

Attachment E

Planning Commission Resolution No.
PC2025-023 (No Exhibits)

RESOLUTION NO. PC2025-023

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, RECOMMENDING CITY COUNCIL ADOPTION OF A DEVELOPMENT AGREEMENT AND AFFORDABLE HOUSING IMPLEMENTATION PLAN FOR THE MACARTHUR COURT PROJECT LOCATED AT 4665, 4675, 4680, 4680, 4685 AND 4695 MACARTHUR COURT AND 4770 CAMPUS DRIVE (PA2025-0090)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by The Irvine Company ("Applicant"), with respect to properties located at 4665, 4675, 4680, 4685 and 4695 MacArthur Court, and 4770 Campus Drive and legally described in Exhibit "A," which is attached hereto and incorporated by reference ("Property").
2. The Applicant is requesting entitlements for the development of MacArthur Court Campus, a mixed-use campus consisting of two five-story residential buildings containing 700 residential units ("MacArthur Court Apartments"), and a 10,000-square-foot retail building. The project would also retain the two existing high rise office towers and an existing parking garage ("Project"). 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.
3. The Property is designated General Commercial Office (CO-G) by the General Plan Land Use Element and is located within the Koll Center Planned Community (PC-15) Zoning District - Office Site C.
4. The Property is not located within the coastal zone.

5. A public hearing was held on October 23, 2025, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of the time, place, and purpose of the hearing was given in accordance with California Government Code Section 54950 *et seq.* (“Ralph M. Brown Act”) and Chapters 20.62 (“Public Hearings”) of the Newport Beach Municipal Code (“NBMC”). Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

Pursuant to the California Environmental Quality Act (“CEQA”) as set forth in California Public Resources Code Section 21000 *et seq.* and its implementing guidelines set forth in California Code of Regulations, Title 14, Division 6, Chapter 3 (CEQA Guidelines), the City Council adopted Resolution No. 2024-50 on July 23, 2024, certifying Final Program Environmental Impact Report SCH No. 2023060699 (“PEIR”), approving a Mitigation Monitoring and Reporting Program (MMRP), and adopting Findings and a Statement of Overriding Considerations related to the implementation of the Housing Element involving amendments to the General Plan, Coastal Land Use Plan, and Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the NBMC which are available at: [Housing Implementation Program EIR](#).

The Project is not subject to further environmental review pursuant to Section 21083.3 of the California Public Resources Code (PRC) and Section 15183 of the CEQA Guidelines because, inasmuch as the Properties involved are all within the HO-1 Subarea, the Project does not change the underlying land use or zoning designations; and would not result in new significant impacts or a substantial more adverse impact than addressed in the PEIR.

Section 15183 of the CEQA Guidelines provides, in relevant part:

- a. Projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an environmental impact report (“EIR”) was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. This streamlines the review of such projects and reduces the need to prepare repetitive environmental studies.
- b. In approving a project meeting the requirements of this section, a public agency shall limit its examination of environmental effects to those which the agency determines, in an initial study or other analysis:
 - i. Are peculiar to the project or the parcel on which the project would be located;

