

**NEWPORT BEACH PLANNING COMMISSION MINUTES
CITY COUNCIL CHAMBERS – 100 CIVIC CENTER DRIVE
THURSDAY, APRIL 5, 2018
REGULAR MEETING – 6:30 P.M.**

I. **CALL TO ORDER** – The meeting was called to order at 6:35 p.m.

II. **PLEDGE OF ALLEGIANCE** – Commissioner Kleiman

III. **ROLL CALL**

PRESENT: Chair Peter Koetting, Secretary Erik Weigand, Commissioner Bill Dunlap, Commissioner Lauren Kleiman, Commissioner Kory Kramer, Commissioner Lee Lowrey

ABSENT: Vice Chair Peter Zak

Staff Present: Community Development Director Seimone Jurjis, Deputy Community Development Director Jim Campbell, Assistant City Attorney Michael Torres, City Traffic Engineer Tony Brine, Associate Planner Benjamin Zdeba, Assistant Planner Liz Westmoreland, Administrative Support Technician Patrick Achis

IV. **PUBLIC COMMENTS**

Mark Abrams, 254 Catalina Drive, estimated 20 percent of Keck USC Medical Center (located at 300 Old Newport Blvd.) employees park on the street in front of residents' homes because the medical center does not provide sufficient employee parking. The City parking lot offers two-hour parking, which does not benefit employees.

V. **REQUEST FOR CONTINUANCES**

None

VI. **CONSENT ITEMS**

ITEM NO. 1 MINUTES OF MARCH 22, 2018

Recommended Action: Approve and file

Motion made by Secretary Weigand and seconded by Chair Koetting to approve the draft minutes of the March 22, 2018, meeting with the Commission's and Mr. Mosher's edits.

AYES: Koetting, Weigand, Dunlap, Kleiman, Kramer, Lowrey

NOES: None

ABSTAIN: None

ABSENT: Zak

VII. **CONTINUED BUSINESS:**

ITEM NO. 2 AGAPE ART COLLECTIVE (PA2017-232)

Site Location: 365 Old Newport Boulevard

Summary:

A request for a minor use permit to operate a tattoo studio (Personal Services, Restricted land use) and artist's studio within an existing commercial tenant space.

Recommended Action:

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. PC2018-015 approving Minor Use Permit No. UP2017-031.

Assistant Planner Liz Westmoreland reported the application pertains to a minor use permit for a tattoo studio and artist studio. A tattoo studio is defined as a personal services, restricted land use and requires discretionary approval by the Zoning Code. In February, the Zoning Administrator referred the application to the Planning Commission based on ambiguity in the definition of the land use, specifically dispersal of uses in relation to the project site, neighborhood, or surrounding area. The project site is located on the second floor of an existing commercial building, which is occupied primarily by retail, food, and services uses. The applicant has not proposed an increase in the 885-square-foot tenant space. Proposed hours of operation are 10:00 a.m. to 10:00 p.m., daily with the bulk of appointments scheduled during the evening hours. Tattoo operators and artists are required to register with the Orange County Health Department and are regulated by the California Safe Body Art Act. The applicant proposes three stations maximum for tattooing, and there would be no designated receptionist. Five parking spaces are located on-site, and six tenant spaces are located in the subject building. Therefore, the building as a whole and each individual unit are considered nonconforming due to lack of sufficient parking. No other permitted personal services, restricted uses are located within the subject building or within 300 feet of the site. In staff's opinion, the proposed restricted personal service use would not appear to create or perpetuate a cluster of such uses in the immediate area that would cause detrimental nuisance conditions. Four tattoo uses are located in the City; the nearest to the subject site is located approximately one-half mile to the south. The nearest Costa Mesa tattoo use is located approximately one mile north of the subject site. Staff believes there is adequate dispersal of personal services, restricted land uses and specifically tattoo uses within the immediate and surrounding area. Correspondence from the public opposed the project and expressed concerns regarding parking, type of use proposed, and security. The proposed use would operate similar to other service uses. Most of the retail-based tenants in the subject building operate until approximately 5:00 p.m.; however, Subway can operate until 11:00 p.m., and the massage and restaurant uses can operate until 9:00 p.m. Staff contacted the Costa Mesa Police Department and learned that the department had not received any reports of crime related to the existing business. In addition, the Costa Mesa crime analyst indicated Agape Art Collective did not seem to cause any problems. Per the Zoning Code, a new use may occupy the proposed space as long as parking demand does exceed one space per 250 square feet of floor area. This standard would apply if a new retail or service use (including the proposed use) were to occupy the site with no intensification of use. Staff recommends approval of the project. The Planning Commission may not deny the application based on the tattoo use itself.

