introduce additional residential land uses in the Airport Area which includes a diverse mix of land uses including the gradual development of residential multiunit dwellings. Additionally, even with the conversion from CO-G to MU-H2, the building will be compatible with adjacent commercial properties architectural style and pedestrian connectivity. Additional residential development would support commercial properties within the Airport Area.

Furthermore, the GPA does not eliminate existing or future land uses to the overall detriment of the community given the subject property's size, location, and surrounding uses. The existing office buildings on-site were built in the 1970's and there are sufficient office facilities in the Airport Area to support the business needs of the community. The proposed change to allow residential uses would increase the City's housing stock including the provision of 23 units that will be affordable to lower incomes.

The General Plan contains a number of policies that provide for the orderly evolution of the Airport Area, from a business park, to a mixed-use district with cohesive residential villages integrated within the existing fabric of office, industrial, retail, and airport-related businesses. Residential opportunities are to be developed as clusters of residential villages centering on neighborhood parks and interconnected by pedestrian walkways. These would contain a mix of housing types and buildings that integrate housing with ground level convenience retail uses and would be developed at a sufficient scale to achieve a complete neighborhood. While this specific site was not identified as a site for mixed-use development due to noise from the airport, actual noise from the airport is less than predicted due to changes in flying patterns and improved technology. As a result, it is appropriate to consider housing at the project site.

Housing Element

The Housing Element identifies adequate sites to accommodate its fair share allocation for the Sixth Cycle Housing Element to accommodate housing growth needs by income categories. The project site is identified as a housing inventory site. Figure B-3 of the Housing Element (below) displays the capacity and opportunity within the Airport Area which can help accommodate a portion of the City's RHNA. Ultimately, the project implements the certified Housing Element and aids the City in its goal to provide new housing opportunities.

Figure B-3: Airport Area Environs – Sites Inventory



Noise Element and Airport Environs Land Use Plan

The Project is within the boundaries of the Airport Environs Land Use Plan (“AELUP”), therefore, the overseeing agency, Airport Land Use Commission (ALUC), must review the proposed GPA and PCDP Amendment pursuant to Government Code Section 65302.3 and Public Utilities Code Section 21676. The purpose of ALUC’s review is to determine whether the Project is consistent with the AELUP prior to the City Council acting on the Project. Staff anticipates review of the project by the ALUC on December 21, 2023.

The Project is consistent with the policies of the Noise Element and the safety standards of the AELUP. With respect to noise, the City adopted noise-related amendments to the General Plan Noise and Land Use Elements, the Newport Place Planned Community (PC-11) and Title 20 (Planning and Zoning) contours to implement the 6th Cycle Housing Element. The Project is located within the updated 60 decibel (“dBA”) community noise equivalent level (“CNEL”) contour as shown in Figure N5 of the Noise Element of the General Plan, where residential development is allowed. As a result, the Project will be required to comply with the development standards set forth in Section 20.30.080(F) of the NBMC. The Project site is outside of any safety zones set forth in the AELUP. The AELUP includes noise contours from the 1985 Master Plan and the site is bisected by the 65 dBA CNEL noise contour. The AELUP indicates that housing within this noise contour would not be compatible, but it does not prohibit residential use. These outdated AELUP noise contour maps do not reflect changes in aviation technology and current air traffic patterns. In other words, the noise contours do not reflect current and future noise contours and the site will not be subject to aircraft noise that exceeds 65 dBA CNEL under current approved conditions.

The draft Planning Commission resolution (Attachment No. PC 1) includes facts in support of a finding of consistency of relevant Airport Area policies. Furthermore, the EIR Addendum includes a comprehensive analysis of all relevant General Plan policies. The project, as proposed, is consistent with all relevant General Plan policies.

Charter Section 423 Analysis

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% 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 ten 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 ten (10) years to determine if minor amendments in a single Statistical Area cumulatively exceed the thresholds indicated above.

