

Attachment CC2
Planning Commission Resolution 2019

RESOLUTION NO. 2019

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH DENYING WITHOUT PREJUDICE PLANNED DEVELOPMENT PERMIT NO. PL2014-001, LOT MERGER NO. LM2014-003 AND AFFORDABLE HOUSING IMPLEMENTATION PLAN NO. AH2015-001 FOR THE RESIDENCES AT NEWPORT PLACE PROJECT LOCATED AT 1701 CORINTHIAN WAY, 4251, 4253 AND 4255 MARTINGALE WAY, 4200, 4220 AND 4250 SCOTT DRIVE AND 1660 DOVE STREET (PA2014-150)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Newport Place Residential, Inc., with respect to property located at 1701 Corinthian Way, 4251, 4253 and 4255 Martingale Way, 4200, 4220 and 4250 Scott Drive and 1660 Dove Street and legally described as Lot 1 of Tract 7770, and Parcels 1 and 2 of Book 53, Page 13 of Parcel Maps requesting an approval for the development of a mixed use residential project. The following approvals are requested or required in order to implement the project as proposed:
 - a. A Planned Development Permit pursuant to Section 20.52.060 of the Newport Beach Municipal Code to allow the construction of 384 multi-family residential units and 5,677 square feet of retail use with an adjustment request of the development standards to allow:
 - i. The maximum building setback encroachments into the required 30-foot street setback of 12 feet on Corinthian Way, 10 feet on Martingale Way, 8 feet on Dove Street and 6 feet on Scott Drive.
 - ii. The residential buildings to exceed the 55-foot height limit by 3 feet for the main portion of the buildings and 28 feet for the architectural elements.
 - b. A waiver of General Plan Land Use Policy 6.15.13 for relief from the requirement of a minimum 0.5-acre neighborhood park to the City, and to accept a fee payment equal to the value of the 0.5 acre of parkland established by Ordinance No. 2007-30.
 - c. A Lot Merger pursuant to Section 19.68.030(H) of the City of Newport Beach Municipal Code (NBMC) to combine three parcels into one.
 - d. An Affordable Housing Implementation Plan to specify how the proposed project would meet the City's affordable housing requirements pursuant to Part III (Residential Overlay) of the Newport Place Planned Community and NBMC Chapter 20.32 (Density Bonus).

2. The subject property is located within General Commercial Site 6 of the PC 11 (Newport Place) Planned Community Zoning District and the General Plan Land Use Element category is Mixed-Use District Horizontal-2 (MU-H2).
3. The subject property is not located within the coastal zone.
4. On March 3, 2016, the Planning Commission held a study session for the proposed project and associated Mitigated Negative Declaration in the Council Chambers, located at 100 Civic Center Drive, Newport Beach. Staff and the applicant presented project information to the Planning Commission and public. Commissioners expressed numerous concerns regarding the proposed project, including, but not limited to, the overall density, project design and architecture, setback encroachments, building height, amount of commercial uses provided, and parking.
5. A public hearing was held on June 9, 2016, in the Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Ralph M. Brown Act and the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing. At the conclusion of the public hearing, the Planning Commission voted 4-1 (2 absent) to deny the project and continue the item to June 23, 2016, for consideration of a resolution for project denial.
6. On June 23, 2016, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, the Planning Commission considered this resolution denying the project.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

Pursuant to Section 15270 of the California Environmental Quality Act (CEQA) Guidelines, projects which a public agency rejects or disapproves are not subject to CEQA review.

SECTION 3. FINDINGS.