Commissioners Kramer, Kleiman, Koetting, Dunlap, and Lowrey reported no ex parte communications with the applicant or property owner, while Secretary Weigand spoke with the owner.

In meeting with tenants of the building, Commissioner Dunlap learned tenants' leases restricted parking in front of the building to 20 minutes. He questioned whether Agape's lease would contain the same provision and assumed Agape's patrons would remain in the studio longer than 20 minutes.

In reply to Chair Koetting's questions, City Traffic Engineer Brine stated parking in the area has developed over time. Assistant Planner Westmoreland advised there was no parking master plan for the three adjacent lots on the west side of Old Newport, south of sites. Because of the six tenants and only five parking spaces, the Police Department probably would not accommodate spaces designated for tenants. The parking lot is maintained by the City. Anyone can park in the lot, and seven of 28 spaces in the lot are limited to two-hour parking. This property has an existing sign program. Two of the buildings are owned by the same entity, and the third building is owned by a different entity.

In answer to Commissioner Lowrey's query, Deputy Community Development Director Campbell explained that there is no separation standard for these restricted personal service uses, and staff has not applied one for these uses.

In response to Commissioner Kramer's inquiries, Assistant Planner Westmoreland said there is no particular definition for healing arts. Massage is a separate land use and regulated by additional standards. Commissioner Kramer noted a Thai massage use was located within 300 feet of the subject property. If massage use was included in healing arts, then the application would be void on its face.

In reply to Secretary Weigand's questions, Assistant Planner Westmoreland did not recall the hours of operation for the Timree Gold Studio that previously occupied the project site, but it would have accommodated quite a few people in art classes. On paper, the Timree Gold Studio had the same parking demand as the proposed use.

In answer to Commissioner Dunlap's queries, Assistant Planner Westmoreland clarified that, for this application, staff considered all service-based uses in the commercial space as complementary. Commissioner Dunlap questioned whether the proposed tattoo business would provide a service for residents of the neighborhood. Public correspondence would lead one to believe otherwise.

In response to Chair Koetting's inquiries, Assistant Planner Westmoreland indicated the Subway located on the adjacent property was approved in the early 2000s with knowledge of the parking situation in the area. In addition, other food uses have been granted parking waivers with knowledge of the existing parking situation.

Chair Koetting opened the public hearing.

Joe Diestel, Newport Heights, voiced concerns about late-night customers, alcohol use, insufficient parking, traffic, and homelessness.

Tom Baker, resident, commented that a tattoo shop would negatively impact visitors' initial impression of the City as the area is considered a gateway to the City. All tattoo shops in the City are located in the same small area. He suggested the Planning Commission deny the application.

Mark Abrams, 254 Catalina Drive, believed allowing another business where there is not enough parking did not make sense.

Jim Mosher concurred with Mr. Baker's comments regarding concentration of tattoo shops and questioned conditions of approval for signage. Condition Numbers 8 and 13 appear to be redundant. He noted discrepancies in the address and parcel number for the property.

Jake Mello, applicant, related his professional experience and goals for this business. He currently plans to be the only tattoo artist; however, he wants the flexibility to have one or two additional artists in the future. Signage for the tattoo studio will conform with signage for other businesses located in the building. Appointments will be scheduled primarily after 5:00 p.m., to accommodate parking.

