

**NEWPORT BEACH PLANNING COMMISSION MINUTES  
CITY COUNCIL CHAMBERS – 100 CIVIC CENTER DRIVE  
THURSDAY, JUNE 20, 2019  
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** – Commissioner Kramer

**III. ROLL CALL**

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

ABSENT: None

Staff Present: Community Development Director Seimone Jurjis, Deputy Community Development Director Jim Campbell, City Attorney Aaron Harp, City Traffic Engineer Tony Brine, Police Civilian Investigator Wendy Joe, Associate Planner Chelsea Crager, Associate Planner Benjamin Zdeba, Assistant Planner Liz Westmoreland, Planning Technician Patrick Achis, Planning Consultant Liane Schuller, Administrative Support Technician Amanda Lee

**IV. PUBLIC COMMENTS**

Jim Mosher acknowledged Chair Zak's and Commissioner Kramer's service on the Planning Commission. He also noted that ex parte disclosures should include a statement of whether the Commissioner has heard anything that might influence their decision.

Byron de Arakal, Costa Mesa Planning Commission Chairman, invited Commissioners to join OC Policy, an alliance of Orange County planning commissioners, at its first meeting on July 18, 2019.

Jerry Schmitt related that the proposed building at 4302 Ford Road should be moved 8 feet away from the Bonita Canyon Sports Park. The slope of the driveway ramp should be less than 8 percent. Tenants of the building will park in the parking lot for Bonita Canyon Sports Park. He urged the Planning Commission to deny the project.

Diane Hornby raised concerns about the 4302 Ford Road project's effects on the safety of park users and traffic congestion. She asked the Planning Commission to deny the project.

Jessica Susolik requested the appropriate time for members of the public to inquire regarding the project at 4302 Ford Road. Chair Zak advised that members of the public should attend the hearing of the Ford Road project, at which time they could ask questions about the project.

[The Planning Commission heard Agenda Item Number 7 at this time.]

**V. REQUEST FOR CONTINUANCES**

None

**VI. CONSENT ITEMS**

**ITEM NO. 1 Minutes of June 6, 2019**

**Recommended Action:** Approve and file

**Motion** made by Vice Chair Weigand and seconded by Commissioner Kleiman to approve the minutes of June 6, 2019 with Mr. Mosher's modification.

AYES: Zak, Weigand, Lowrey, Ellmore, Kleiman, Koetting

NOES:

ABSTAIN: Kramer

ABSENT:

**VII. PUBLIC HEARING ITEMS**

**ITEM NO. 2 HARBOR DAY SCHOOL RECONSTRUCTION (PA2018-183)**  
**Site Location: 3443 Pacific View Drive**

**Summary:**

The applicant requests a major site development review to allow the redevelopment of the Harbor Day School campus to consist of approximately 99,607 square feet in gross building area; and to allow a new performing arts/gymnasium building to exceed the 32-foot height limit by 9 feet and 6 inches, for an overall height of 41 feet and 6 inches. Existing school buildings will be replaced in a phased approach over approximately 35 months. The application also includes a minor use permit to allow the continued operation of a kindergarten through eighth grade private school and a limited term permit to allow Harbor Day School to use a portion of the Big Canyon Reservoir's contractor yard for construction staging purposes. The currently allowed maximum enrollment of 480 students will not change as part of this project. If approved, the Minor Use Permit would supersede Use Permit No. UP2013-024.

**Recommended Action:**

1. Conduct a public hearing;
2. Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15302 under Class 2 (Replacement or Reconstruction) of the CEQA Guidelines; and
3. Adopt Resolution No. PC2019-017 approving Major Site Development Review No. SD2018-004, Minor Use Permit No. UP2018-015 and Limited Term Permit No. XP2019-003.

Commissioner Kleiman recused herself from the item as her son attends Harbor Day School.