1. In accordance with General Plan Land Use Element Policy 6.15.13, the Planning Commission does not waive the required neighborhood park dedication based upon the following:
 - a. The required dedication and improvement of 8% of a project site or a minimum of 0.5 acres of parkland ensures the creation of a neighborhood identity and would serve the daily recreational needs of the community within easy walking distance of homes and nearby businesses. There are no neighborhood parks within easy walking distance presently. Waiving the requirement would not meet the goal of the policy and would leave future residents underserved with nearby parkland.
 - b. In-lieu of dedicating the parkland, the applicant proposes a passive open space area, without traditional active recreational amenities such as a playground. The applicant proposes the payment of an in-lieu fee in the amount of the value of the parkland

requested to be waived. Given that the applicant can accommodate a half-acre open space area in the design of the project, the development parcels are not too small to accommodate the dedication of the area for park purposes. Furthermore, public access would be limited to daylight hours and the open space area would be fenced and gated. Public access would also be further limited as a proposed public access easement would only cover selected portions of the open space provided. These project features do not create a neighborhood identity and do not adequately meet the daily recreational and commercial needs of the community.

2. In accordance with NBMC Section 20.52.060(F), the Planning Commission was unable to make the following finding(s) in support of the Planned Development Permit:

“Be substantially consistent with the purpose, intent, goals, policies, actions, and land use designations of the General Plan, and any applicable specific plan.”

“The project would produce a development of higher quality and greater excellence of design than that might otherwise result from using the standard development regulations.”

“The design, location, operating characteristics, and size of the project would be compatible with the existing and future uses in the vicinity, in terms of aesthetic values, character, scale, and view protection.”

The proposed project does not meet these criteria for the following reasons:

- a. The project does not provide the required parkland pursuant to General Plan Policy LU6.15.13. The open space proposed and limited public access will not meet the recreational needs of residents and the community. The facts in support of Finding 1 above are incorporated herein by reference.
- b. General Plan Policy LU 6.15.7 requires residential projects to be developed at a maximum of 50 dwelling units per net acre. The net acreage shall be exclusive of existing and new rights of way, public pedestrian ways and neighborhood parks. General Plan Policy LU 6.15.13 requires the dedication of 8% of a project site or a minimum of 0.5 acres of parkland. Denial of the requested waiver to dedicate parkland results in a project that exceeds 50 dwelling units per acre, and therefore, the proposed project is not consistent with Policy LU 6.15.7. Density Bonus units were not considered in this determination.
- c. The density of the proposed project exceeds 50 dwelling units per net acre and with the inclusion of density bonus units, the project is too large as evidenced by the request to exceed the height limit and encroach into required setbacks. The increased size and density of the project will increase demands for parkland and the requested parkland waiver would create increased density resulting in a negative environment for residents. These project features do not create a project of superior design and the project is not compatible with planned development in the area.

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- d. The proposed project provides 715 parking spaces which reflects reduced standards allowed for a project that includes affordable housing in accordance with NBMC Chapter 20.32 (Density Bonus). The Zoning Code would otherwise require 960 parking spaces for the residential component of the project. Due to magnitude of the reduction in neighborhood-serving commercial uses, the distance to other commercial services, and limited transit options, residents may be more reliant upon automobiles. As a result, the proposed project does not meet resident parking demands and the result may be the increased use of street parking or unauthorized use of parking on private property. These potential project ramifications would negatively change the character of the area.
 - e. The project includes the elimination of 58,277 square feet of neighborhood-serving commercial uses including restaurants. Existing uses in the area and the community in general has come to rely on these uses. The project includes 5,677 square feet of retail uses and the overall reduction of commercial space will not adequately serve the existing community. The community will need to travel further to find necessary goods and services. The construction of 384 units at the project site will compound the issue by increasing demands for supporting services. As a result, the project will not meet the community's goal to create a mixed-use community that provides jobs, residential and supporting services in proximity, with pedestrian-oriented amenities that facilitates walking and enhance livability (General Plan Goal LU 6.15).
3. In accordance with NBMC Section 20.30.060(C)(3) the Planning Commission was unable to approve the requested height increase above 55 feet for the following reasons:
- a. The project does not provide additional project amenities beyond those that are otherwise required including but not limited to additional landscaped open space, increased setbacks and open areas. The applicant specifically requests reduced setbacks to abutting streets thereby reducing landscaped open space. The applicant also requests the relief from dedicating parkland required pursuant to General Plan Policy 6.15.13, which compromises a necessary goal of the General Plan to create a neighborhood identity and serve the daily recreational needs of the community within easy walking distance of homes and nearby businesses given that there are no neighborhood parks within easy walking distance of the project site currently leaving future residents and the community recreationally underserved.
 - b. Many of the existing buildings in the vicinity of the project are 1 to 3 stories and are below 55 feet in height. Additionally, existing buildings provide 30-foot setbacks or more in many cases. The increased height and reduced setbacks would create taller buildings closer to streets than planned creating a development pattern that would be out of scale with the character of the area.
 - c. Increased interior ceiling heights can be achieved while complying with the established height standards. Increased architectural expression and visual interest