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- ii. Were not analyzed as significant effects in a prior EIR on the zoning action, general plan, or community plan, with which the project is consistent;
 - iii. Are potentially significant off-site impacts and cumulative impacts which were not discussed in the prior EIR prepared for the general plan, community plan or zoning action; or
 - iv. Are previously identified significant effects which, as a result of substantial new information which was not known at the time the EIR was certified, are determined to have a more severe adverse impact than discussed in the prior EIR.
 - c. If an impact is not peculiar to the parcel or to the project, has been addressed as a significant effect in the prior EIR, or can be substantially mitigated by the imposition of uniformly applied development policies or standards, as contemplated by subdivision (e) below, then an additional EIR need not be prepared for the project solely on the basis of that impact.
 - d. This section shall limit the analysis of only those significant environmental effects for which:
 - i. Each public agency with authority to mitigate any of the significant effects on the environment identified in the EIR on the planning or zoning action undertakes or requires others to undertake mitigation measures specified in the EIR which the lead agency found to be feasible, and
 - ii. The lead agency makes a finding at a public hearing as to whether the feasible mitigation measures will be undertaken.
 - e. An effect of a project on the environment shall not be considered peculiar to the project or the parcel for the purposes of this section if uniformly applied development policies or standards have been previously adopted by the city or county with a finding that the development policies or standards will substantially mitigate that environmental effect when applied to future projects, unless substantial new information shows that the policies or standards will not substantially mitigate the environmental effect. The finding shall be based on substantial evidence which need not include an EIR. Such development policies or standards need not apply throughout the entire city or county but can apply only within the zoning district in which the project is located, or within the area subject to the community plan on which the lead agency is relying. Moreover, such policies or standards need not be part of the general plan or any community plan but can be found within another pertinent planning document such as a zoning ordinance.

As part of its decision-making process, the City is required to review and consider whether the Project would create new significant impacts or significant impacts that would be substantially more severe than those disclosed in the PEIR. Additional CEQA review is only triggered if the Project's new significant impacts or impacts that are more severe than those disclosed in PEIR such that major revisions to the PEIR would be required. A detailed consistency analysis has been prepared by T & B Planning Inc., dated September 2025, and peer reviewed by Kimley-Horn & Associates, Inc., is provided as Exhibit "B" to this draft resolution and hereby incorporated by reference. The PEIR contemplated those future projects meeting the thresholds of Senate Bill No. 610 (SB 610) would require the preparation of a WSA. The project area is within the Irvine Ranch Water District (IRWD) service area and the PEIR concluded that water demands from future housing projects would result in a significant and unavoidable impact concerning water supply. The City, therefore, adopted a Statement of Overriding Consideration for this impact in connection with its certification of the PEIR.

The Project is consistent with the development density and use characteristics established by the City's General Plan Housing Implementation Program as analyzed by the PEIR, and the required determinations can be made, as detailed in Exhibit "B" of Attachment No. PC 1 and incorporated by reference.

SECTION 3. REQUIRED FINDINGS.

Development Agreement

Although not required pursuant to Section 15.45.020(A)(1) (Development Agreement Required) of the NBMC, a voluntary DA is requested to vest the development rights for the Project over a period of 10 years. The DA provides the content required in Section 15.45.040 (Development Agreement – Contents) of the NBMC as follows:

1. A development agreement is requested by the Applicant, as the Project would include a total of 700 residential units. The development agreement includes all the mandatory elements including a term of 10 years and public benefits that are appropriate to support conveying the vested development rights consistent with the City's General Plan, the NBMC, and Government Code Sections 65864 *et seq.*
2. Public benefits include the payment of a public benefit fee for each residential unit. In addition to the public benefit fee, the DA includes public benefits in the form of a recorded easement for one acre of open space, a MacArthur Boulevard Revitalization Fee of 3.25 million (Three Million Two Hundred Fifty Thousand) Dollars, payment of Development Impact Fees, and an affordable housing obligation in the form of an AHIP to be adopted for the development of affordable housing units.

Affordable Housing Implementation Plan

The AHIP is consistent with the intent to implement affordable housing goals within the City pursuant to the Sixth Cycle Housing Element in response to the Regional Housing Needs Assessment ("RHNA") allocation for the following reasons:

1. The Applicant has committed to assisting the City in the provision of additional affordable housing opportunities. The location, type, affordability level, design, and other details will be determined in the future as part of a site-specific project review. The AHIP is attached as Exhibit "C" to this resolution and incorporated herein by reference.
2. The AHIP proposes the construction of 700 residential units that will be rented at market rate on the Property. The Applicant will construct new affordable housing units equal to 7% of the new market rate units constructed on the Property, or 49 affordable units. The Applicant will identify an appropriate site to develop a new affordable housing project for these 49 affordable units. The Project will facilitate the City's efforts in attaining its Sixth Cycle RHNA mandate through the provision of market-rate and affordable units.
3. The AHIP has been prepared consistent with the provisions of Section 20.52.015 (Affordable Housing Implementation Plan) of the NBMC.

