

**NEWPORT BEACH PLANNING COMMISSION MINUTES
CITY COUNCIL CHAMBERS – 100 CIVIC CENTER DRIVE
THURSDAY, OCTOBER 18, 2018
REGULAR MEETING – 6:30 P.M.**

I. **CALL TO ORDER** – The meeting was called to order at 6:30 p.m.

II. **PLEDGE OF ALLEGIANCE** – Chair Zak

III. **ROLL CALL**

PRESENT: Chair Peter Zak, Vice Chair Erik Weigand, Commissioner Lauren Kleiman, Commissioner Peter Koetting, Commissioner Kory Kramer, Commissioner Lee Lowrey

ABSENT: None

Staff Present: Community Development Director Seimone Jurjis, Deputy Community Development Director Jim Campbell, City Attorney Aaron Harp, Deputy City Attorney Armeen Komeili, City Traffic Engineer Tony Brine, Associate Planner Makana Nova, Assistant Planner Liz Westmoreland, Administrative Support Specialist Tiffany Lippman, Planning Technician Patrick Achis

IV. **ELECTION OF OFFICERS**

ITEM NO. 1 NOMINATION AND APPOINTMENT OF SECRETARY

Summary:

The Planning Commission's adopted rules require the election of officers. Officers include the Chair, Vice Chair, and Secretary, and they serve a one-year term.

Recommend Actions:

1. Find this action not subject to the California Environmental Quality Act (CEQA) pursuant to 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3;
2. Nominate Planning Commission Secretary; and
3. Appoint the officer by majority approval of a motion.

Motion made by Commissioner Kleiman and seconded by Commissioner Koetting to appoint Commissioner Lowrey as Secretary.

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

The Planning Commission heard Consent Items prior to Public Comments and Requests for Continuances.

V. **PUBLIC COMMENTS**

None

VI. **REQUEST FOR CONTINUANCES**

None

VII. **CONSENT ITEMS**

ITEM NO. 2 MINUTES OF SEPTEMBER 13, 2018

Recommended Action:

1. Approve and file

ITEM NO. 3 HELM RESIDENCE ENCROACHMENT PERMIT**Site Location: 200 Via Koron****Summary:**

A request to waive City Council Policy L-6 to retain existing non-compliant private improvements within the Via Koron public right-of-way consisting of two (2) low planter walls. A request to retain an existing compliant private improvement within the Via Koron public right-of-way consisting of a decorative walkway.

Recommended Action:

1. Find the project exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) (Preliminary Review) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment; and
2. Adopt Resolution No. PC2018-029 approving Encroachment Permit No. N2018-0387.

ITEM NO. 4 LAFRANCE AND BARAM RESIDENCE ENCROACHMENT PERMIT**Site Location: 2209 Private Road****Summary:**

A request to waive City Council Policy L-6 to retain an existing non-compliant private improvement within the Private Road public right-of-way consisting a six-foot high concrete retaining wall previously approved by City Council on August 8, 2017.

Recommended Action:

1. Find the project exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) (Preliminary Review) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment; and
2. Adopt Resolution No. PC2018-030 approving Encroachment Permit No. N2018-0471.

Jim Mosher suggested the Commission add a condition of approval to Items 3 and 4 that the encroachment permits will lapse should the current improvements be removed and reconstructed in the future. This will prevent the property owner from having a right to encroach in perpetuity.

Community Development Director Jurjis explained that once an encroachment is removed, the encroachment permit ceases to exist. If the property owner wants to build a subsequent encroachment, he would have to file a new application.

Motion made by Commissioner Kramer and seconded by Vice Chair Weigand to approve Consent Calendar Items 2, 3 and 4, with revisions to the minutes as suggested by Mr. Mosher.

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

VIII. NEW BUSINESS**ITEM NO. 5 NEWPORT AUTO CENTER USE PERMIT REVIEW (PA2017-097)****Site Location: 445 East Coast Highway and 1131 Back Bay Drive****Summary:**

A one-year review of Conditional Use Permit UP2017-014, which authorized off-site parking for employees of the Newport Auto Center at the Newport Dunes Resort property located at 1131 Back Bay Drive. The purpose of this review is to determine compliance with the conditions of approval of the conditional use permit.