through taller architectural features can be achieved while complying with the established height standards.

- d. Surrounding properties meet setbacks and conform to applicable height limits and reducing these standards could set a detrimental precedent for future projects.
4. In accordance with NBMC Section 19.68.030(H), the Planning Commission was unable to make the following finding(s) in support of the requested lot merger:

“Approval of the merger will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City, and further that the proposed lot merger is consistent with the legislative intent of this title.”

- a. The proposed lot merger directly relates to and is necessary for the requested Planned Development Permit and the findings for approval of the Planned Development Permit have not been met.
 - b. Approval of the requested lot merger without approval of the Planned Development Permit under these circumstances would be detrimental to the peace, comfort and general welfare of persons residing or working in the neighborhood of the project site proposed use and the general welfare of the City
5. In accordance with NBMC Section 19.08.030(A)(3), the Planning Commission was unable to make the following finding(s) in support of the requested parcel map waiver:

“That the proposed division of land complies with requirements as to area, improvement and design, flood water drainage control, appropriate improved public roads and property access, sanitary disposal facilities, water supply availability, environmental protection, and other applicable requirements of Title 19, the Zoning Code, the General Plan, and any applicable Coastal Plan or Specific Plan.”

- a. The proposed parcel map waiver for the lot merger directly relates to and is necessary for the requested Planned Development Permit and the findings for approval of the Planned Development Permit have not been met. Specifically, the project is not consistent with General Plan Policies LU 6.15.7 and LU 6.15.13.
 - b. Approval of the parcel map waiver without approval of the Planned Development Permit under these circumstances would be detrimental to the peace, comfort and general welfare of persons residing or working in the neighborhood of the project site proposed use and the general welfare of the City
6. The Planning Commission was unable to approve the proposed affordable housing implementation plan (AHIP) for the following reason(s):

Findings for the approval of the requested Planned Development Permit have not been satisfied, and therefore, the project cannot be approved. As a result, there is no requirement to construct affordable housing and no need to approve an AHIP or require an affordable housing agreement pursuant to NBMC Chapter 20.32 (Density Bonus).

7. The City of Newport Beach has satisfied its affordable portion of the Regional Housing Needs Assessment (RHNA) through the approval of recent affordable housing projects. Pursuant to Government Code Section 65589.5, the denial of this project does not render infeasible the construction of affordable units because the project can be redesigned to comply with the General Plan by providing the minimum parkland to meet the need of the community and comply with applicable zoning standards while providing affordable housing units. The denial without prejudice allows the project to be immediately redesigned to comply with applicable General Plan and Zoning standards while allowing the inclusion of affordable housing.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:


1. The Planning Commission of the City of Newport Beach hereby denies without prejudice Planned Development Permit No. PL2014-001, Lot Merger No. LM2014-003, Affordable Housing Implementation Plan No. AH2015-001, and the requested park waiver, height increase, lot merger, and parcel map waiver.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal is filed with the City Clerk or the action is called for review by the City Council in accordance with the provisions of Chapter 20.64 (appeals or Calls for Review) of the Newport Beach Municipal Code

PASSED, APPROVED, AND ADOPTED THIS 23rd DAY OF JUNE, 2016.

AYES: KRAMER, KOETTING, LAWLER, WEIGAND, ZAK

NOES: NONE

ABSTAIN: BROWN, HILLGREN

BY: 
Kory Kramer, Chairman

BY: 
Peter Koetting, Secretary