The Project is the first General Plan Amendment in Statistical Area L1 within the last 10 years that includes additional dwelling units or non-residential floor area. The proposed amendment results in 64 additional dwelling units and no change in the square footage of non-residential floor area. Conversions of existing commercial development is allowed by the current General Plan, as discussed previously. Reductions in commercial floor area are not tracked as part of the Charter Section 423 analysis. Density bonus units are not included in Charter Section 423 analysis because it is mandated by State law and allowed at any site designated for housing.

The 64 additional dwelling units allocated by the requested general plan amendment result in a net increase of 24 a.m. peak hour trips and 25 p.m. peak hour trips based on the “Multifamily Housing (Mid Rise) Not Close to Rail” ITE 11th Edition trip rate for the proposed use, as provided in Council Policy A-18. No credit is given to the existing non-residential uses on-site because the existing office floor area was converted to residential dwelling units so that the proposed project (less the density bonus and GPA units) is traffic neutral. Therefore, the Project individually does not exceed the Charter Section 423 thresholds to require a vote of the electorate should the City Council approve the requested GPA. Furthermore, since there have been no other applicable projects in the last 10-years, there is no need to analyze the cumulative development of 80% of prior General Plan amendments from the last 10 years with the proposed project (i.e., cumulative analysis). As none of the thresholds specified by Charter Section 423 are exceeded, no vote of the electorate is required if the City Council chooses to approve the requested GPA. 80% of the increases in units and peak hour trips related to this project will be tracked as a prior amendment for 10 years from the date of approval of the proposed GPA.

Tribal Consultation (SB-18)

Pursuant to California Government Code Section 65352.3 (SB18), 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 City must consult for the purpose of preserving or mitigating impacts to cultural resources. The City received a response from the NAHC indicating that 12 tribal contacts should be provided notice regarding the proposed amendment. The tribal contacts were provided notice on January 26, 2023. California Government Code Section 65352.3 requires notification 90 days prior to Council action to allow tribal contacts to respond to the request to consult. Three tribal contacts requested consultation within the 90-day period: the Gabrieleno Band of Mission Indians – Kizh Nation, the Juaneno Band of Mission Indians, Acjachemen Nation-Belardes, and the Gabrielino Tongva Indians of California. Although consultation with the participating

Native American Tribes is ongoing, draft conditions of approval have been included to address potential concerns regarding the protection of Tribal Cultural Resources. The conditions of approval require on-site monitoring during ground disturbing activities by tribal representatives as well as appropriate conditions should tribal cultural resources be discovered.

Newport Place Planned Community (Zoning Code) Amendment

The property is currently located within Industrial Site 3A of PC11 and not within the Residential Overlay of PC11. The industrial zoning designation was established in 1972 with the adoption of the planned community text. Office development is and remains allowed. A request to allow the subject property to be added to the Residential Overlay of PC11 is necessary to accommodate the proposed residential development. Further change to PC11 is not necessary as the intent of the residential overlay is to allow housing regardless of the underlying zoning category. The property is located within 85 feet of properties subject to the Residential Overlay.

The Overlay allows for multiple residential development as a stand-alone use provided that it includes a minimum of 15% of the base density for lower income households. The project provides this minimum number of affordable units by provide 23 dwelling units as affordable for very-low income households ($153 \text{ base units} \times 15\% = 22.95 = 23 \text{ units}$). The Overlay also contains development standards for multi-residential development, including density, height, setbacks, parking, signage, airport noise compatibility, amenities, and landscaping. The Overlay limits the density for a residential development to be between 30 and 50 dwelling units per acre. The Project includes 89 base units or 37.4 dwelling units per acre, not including density bonus units or the requested units through the requested GPA. The base density with the requested GPA results in a density of 64.3 dwelling units per acre. The overall density of the project including the density bonus units is 96.2 units per acre. Both the base density and density bonus units are not consistent with the PC Text density requirement; however, the Applicant is requesting a development standard waiver pursuant to the NBMC and State Density Bonus Law.