Recommended Action:

1. Receive public comments; and;
2. Require an additional one-year review to confirm compliance with refuse and outdoor storage conditions.

Assistant Planner Liz Westmoreland reported that in October 2017, the Planning Commission authorized the dealership to locate its required employee parking off-site at 1131 Back Bay Drive and, as part of the conditions of approval, required the applicant to return in one year to verify compliance. In 2017, the Planning Commission also approved a limited term permit that authorized inventory vehicles to be parked on a limited basis at 101 Bayside Drive, also known as the Dunes gravel lot. The limited term permit expires on October 19, 2018, and the applicant has not filed a request for an extension. Staff observed that Sterling BMW has been using the lot without approval and staff is working with Code Enforcement to resolve the issue. The limited term permit is not part of this one-year review. In 2017, the Commission's main concerns were employees parking in residential areas, delivery vehicles idling/parking in the public right-of-way, and the availability of parking at the Dunes for public use. The previous issues have been resolved. There have not been any code enforcement complaints or any reports filed with the Police Department related to compliance with the conditional use permit. Additionally, no violations or issues pertaining to the off-site employee area have been reported. The dealership has hired a guard to monitor vehicles parking and/or idling in the public right-of-way. All customer and service parking spaces are being used properly. Drive aisles are being kept clear. Employees are using the correct area of the Dunes for parking. Regarding parking for marine- or recreation-related uses at the Dunes, events primarily occur on weekends when there are few employees. There has been only one event at the Newport Dunes where Newport Auto Center needed to move their employees to the nearby Hyatt Hotel. As part of the site investigation for this review, staff observed two types of violations. The conditions of the use permit prohibit outdoor storage of materials and require that all trash be screened from view. Staff observed auto parts and boxes being stored on the ground and on racks and several dumpsters without lids. The applicant informed staff that some of the boxes found outside resulted from Audi vacating the site. The areas are screened from Bayside Drive and Pacific Coast Highway; however, they are visible from the apartments above. Staff believes that the applicant has made a concerted effort to resolve all the key issues; however, the applicant is noncompliant with trash and storage provisions. Future options may involve construction of permanent storage and trash enclosures or moving the storage inside. Because of this, staff recommends an additional one-year review of the application or resolution of the issues through code enforcement.

In response to Commissioner Koetting's questions, Assistant Planner Westmoreland advised that employees are using the parking area authorized by the conditional use permit. Employees are not using the inventory storage lot located in the Dunes gravel lot.

In reply to Vice Chair Weigand's queries, applicant Tim Tauber indicated the Audis have been moved to the new Fletcher Jones lot, which leaves quite a bit more room for Newport Auto Center vehicles. Newport Auto Center used the 101 Bayside Drive lot (Dunes gravel lot) for inventory storage, but it is no longer needed. He indicated that Newport Auto Center will work on the trash and storage issue.

Commissioners reported no ex parte communications.

Chair Zak opened the public hearing. Seeing that no one from the public wished to comment, Chair Zak closed the public hearing.

Commissioner Koetting related that he had visited the site and found quite a few new cars parked in areas not designated for parking and found stacks of tires against the wall next to the apartment project. Fourteen parking stalls have been removed and a second detailing area installed. Mr. Tauber stated the detail area has always been there, but it is temporary. Newport Auto Center is planning a building project, which will eliminate that stuff. The tires are picked up weekly. Employees park in the Dunes asphalt lot, not the gravel lot. Deputy Community Development Director Campbell advised that staff can look into the parking issues in conjunction with outdoor storage and work with the applicant to make it fully compliant.

In answer to Chair Zak's inquiries, Assistant Planner Westmoreland explained that the conditions of approval allow the applicant to do a certain amount of detailing in that area, including washing the vehicles. The site plan can be updated to reflect the second detailing area because it would be considered substantially conforming.

In response to Vice Chair Weigand's query, Assistant Planner Westmoreland advised that with another one-year review, staff would review all conditions of approval for the dealership operations.