Planning Consultant Liane Schuller reported the applicant requests approval to renovate and modernize the school campus, which has operated at the location for almost 50 years. The project site is located in the Private Institution district. Nearby land uses include Bayview Apartments, Pacific View Memorial Park, and Big Canyon Reservoir. The applicant has a long-term lease for off-site parking on the Big Canyon Reservoir property. The applicant also requests a limited term permit for construction staging on the Big Canyon Reservoir site. Harbor Day School was established in 1971 with a use permit, which has been amended over the years. In 2014, the Planning Commission approved a use permit for off-site parking on the Big Canyon Reservoir site and for a maximum school enrollment of 480 students. The school's enrollment is currently 411 students.

Planning Consultant Schuller further reported the project includes demolition of all structures on the campus and construction of a classroom and administration building, a performing arts and gymnasium building, an updated outdoor playfield, and a reconfigured and enlarged, 66-space, on-site parking lot. The two buildings will surround a quad where most outdoor activity and circulation will occur. The buildings will buffer noise impacts to adjacent properties. Major site development review is required for the nonresidential construction of up to 99,607 square feet and for a portion of the performing arts and gymnasium building to exceed the base allowed height. A minor use permit is required for the continued operation of the school with a maximum enrollment of 480 students (no increase). A limited term permit is required for the temporary use of a portion of the Big Canyon Reservoir contractor yard for construction staging.

Planning Consultant Schuller went on to indicate the existing and proposed school use is allowed by the Private Institution land use and zoning designation. The 6.5-acre site is served by existing streets and infrastructure. The new campus will comply with the maximum floor area ratio of 0.35. The new campus is designed to be compatible with adjacent land uses and be aesthetically superior to the existing campus. The architecture includes a variety of materials, colors, and articulation to create visual interest. The project incorporates a number of additional amenities in support of the requested additional height, such as the enlarged on-site parking lot, landscape upgrades, and a realignment of the driveway near the cul-de-sac. The existing large playfield will be replaced with a landscape setback, which ranges from 26 feet to 90 feet to the adjacent residential property. The performing arts/gymnasium building rooflines that extend above the base height will be a minimum of 120 feet from Pacific View Drive and even further from San Joaquin Hills Road. Mature

landscape along San Joaquin Hills Road will be preserved. The applicant proposes no changes to school operations. Because the school intends to continue operations during construction, construction will be phased. The applicant has prepared a preliminary construction management plan outlining a timetable for the project and guidelines to manage parking, materials and equipment storage. All construction activities will occur on-site or on a portion of the Big Canyon Reservoir property. Staff has received several general inquiries and written comments related to the project.

Commissioners disclosed no ex parte communications.

Chair Zak opened the public hearing.

Larry Tucker, applicant representative, advised that the current Harbor Day School facilities are nearing the end of their useful life. In order to properly plan the site, the applicant proposes to demolish all existing facilities. A General Plan amendment is not required for the project. The project will move the approved variance to exceed the height limit away from San Joaquin Hills Road to a more central location.

Angi Evans, Harbor Day School Head of School, related that current instructional methods require classrooms with space and flexibility to allow students to work in small and large groups and to work with materials.

Aaron Bartz, Harbor Day School Board of Trustees President, remarked that the Board of Trustees emphasized two significant goals in the design of the new campus, safety and security. The new campus will comply with state-of-the-art seismic Building and Fire Codes. One main entry point will enhance school security.

Lindsay Hayward, LPA Inc., and architect for the project stated areas of concern with the existing campus are multiple points of entry, public access to the gym and theater, undersized classrooms, and the lack of on-site parking. For the future campus, she aligned the drive aisles of the on-site and off-site parking lots to increase safety while increasing the number of on-site parking spaces and maintaining the current drop-off area. To increase security, she located the performing arts and gymnasium building and administrative offices at the front of the property to create a single point of entry to enhance security. The buildings serve as buffers for noise from the playfield. The lower grades will utilize the ground floor of the classroom building, and the upper grades will utilize the second floor. Roof decks are oriented towards the interior of the site to contain noise. Materials include stone, plaster, and wood-looking hardie board. The height for a majority of the building is 29 feet. Outdoor learning areas screen mechanical units. Construction of the administration/classroom building is proposed for Phase 1, and construction of the performing arts/gymnasium building, playfield, and parking lot is proposed for Phase 2.