Additionally, the Overlay requires that residential dwellings are to be permitted as replacement of existing nonresidential uses consistent with General Plan policy, and the number of peak hour trips generated by the Project is not to exceed the number of trips of the underlying permitted nonresidential use. A detailed discussion of the proposed project and conversion of existing office space is provided in the prior sections.

Although the Project includes waivers or reductions of the development standards specified in the Overlay pertaining building height and setbacks, the overall intent of providing residential opportunities in the proposed Residential Overlay are being met.

Site Development Review

Residential development pursuant to the Residential Overlay of PC11 requires a site development review, consistent with NBMC Section 20.52.080 (Site Development Review). In accordance with Section 20.52.080(F), the Planning Commission may approve or conditionally approve a site development review application, only after first finding that the proposed development is:

1. *Allowed within the subject zoning district;*
2. *In compliance with all of the applicable criteria identified in 20.52.080(C)(2)(c) below:*
 - i. *Compliance with this section, the General Plan, this Zoning Code, any applicable specific plan, and other applicable criteria and policies related to the use or structure;*
 - ii. *The efficient arrangement of structures on the site and the harmonious relationship of the structures to one another and to other adjacent developments; and whether the relationship is based on standards of good design;*
 - iii. *The compatibility in terms of bulk, scale, and aesthetic treatment of structures on the site and adjacent developments and public areas;*
 - iv. *The adequacy, efficiency, and safety of pedestrian and vehicular access, including drive aisles, driveways, and parking and loading spaces;*
 - v. *The adequacy and efficiency of landscaping and open space areas and the use of water efficient plant and irrigation materials; and*
 - vi. *The protection of significant views from public right(s)-of-way and compliance with Section 20.30.100 (Public View Protection).*
3. *Not detrimental to the harmonious and orderly growth of the City, nor endangers, jeopardizes, or otherwise constitutes a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed development.*

The project seeks to implement the proposed MU-H2 General Plan designation and Residential Overlay of PC-11 by providing 229 new residential units to an existing major employment center (the Airport Area and Irvine Business Complex), including setting aside 23 residential units for very-low income households.

The proposed project plans (Attachment No. PC 7) show the configuration of the proposed residential building, including driveways, location of open spaces, landscaping, and private amenities. The building is proposed to be six stories tall and approximately 85 feet in height including all architectural elements and rooftop mechanical equipment. The architecture would be high-quality and incorporate neutral colors with stone/tile, metal, and glass features. The proposed pedestrian bridge is designed to match the

architectural style of the proposed building and the approved, but not yet constructed apartment building at 1300 Bristol Street. The parking is largely screened from public view, with two of the three levels located entirely below grade and landscaping buffers around the first-floor parking structure. The project includes enhanced landscaping along Bristol Street North in compliance with PC-11 and the project is conditioned to widen sidewalks, which will improve the pedestrian experience in the area.

The pedestrian bridge includes “see-through” elements that reduce its mass and scale. The Project’s building mass including the pedestrian bridge are compatible with the surrounding office developments and anticipated future development. The project’s building mass and scale are similar to the nearby existing office developments in the Airport Area and includes pedestrian connectivity to public sidewalks along Bristol Street and Spruce Street and pedestrian-scale landscaped areas around the apartment building.

The property at 1451 Quail Street is developed with an approximately 37-foot tall office building. The 1400 Quail Street property, located across Quail Street, is developed with an approximately 30-foot tall office building. Furthermore, a 78-foot tall residential apartment building has been approved to be constructed at 1300 Bristol Street, which is located across Spruce Street. Finally, 1401 Quail Street which is the adjacent property, is proposing a 67-unit condominium project that is approximately 86 feet in height. The height and scale of pending and approved development in the immediate vicinity, the proposed project at 85 feet high will be compatible with the planned urban village planned for the Airport Area.

The project includes 422 onsite parking spaces located on a podium level parking structure which includes a two subterranean parking levels below. The project includes adequate onsite parking exceeding the minimum required residential standard pursuant to Density Bonus Law.