Motion made by Commissioner Kramer and seconded by Vice Chair Weigand to amend the site plan to reflect the current condition and to require an additional one-year review to confirm compliance with refuse and outdoor storage conditions.

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

IX. PUBLIC HEARING ITEMS

ITEM NO. 6 POWERHOUSE VEHICLE SALES CUP (PA2018-166)

Site Location: 2244 West Coast Highway

Summary:

A Conditional Use Permit to allow a 15,823-square-foot vehicle sales showroom and supporting office for pre-owned luxury automobiles with approximately 15 display vehicles. No exterior vehicle display is proposed. The proposed hours of operation are from 8:00 a.m. through 6:00 p.m., daily. Test drives are not anticipated to exceed 10 test drives per week. If approved, this Conditional Use Permit would supersede previously approved Use Permit Nos. UP0251, UP1296, UP1490, and UP2087, which upon vesting of the rights authorized by the subject application, shall become null and void.

Recommended Action:

1. Conduct a public hearing;
2. Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment; and
3. Adopt Resolution No. PC2018-031 approving Conditional Use Permit No. UP2018-010.

Associate Planner, Makana Nova, reported the showroom will be located on the first floor with office uses on the second floor. Staff proposes allowing a maximum of 15 display vehicles in the showroom where the floor plans show a maximum of 12 vehicles. There is no exterior vehicle storage or display. No vehicle repair is proposed as part of the application. The proposed hours of operation are similar to the existing office uses, 8:00 a.m. to 6:00 p.m., daily, and customers will be seen primarily on an appointment-only basis. The applicant proposes a maximum of 10 test drives per week. Land uses designated for the property are mixed-use, and residential uses are located north of the site. Land use compatibility was a key consideration in staff's review of the application. There are 63 parking spaces on-site, and the parking requirement for the proposed use is 42 parking spaces. When reviewing the application, the Building Division and Public Works Department noted the drive aisle behind the ADA parking stalls is less than 24 feet wide. Some of the landscape areas opposite the parking areas would have to be removed to accommodate a 24-foot-wide drive aisle. To offset the removal of landscape, landscaping would be added at the front of the building, including a 3-foot-wide hedge and 3 palm trees in keeping with the guidelines set forth in the Mariners' Mile Strategic Vision and Design Framework. The Public Works Department requests the drive apron at the front of the main entrance off Coast Highway be replaced to comply with ADA standards, which would require an encroachment permit. The existing use permits on the site are outdated because they are based on prior development of the site; thus, staff has determined the use permits are no longer relevant and should be rescinded. A roll-up door would be installed in the existing window area to provide access for display vehicles. The draft conditions of approval prohibit test drives on residential streets and require a log of test drives that would have to be made available upon staff's request. Staff has determined the project is categorically exempt under Class 1 of the California Environmental Quality Act Guidelines. If approved, the use permit would become effective on November 1, 2018. If no appeal is filed, the applicant could proceed with tenant improvements, permitting and construction.

Vice Chair Weigand suggested continuing the item to the next Planning Commission meeting to ensure site compatibility of a car dealership with potential mixed-use development, including residential units, which is planned for the adjacent property. Vice Chair Weigand wanted to be sure the use is permissible under the

General Plan and to allow time for the property owner and residents to discuss potential development of the adjacent property.

In response to Commissioners' questions, Associate Planner Nova advised that the dealership site is included in the Newport Village application, which is currently an incomplete application. The applicant is reconsidering the scope of the Newport Village project. Staff is aware of the meeting between the property owner and several residents scheduled for the following week. Mariners' Mile North LLC is the property owner, and the manager of the LLC is Manouch Moshayedi. Community Development Director Jurjis added that the City is not a party to the meeting between the property owner and residents. If the Commission wishes to continue the item, it could be continued to November 8th.

In response to Commissioner Koetting's inquiry, Associate Planner Nova noted that the applicant has indicated that vehicles will be brought to the site via flatbed truck, rather than tractor-trailer style transport trucks.