In response to Commissioners' questions, Mr. Mello did not anticipate all three workstations being used simultaneously. The space is intended to be his graphic design, painting, and tattoo studio. Tattooing is only one of the mediums he uses. Dr. John Sun is the building owner. If the application is approved, he will no longer work in the Costa Mesa studio. The Costa Mesa studio has eight artists who rely heavily on walk-in business; however, Mr. Mello has his own clientele and books only one appointment per day. He will book appointments during the day if necessary; however, he prefers to book appointments at 5:00 p.m. or later. Alcohol use and clients under 18 years of age will not be allowed. He is prepared to utilize more lighting and security to prevent loitering.

Danielle Diestel commented that the taxpayers in the area do not want a tattoo parlor. The tattoo parlor would not serve surrounding residents.

Nancy Turner did not believe a tattoo studio would be an appropriate influence on school children and the neighborhood.

Chair Koetting closed the public hearing.

In response to Chair Koetting's comments, Deputy Community Development Director Campbell reported there is a sign program for the building. The two conditions regarding signage inform the applicant of the need to comply with requirements of both the building sign program and the Municipal Code. Staff will scrutinize other uses in the area and ensure intensification is appropriate.

With regard to Secretary Weigand's remarks, Deputy Community Development Director Campbell explained that the Municipal Code prohibits flashing signs. The City cannot regulate the content of a sign.

Commissioner Kleiman stated that the way the application reads, the findings do not support a tattoo studio. The Commission could view the application differently if it provided for one workstation with a surrounding artist studio.

Motion made by Commissioner Kleiman and seconded by Commissioner Lowrey to adopt Resolution No. PC2018-015 denying Minor Use Permit No. UP2017-031.

Commissioner Dunlap suggested the Commission could approve the application with a variety of conditions. Commissioner Kleiman stated that she could support an application that reflects more of the business Mr. Mello described. Secretary Weigand said that he is pretty supportive of the studio, and would like to see the commission approve it at some point, but did not know if the votes exist. Weigand asked if it would be appropriate for staff to come back after revising the report.

Assistant City Attorney Torres recommended the Planning Commission continue the item to allow staff to work with the applicant to develop a different set of conditions instead of doing it at the hearing.

Commissioner Weigand stated that they would like to have the revisions incorporate the commission's concerns, but that they don't want to be so restrictive on this use that he can't operate. He believes the applicant has a good plan for the community. Commissioner Kleiman suggested that they ask the applicant how he would like to proceed.

In reply to the Commission's question, Mr. Mello agreed to work with staff.

Community Development Director Jurjis suggested the Commission continue the item to May 3, if it chooses to continue the item.

Commissioner Kleiman withdrew her motion; Commissioner Lowrey concurred.

Motion made by Secretary Weigand and seconded by Commissioner Kleiman to continue the application to May 3, 2018.

AYES: Koetting, Weigand, Dunlap, Kleiman, Kramer, Lowrey
NOES: None
ABSTAIN: None
ABSENT: Zak

Chair Koetting announced Item 4 will be heard next with Item 3 following Item 4.

VIII. PUBLIC HEARING ITEMS

ITEM NO. 3 ENTERPRISE RENT-A-CAR EXPANSION (PA2017-215)

Site Location: 4340 Campus Drive, 4360 Campus Drive, 4400 Campus Drive, 4500 Campus Drive, 4341 Birch Street and 4361 Birch Street

Summary:

The applicant proposes to expand the existing Enterprise Rent-A-Car facilities located at 4500 Campus Drive and 4361 Birch Street ("Project"). The Project includes the following: (1) demolishing three existing office buildings (38,620 square feet in total) at 4340 Campus Drive, 4400 Campus Drive, and 4341 Birch Street; (2) remodeling of an existing approximately 11,682-square-foot office building to create a vehicle service center, hand car wash, personal offices, and vehicle parts storage; (3) grading and paving with installation of perimeter security fencing and walls, landscaping, and exterior lighting; and (4) striping and reconfiguring of paved areas to create 91 customer and employee parking spaces and approximately 810 stacked parking spaces for vehicle storage. The existing barriers between each of the lots will be removed to allow vehicle circulation without having to utilize the surrounding public right-of-way.