NBMC Section 20.40.040, Off-Street Parking Requirements, identifies that multi-family developments with more than four dwelling units are required to provide two covered parking spaces per unit and 0.5 space per unit for guest parking. Based on these criteria, the proposed Project, if it were not a project requesting consideration pursuant to Density Bonus Laws, would be required to provide 458 resident parking spaces and 115 guest parking spaces for a total of 573 parking spaces. As provided for in Government Code Section 65915 Density Bonus Law and NBMC Section 20.32.060 (Parking Requirements in Density Bonus Projects), the applicant is requesting a reduction in the number of required parking spaces for the project. NBMC Section 20.32.060, reflects the language of Government Code Section 65915 provision of 1.0 parking spaces for studio and one-bedroom units and 1.5 parking spaces for units with two bedrooms. Parking for the project is based on application of regulatory standards for density bonus projects and under these regulatory standards, the proposed Project is required to provide a minimum of 261 parking spaces. The project as presently designed includes 422 parking spaces, with 376 for resident spaces and 76 for guest. The parking ratio of the proposed project would be 1.84 parking spaces per dwelling unit inclusive of guest parking, which exceeds the

minimum parking requirement specified by the Density Bonus parking requirements. This excess parking is necessary in recognition that mass transit in the area is not as robust, and residents will rely on the automobile. As the area transitions, transit and walkability will improve as new uses are developed to provide services and goods for future residents.

The City's General Plan does not identify any scenic vistas or viewpoints on or proximate to the Project site. The nearest public viewpoint to the Project site identified in the City's General Plan is approximately 0.5 mile south at Bayview Park. The nearest coastal view designated portion of Jamboree Road is approximately 2,000 feet south of the site. Due to the distance and highly urbanized nature of the Project area, public coastal views along this view corridor would not be impacted by the Project.

As discussed above, the project has been designed to ensure that potential conflicts with surrounding land uses are minimized to the extent possible to maintain a healthy environment for both businesses and residents by providing an architecturally pleasing project with articulation and building modulations to enhance the urban environment. The proposed project is consistent with the General Plan as it would integrate residential uses into the existing surroundings, which are primarily nonresidential, as anticipated by the General Plan. Staff believes facts to support the required findings exist to approve the Site Development Review, and they are included in the attached draft resolution for approval (Attachment No. PC 1).

Affordable Housing Implementation Plan

The applicant has prepared a draft Affordable Housing Implementation Plan (AHIP), dated August 11, 2023 (Exhibit C of Attachment No. PC 1) to illustrate compliance with the affordable housing requirements of the Residential Overlay of Newport Place Planned Community and density bonus allowances pursuant Government Code Section 65915-65918 (Density Bonus Law) and NBMC Chapter 20.32 (Density Bonus Code).

Consistent with the affordable housing requirements of the Residential Overlay, 15% or 23 units of the project's 153 base units would be set aside as affordable units to very-low income households for 55 years.

Incentive/Concession Request:

The 15% allocation of very-low-income households makes the project entitled to a density bonus of 50% (77 units) above the maximum number of units allowed by the General Plan.

In addition to the 77 density bonus units requested, the project is entitled to receive three incentives or concessions that would result in identifiable, financially sufficient, and actual cost reductions. The applicant requests the following incentive:

- a. Affordable unit mix that does not meet NBMC Section 20.32.110 (Design and Distribution of Affordable Units). This section requires affordable units in a density bonus project reflect the same range of unit types in the residential development as a whole. See previous discussion regarding unit mix. Granting this incentive will result in identifiable, financially sufficient, and actual project cost reductions by reducing the long-term rental subsidy costs associated with the two-bedroom units and affording additional rental income for the project to ensure financial feasibility.