SECTION 4. DECISION.**NOW, THEREFORE, BE IT RESOLVED:**

1. In accordance with Section 21083.3 of the California Public Resources Code and Section 15183 of the CEQA Guidelines, the Project is consistent with the development density, intensity, and use characteristics established by the City's General Plan Housing Implementation Program as analyzed by the PEIR, and the required determinations can be made, as detailed in Exhibit "D"; therefore, the Planning Commission finds that no additional environmental review is required to approve the Project.
2. The Planning Commission of the City of Newport Beach hereby recommends approval of the Project to the City Council, including: (1) the Development Agreement in compliance with Chapter 15.45 (Development Agreements) of the NBMC and California Code Section 65864 attached hereto as Exhibit "B"; and (2) the Affordable Housing Implementation Plan attached hereto as Exhibit "C."

PASSED, APPROVED, AND ADOPTED THIS 23RD DAY OF OCTOBER, 2025.

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

NOES: None

ABSTAIN: None

ABSENT: Rosene and Salene

BY: Tristan Harris
Tristan Harris, Chair

BY: 
Jon Langford, Secretary

Attachment(s): Exhibit A – Legal Description
 Exhibit B – Development Agreement
 Exhibit C – Affordable Housing Implementation Plan
 prepared by CAA Planning Inc. dated May 2025
 Exhibit D – CEQA Consistency Analysis prepared by T&B
 Planning Inc. dated October 2025
 Exhibit E – Conditions of Approval

EXHIBIT "A"**LEGAL DESCRIPTION**

The Land referred to herein below is situated in the City of Newport Beach, County of Orange, State of California, and is described as follows:

PARCEL A:

PARCEL 1 OF PARCEL MAP NO. 84-716, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A PARCEL MAP FILED IN BOOK 196, PAGE 40 THROUGH 43 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL B:

PARCEL 1, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A PARCEL MAP FILED IN BOOK 68, PAGE 19 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL C:

PARCELS 2, 3 AND 4 OF PARCEL MAP NO. 84-716, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A PARCEL MAP FILED IN BOOK 196, PAGES 40 THROUGH 43 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APNs:

445-121-14 (Affects Parcel A)

445-121-05 (Affects Parcel B)

445-121-15 (Affects Parcel 2 of Parcel C)

445-121-16 (Affects Parcel 3 of Parcel C)

445-121-17 (Affects Parcel 4 of Parcel C)

EXHIBIT “E”**CONDITIONS OF APPROVAL**

(Project-specific conditions are in italics)

Planning Division

1. The development shall be in substantial conformance with the approved *MacArthur Court Development Agreement dated September 25, 2025, and Affordable Housing Implementation Plan dated May 2025* (except as modified by applicable conditions of approval).
2. *Prior to the issuance of building permits, the Applicant shall obtain all applicable discretionary permits (e.g. Site Development Review, Parcel Map, etc.). The Applicant shall comply with all conditions of approval for said discretionary permits.*
3. The Project is subject to compliance with all applicable submittals approved by the City of Newport Beach (“City”) and all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Development Agreement and Affordable Housing Implementation Plan.
5. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Development Agreement or Affordable Housing Implementation Plan or the processing of a new Development Agreement or Affordable Housing Implementation Plan.
6. *Prior to the issuance of a building permit, an affordable housing agreement shall be executed in a recordable form as required by the City Attorney’s Office.*
7. *The Applicant shall comply with all provisions of the Development Agreement including payment and timing of the public benefit fees.*
8. A copy of the Resolution, including conditions of approval Exhibit “A” shall be incorporated into the Building Division and field sets of plans before issuance of the building permits.
9. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.

10. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of ***MacArthur Court Project including, but not limited to, Development Agreement and Affordable Housing Implementation Plan (PA2025-0090)***. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.