Recommended Action:

1. Conduct a public hearing;
2. Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15302 (Class 2 – Replacement and Reconstruction) and Section 15303 (Class 3 – New Construction or Conversion of Small Structures) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment; and
3. Adopt Resolution No. PC2018-014 approving Conditional Use Permit No. UP2017-030.

Commissioner Lowrey recused himself from this item as he has a business relationship with the owner.

Associate Planner Benjamin Zdeba reported the existing Enterprise Rent-A-Car facility is located at 4500 Campus Drive, and its service facility is located at 4361 Birch Street. In 2014, Use Permit No. UP2014-025 allowed expansion of the facility to Campus Drive. The Campus Drive block is zoned Office Airport (OA), and the General Plan land use designation is Airport Office and Supporting Uses (AO). These designations are intended for areas that have uses that benefit from airport operations and benefit airport operations. The majority of car rental activities occur at the nearby John Wayne Airport. The applicant proposes to expand the facility over four adjacent lots. West of the existing facility, three commercial office buildings, totaling approximately 38,000 square feet of gross area, will be demolished to make room for vehicle storage and visitor and employee parking. One of the buildings will be repurposed for service bays, personal offices, parts storage, and a manual detailing facility. Currently, exotic cars are shipped offsite for detailing. The applicant proposes new landscaping within the front setbacks on Campus Drive and Birch Street. A total of four transport truck loading areas will be maintained and required as part of the conditions of approval. Staff consulted with Code Enforcement staff and determined no warnings or citations have been issued to the existing Enterprise Rent-A-Car. The applicant proposes removal of one curb cut after consultation with the Public Works Department. General Plan policies address encouraging rental car facilities subject to discretionary review, making them more efficient, consolidating sites, and beautifying the area with landscaping. Conditions of approval are in place to ensure the use remains compatible with the surrounding business community and airport. The condition regarding parking layout review requires the applicant to submit the site plan and parking layout for review by the Public Works Department. Staff recommends the Planning Commission approve the conditional use permit. All conditions of approval from the 2014 Use Permit will carry forward with the new permit. Since the staff report and proposed resolutions were published, the applicant worked with a neighboring property owner and is agreeable to constructing a block wall rather than installing a chain-link fence between the two properties. Therefore, staff recommended adding a condition of approval stating that "prior to final inspection of building permits, the applicant shall construct a 6-foot-tall concrete masonry unit block wall along the entire side property line between 4341 Birch Street and 4321 Birch Street."

Commissioner Dunlap recommended the applicant provide a construction management plan early so that Public Works can review it for feasibility.

Chair Koetting concurred with building a block wall in place of the chain-link fence.

Commissioners Kramer, Kleiman, and Weigand reported communications with a representative of the applicant. Commissioner Dunlap and Chair Koetting reported no ex parte communications.

Chair Koetting opened the public hearing.

Bill Bettison, applicant representative, remarked that the proposed project aligns with the City's goal of improving the aesthetics of the area and reducing traffic on surrounding streets and will significantly reduce the number of offsite storage trips for the applicant. Increasing the landscaped area will significantly increase the permeable surface of the four parcels.

In reply to Chair Koetting's question, Mr. Bettison explained that customers pick up and return vehicles at the airport. Washing and maintenance of vehicles occurs at a location away from the airport. Mostly local customers rent exotic cars.

Brad Barrett, adjacent property owner, requested the Planning Commission require a 7-foot block wall rather than the proposed 6-foot block wall. There is a considerable elevation change between his property and Enterprise's property.

Chair Koetting clarified that the change in elevation will result in a wall approximately 8 feet in height.