Development Standard Waivers

In addition to the density bonus units, parking reductions, and financial concessions, the Project is entitled to receive unlimited waivers or reductions of development standards if the development standard would physically prevent the project from being built at the permitted density. In this case, the Applicant requests waivers of the following development standards:

- a. Park dedication requirement. General Plan Land Use Policy LU 6.15.13 requires a public park equal to eight percent of the gross land area of the development, or a minimum one-half acre, whichever is greater, be provided. In this case, the 2.28-acre project site is too small to feasibly accommodate a half-acre park. The City has granted this dedication waiver twice previously with the Newport Airport Village planned community and the Residences at 1300 Bristol Street project.
- b. Residential density. General Plan Land Use Policy LU 6.15.7 limits residential density between 30-50 units per acre. Inclusive of only the conversion units, the density would comply at 37.4 dwelling units per acre. Including the proposed GPA units, the resulting base density would be 64.3 units per acre exceeding the limit and a waiver is necessary to implement the project. Again, the City has previously granted this policy waiver allowing excess density twice with the Newport Airport Village planned community and the 1300 Bristol Street projects.
- c. Street setbacks. The Newport Place Planned Community (PC-11) requires street setbacks of 30 feet from property lines. In this case, 30-foot setbacks along Bristol Street and Spruce Street would substantially decrease the development of the footprint of the Project. The Project is designed with 8-foot setbacks to Spruce Street and 18-foot setbacks to Bristol Street similar to the setback reduction with the Residences at 1300 Bristol project.
- d. Building height. The Newport Place Planned Community (PC-11) limits building height to 55 feet from established grade. In this case, a higher building height is necessary to accommodate 229 residential units. The Project is designed with a height of approximately 85 feet from established grade. The City granted a similar waiver with the Residences at 1300 Bristol Street project.
- e. Private open space. NBMC Section 20.18.030 (Residential Zoning Districts General Development Standards) requires a minimum of 5% of the gross floor area of each unit to be provided as open space. The Project's studio dwelling units and

nine of the two-bedroom units (including four units which provide only 2 square feet less than the private open space requirement) are unable to achieve these minimum private open space standards given their size and location.

- f. Common open space. NBMC Section 20.18.030 (Residential Zoning Districts General Developments Standards) requires a minimum of 75 square feet per unit be provided as common open space area. In this case, the requirement is 17,175 square feet (75 square feet per unit x 229 units). The Project as designed provides approximately 13,800 square feet of common open space due to space limitations on the 2.38-acre lot.

Fiscal Impact Analysis and Development Agreement

Pursuant to General Plan Implementation Program 12.1, a fiscal impact analysis was prepared for the project by Applied Development Economics dated August 14, 2023 (Attachment PC 5). The fiscal impact model used in the report calculates public service impacts for specific land uses that support the residential population, the employment base and the visitor population in Newport Beach. It also calculates the public revenues that each type of land use typically generates for the City, including property taxes, sales taxes and other taxes as well as a variety of user charges and fees.

The report concludes that the proposed residential rental project would generate a negative fiscal impact for the City, substantially higher than the negative fiscal impact of the existing office use of the site. Annually, the existing office use generates a negative fiscal impact of about \$56,000 per year and the project would generate a negative fiscal impact of approximately \$173,824. This is consistent with the original fiscal analysis of residential uses in the 2006 General Plan, although in recent years some very high value luxury residential projects have shown a positive fiscal benefit. The net impact of the growth in land uses at buildout of the General Plan compared to existing land uses in 2006 when the plan was adopted, would result in a positive fiscal impact for the General Fund of \$21.7 million per year. Additionally, the project will be required to pay public benefit fees as part of the Development Agreement, which would offset some of the impacts. The project would also provide much needed housing opportunities in the City in furtherance of the certified Housing Element including 23 rental units affordable to very-low income households.

In accordance with Section 15.45.020.A.2.a (Development Agreement Required) of the NBMC, a development agreement is required as the proposed project includes an amendment to PC11 and a General Plan Amendment to change the land use designation which include the development of 50 or more residential units.

The applicant requests a 10-year term of agreement. The agreement provides assurance that the applicant may proceed with the proposed project in accordance with existing policies, rules and regulations, and conditions of approval. Additionally, the agreement helps the applicant avoid a waste of resources and escalated costs of the proposed

project while encouraging a commitment to private participation in comprehensive planning. Staff supports the requested 10-year term.