In reply to Commissioner Kleiman's inquiries related to the proposal to continue the item, Chair Zak believed the purpose of continuing the item is to allow as much public outreach as possible. The Commission probably will not get a full picture of the ultimate project proposed for the adjacent site for quite some time. Vice Chair Weigand added that a number of residents had contacted him to request the item be continued.

Chair Zak opened the public hearing.

Jim Mosher noted the staff report implies that the conditional use permit for vehicle sales may be rescinded if the Newport Village proposal is adopted; however, that is not reflected in the resolution. He did not believe approval of the application would be consistent with the Mariners' Mile Strategic Vision and Design Framework, even though staff pointed out that the project does not look quite like an auto dealership. The finding that the project does not need a coastal development permit, because the project does not increase the intensity of use, should be reconsidered because the number of trips to and from the property would increase from 150 to 417 per day.

Sandra Ayers supported the Planning Commission continuing the item. This project does not further the goal of maintaining the nautical spirit along Mariners' Mile. The proposed conditional use permit is outside the defined uses for the site along Coast Highway. The Newport Heights Association was not informed of the conditional use permit application. There are Local Coastal Program and California Environmental Quality Act concerns. The Newport Village project should be reviewed in its entirety. Residents have asked the developer if the proposed use would change in the future and received a response that there were no plans in the works.

Chair Zak closed the public hearing.

In answer to Commissioner Koetting's queries, City Traffic Engineer Tony Brine explained that the 417 trips is based on the trip rate for a typical auto sales lot, but the proposed business is not a typical auto sales lot. The number is misleading and overstates the increase in trips. Associate Planner Nova related that staff worked on a series of community meetings for the Mariners' Mile Revitalization Master Plan during the prior year, but that effort was put on hold to consider it as part of the anticipated General Plan update. The General Plan, Zoning Code, and Coastal Land Use Plan standards apply to the project. The Mariners' Mile Strategic Vision and Design Framework is a set of guidelines and objectives for the area but do not set specific code or development standards. The Zoning Code allows vehicle sales in this particular zone, on this particular lot, as a conditionally permitted use.

Commissioner Kramer remarked that the Commission cannot wait years for the General Plan to be updated and that they have a duty to take action on the application before them. The Commission must consider the current General Plan and Zoning Code regulations, in place, when reviewing the application and the current regulations in place allow for the proposed use. This is a cosmopolitan city and this is a local location for a luxury car dealership to occur in Mariners' Mile. He noted his support for the applicant's request when it comes time to take action on the application.

Vice Chair Weigand disclosed ex parte communications with residents. The remaining Commissioners disclosed no ex parte communications.

Motion made by Vice Chair Weigand and seconded by Chair Zak to continue the item to November 8, 2018.

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

X. STAFF AND COMMISSIONER ITEMS

ITEM NO. 7 MOTION FOR RECONSIDERATION

None

ITEM NO. 8 REPORT BY THE COMMUNITY DEVELOPMENT DIRECTOR OR REQUEST FOR MATTERS WHICH A PLANNING COMMISSION MEMBER WOULD LIKE PLACED ON A FUTURE AGENDA.

Commissioner Koetting commented that it is important for the applicant and/or a representative of the property owner to be present. Associate Planner Nova advised that the applicant and his representative were present for Item 6. Chair Zak added that neither the applicant nor his representative chose to speak during the public hearing.

Jim Mosher stated the City received 17 applications for the vacant seat on the Planning Commission. A City Council subcommittee will select five of the 17 applicants.

Community Development Director Jurjis interrupted Mr. Mosher and advised that his comments did not pertain to this particular agenda item.

Chair Zak requested staff update the Commission at the next meeting regarding the vacant seat on the Commission.

ITEM NO. 9 REQUESTS FOR EXCUSED ABSENCES

None

XI. ADJOURNMENT – 7:23 p.m.

The agenda for the October 18, 2018, Planning Commission meeting was posted on Thursday, October 11, 2018, at 3:40 p.m. in the Chambers binder, on the digital display board located inside the vestibule of the Council Chambers at 100 Civic Center Drive, and on the City's website on Thursday, October 11, 2018, at 3:55 p.m.

Peter Zak, Chairman

Lee Lowrey, Secretary