Tim Stokes noted inconsistencies in the diagram for ingress and egress of transport trucks. The elevations are not articulated well and are not visually exciting for the entrance to Newport Beach from the airport. The Hyatt Regency guest towers will face a large parking lot devoid of landscaping. The traffic impact will be a major concern.

Chair Koetting closed the public hearing.

In reply to Chair Koetting's questions, Associate Planner Zdeba indicated the remodeled building on Campus will look similar to other buildings through the use of paint colors and window and door treatments. A condition of approval requires the building to be consistent with the 4500 Campus Drive facility.

Chair Koetting remarked that the height of the block wall should remain at 6 feet because of the 2-foot change in elevation. The wall should have the articulation at the top.

Motion made by Commissioner Kramer and seconded by Secretary Weigand to find the project exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15302 and 15303; and to adopt Resolution No. PC2018-014 approving Conditional Use Permit No. UP2017-030 to include an additional condition for the additional block wall.

AYES: Koetting, Weigand, Dunlap, Kleiman, Kramer
NOES: None
RECUSED: Lowrey
ABSENT: Zak

IX. NEW BUSINESS:

ITEM NO. 4 INITIATION OF CODE AMENDMENTS

Site Location: Citywide

Summary:

Initiation of limited amendments to the Zoning Code (Newport Beach Municipal Code [NBMC] Title 20) and corresponding provisions of the Local Coastal Program (NBMC Title 21).

Recommended Action:

1. Take public comment;
2. Determine this action exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15262 (Feasibility and Planning Studies) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3; and
3. Initiate an amendment to NBMC Title 20 and corresponding sections of the Local Coastal Program.

Deputy Community Development Director Campbell reported staff proposes five amendments to Title 20 of the Newport Beach Municipal Code and corresponding changes to the Local Coastal Program. Staff will develop the amended Code language and present it later in the summer at a public hearing. First, the section regarding zoning overlay districts contains a conflict, which will be resolved through an amendment. Second, the alternate setback procedure is difficult to interpret, can't be used in many instances, and is not being utilized as intended. Staff will rewrite the section. The section pertaining to notice of public hearings needs a general cleanup. The section regarding notices and processing of hearings for Zoning Code amendments is ambiguous and needs a cleanup. Lastly, several setback maps contain errors, and staff proposes to correct them through an amendment. He indicated that all of these amendments are procedural in nature and general cleanup items.

In response to Chair Koetting's inquiry, Deputy Community Development Director Campbell advised that "certain lots," as stated in Item 2, will be defined in the amendment. The section applies to lots that have been "reoriented." Staff will examine and possibly change how the section is applied in the future.

Commissioner Lowrey noted concerns around transparency and suggested draft amendments and analysis be provided to the public well in advance of the public hearing date.

Jim Mosher concurred with earlier release of the staff report and draft amendments and questioned the rationale for choosing these amendments over others.

Motion made by Commissioner Lowrey and seconded by Secretary Weigand to initiate an amendment to Newport Beach Municipal Code Title 20 and corresponding sections of the Local Coastal Program.

AYES: Koetting, Weigand, Dunlap, Kleiman, Kramer, Lowrey
NOES: None
ABSTAIN: None
ABSENT: Zak

X. STAFF AND COMMISSIONER ITEMS

ITEM NO. 5 MOTION FOR RECONSIDERATION

None

ITEM NO. 6 COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

Update on City Council Items

Community Development Director Jurjis announced the April 19 Planning Commission hearing is canceled. The May 3 Planning Commission agenda will include the Agape Artist Collective application.

ITEM NO. 7 ANNOUNCEMENTS ON MATTERS THAT THE PLANNING COMMISSION MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR REPORT

None

ITEM NO. 8 REQUESTS FOR EXCUSED ABSENCES

None

XI. ADJOURNMENT – 8:06 p.m.

The agenda for the April 5, 2018, Planning Commission meeting was posted on Friday, March 30, 2018, at 3:07 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 Friday, March 30, 2018, at 2:58 p.m.

Peter Koetting, Chairman

Erik Weigand, Secretary