The DA provides vested rights to develop the project and the City is currently negotiating public benefit fees per each residential dwelling unit. The final negotiated fees will be presented to the City Council and are based on prior development agreements including the Newport Airport Village project. These fees are subject to annual adjustments, based on the CPI Index and would be payable at building permit issuance or prior to occupancy.

Finally, the agreement includes all mandatory elements, including public benefits that are appropriate to support conveying the vested development rights consistent with the City's General Plan, NBMC, and Government Code Sections 65864 et seq.

Traffic Phasing Ordinance (TPO)

NBMC Chapter 15.40 (Traffic Phasing Ordinance) requires a traffic study to be prepared prior to issuance of building permits if a proposed project generates in excess of 300 new average daily trips (ADT).

Ganddini Group Inc. has prepared a traffic study dated June 28, 2023 (Exhibit D of Attachment No. PC 1), under the supervision of the City Traffic Engineer, pursuant to the Traffic Phasing Ordinance (TPO) and its implementing guidelines. The focus of a TPO traffic study is the conditions one year after project occupancy, or five years after project approval for larger projects not expected to be complete within five years. Baseline traffic conditions for a TPO traffic study include previously approved projects in the City. The entire project is anticipated to be complete by the end of 2026, well within the five year criteria.

The Traffic Study provides an evaluation of morning and evening peak hours at 13 existing intersections that are located in the City and the adjoining City of Irvine. The Project is projected to generate an additional (i.e. net increase of) 624 daily trips, including 26 peak AM trips and 34 peak PM trips. When these trips are distributed to these studied intersections, the analysis concludes that there is no significant impact as the project will neither cause nor make worse an unsatisfactory level of service at any impacted primary intersection, and all intersections are forecasted to continue to operate at acceptable Levels of Service (LOS). Additionally, the Traffic Study includes vehicle miles traveled (VMT) analysis for informational purposes only. An analysis of VMT was not required as a part of the CEQA Addendum because the adopted Program Environmental Impact Report (PEIR), adopted in 2006, did not utilize VMT analysis. Nonetheless, the informational analysis concludes that the project is in an area mapped with low residential VMT per capita. Therefore, the project is presumed to have a less than significant impact on VMT since it satisfies the City established screening criteria.

Furthermore, the TPO requires findings that, based on the weight of the evidence in the administrative record, including the traffic study, the proposed project complies with the

TPO. Findings related to the preparation of the traffic study are provided in the draft resolution for project approval (Attachment No. PC 1).

Environmental Review

On July 25, 2006, the City Council adopted Resolution No. 2006-75, thereby certifying the adequacy and completeness of the Environmental Impact Report ("EIR") for the General Plan 2006 Update (SCH No. 2006011119). The EIR was prepared in compliance with the CEQA set forth in the California Public Resources Code Section 21000 *et seq.* and its implementing State regulations set forth in the California Code of Regulations Title 14, Division 6, Chapter 3 ("CEQA Guidelines") and City Council Policy K-3. Additionally, in accordance with Section 15168(a) of the CEQA Guidelines, the City prepared the EIR as a Program Environmental Impact Report ("PEIR"). This PEIR analyzed the potential impacts of a citywide land use plan, and the goals and policies of 10 general plan elements.

Additionally, on November 22, 2011, the City Council adopted General Plan Amendment No. GP2008-003, thereby approving the City of Newport Beach Housing Element Update (2008-2014) and its associated Housing Element Initial Study/Negative Declaration.

Pursuant to Section 21166 of the California Public Resources Code and Section 15162 of the CEQA Guidelines, when an EIR or prior Negative Declaration has been certified for a project, no subsequent EIR or other analysis is required unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

1. *Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;*
2. *Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or*
3. *New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete, shows any of the following:*
 - a. *The project will have one or more significant effects not discussed in the previous EIR;*
 - b. *Significant effects previously examined will be substantially more severe than shown in the previous EIR;*

- c. *Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or*
- d. *Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.*

The City contracted with an environmental consultant (Kimley Horn and Associates) to prepare an Addendum to the PEIR. The entire Addendum and its technical appendixes are available online at the City's website at: www.newportbeachca.gov/ceqa. The conclusion of the Addendum analysis supports the finding that no additional environmental documentation is required by CEQA.

On the basis of the entire environmental review record, the project will not result in any new significant impacts that were not previously analyzed in the PEIR for the General Plan 2006 Update (SCH No. 2006011119) or the Housing Element Initial Study/Negative Declaration. All potential impacts associated with this Project would either be the same or less than those described in either the PEIR or Negative Declaration that have been appropriately mitigated. In addition, there are no substantial changes to the circumstances under which the project would be undertaken that would result in new or more severe environmental impacts than previously addressed in either the PEIR, nor has any new information regarding the potential for new or more severe significant environmental impacts been identified. Therefore, in accordance with Section 15164 of the CEQA Guidelines, an addendum to the previously adopted PEIR is the appropriate environmental document for the project.

Summary

Staff believes the findings for project approval can be made, with specific conditions of approval. The proposed project is consistent with the proposed MU-H2 General Plan Land Use designation and its land use policies related residential developments in the Airport Area. The proposed project is also consistent with the recently updated Noise Element.

The proposed application of the Newport Place Residential Overlay will provide for the project as it allows multi-family uses subject to approval of a site development review and facts support approval of the application request. The site development review will ensure the project will be implemented consistent with the approved development standards. The applicant proposes to redevelop the underperforming office development with a for rent multi-unit development with affordable units consistent with the Overlay and in furtherance of the Certified Housing Element. The proposed development with on-site

recreation amenities and adequate provisions of parking, allowed by the density bonus provisions, will create a suitable urban living environment integrated into the existing nonresidential area.

The proposed pedestrian bridge will create connectivity between the approved project at 1300 Bristol and the subject project. Conditions of approval are included in the draft resolution that will require the applicant to enter a lease agreement with the City of Newport Beach and pay the fair market value for rent of the City's airspace over the Spruce Street right-of-way. The construction drawings will be reviewed by all City departments including the City Traffic Engineer, Building Division, and Life Safety Services Divisions (Fire Department) to ensure the design meets height, accessibility, and other applicable standards.

Alternatives

The Planning Commission has the following alternatives:

1. The Planning Commission may require or suggest specific design changes that are necessary to alleviate any areas of concern. If the requested changes are substantial, staff will return with a revised resolution incorporating new findings and/or conditions; or
2. If the Planning Commission chooses to deny the project, findings must be made consistent with the Housing Accountability Act (Government Code Section 65589.5) and Density Bonus Law (Government Code Section 65915). Therefore, if after consideration of all written and oral evidence presented, the Planning Commission desires to either disapprove or impose a condition that the project be developed at a lower density or with any other conditions that would adversely impact feasibility of the proposed project, the Planning Commission must articulate the factual basis for making the following findings and direct staff to return with a revised resolution incorporating the articulated findings and factual basis for the decision:
 - a. The housing development project would have a specific, adverse impact upon the public health or safety. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.
 - b. There is no feasible method to satisfactorily mitigate or avoid the adverse impact without rendering the development unaffordable to affordable households financially infeasible.

Public Notice

Notice of this hearing was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant, and posted on the subject property at least 10 days before the scheduled meeting, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the city website.

Prepared by:



Liz Westmoreland
Senior Planner

Submitted by:



Jim Campbell
Deputy Community Development Director

ATTACHMENTS

- PC 1 Draft Resolution with Findings and Conditions
- PC 2 Applicant's Project Description
- PC 3 Construction Management Plan
- PC 4 Addendum to the 2006 General Plan EIR
- PC 5 Fiscal Impact Analysis
- PC 6 Public Comments
- PC 7 Project plans

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