In response to questions from the Commission, Ms. Hayward indicated the playfield will have four poles of lighting, and a timer will shut off the lights by 8:30 p.m. Campus lighting is directed towards the quad and will have cutoff shields. Lighting for the parking lot will comply with Code requirements and have cutoff shields. Along the west edge of the building, bollard lighting will be provided to increase safety. In Phase 1, the administration/classroom building will be constructed in the location of the existing playfield. Some classrooms will be placed in portable classrooms located near the on-site parking lot and construction staging area. In Phase 2, construction will begin with the new playfield, followed by the performing arts/gymnasium building and on-site parking lot. Each phase of construction is expected to extend approximately 20 months. Bicyclists can access the school via Pacific View Drive. Construction activity will cease during drop-off/pick-up times to provide safe school access. The applicant agrees to the recommended conditions of approval.

Jim Mosher inquired about the amount of the existing campus that is not earthquake-resistant. The entitlement history does not contain an approval of a variance for building height as reported by Mr. Tucker. A building height of 41 feet is allowed through a discretionary approval.

Mr. Tucker stated Mr. Mosher is correct with respect to the discretionary approval. The existing school is safe, but a CEQA exemption encourages the construction of safer structures.

Chair Zak closed the public hearing.

Commissioner Kramer commented that Harbor Day School has been a Newport Beach institution for many decades. Schools, younger families, and children are an important component of a vibrant City. The proposed project complies with all applicable policies of the General Plan and the Zoning Code except for building height. Making the findings to allow the height increase is easy.

**Motion** made by Commissioner Kramer and seconded by Chair Zak to find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15302 under Class 2 (Replacement or Reconstruction) of the CEQA Guidelines; and adopt Resolution No. PC2019-017 approving Major Site Development Review No. SD2018-004, Minor Use Permit No. UP2018-015 and Limited Term Permit No. XP2019-003.

AYES: Zak, Weigand, Lowrey, Ellmore, Koetting, Kramer

NOES:

RECUSED: Kleiman

ABSENT:

**ITEM NO. 3 STAG BAR OCCUPANT LOAD INCREASE (PA2018-196)**  
**Site Location: 121 Mc Fadden Place**

**Summary:**

The applicant requests to increase the allowed occupant load of the existing Stag Bar from 207 persons to a maximum of 260 persons. The applicant also proposes to reduce the allowed hours of operation from 6 a.m. to 2 a.m., daily, to 6 a.m. to 1:30 a.m., daily. There are no substantial improvements to the building proposed with this application. As there is no parking on-site, the applicant also requests a waiver of the required 13 parking spaces incurred by the increased occupant load. The establishment currently operates under Conditional Use Permit No. UP2013-016, which would be superseded if this application is approved.

**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 Planning Commission Resolution No. PC2019-018 approving Conditional Use Permit No. UP2018-013.

Associate Planner Benjamin Zdeba reported the Stag Bar and Kitchen is located within Mc Fadden Square on the Peninsula. Several General Plan Land Use Element policies call the area an entertainment and recreation hub. The area contains multiple parking lots that provide approximately 400 parking spaces. The area is nonresidential. The Stag Bar has been operating since the early 1900s, which is prior to the enactment of any zoning ordinances. Prior to 2014, the Stag Bar was a nonconforming use. In 2014, the Planning Commission approved a conditional use permit allowing Stag Bar to replace the adjoining liquor store with a kitchen and outdoor dining area. The overall bar, including back of house, contains approximately 3,500 square feet. A condition of approval in the current conditional use permit limits the customer occupant load to 207 persons. The allowed hours of operation are 6:00 a.m. to 2:00 a.m., daily, with no other restrictions. The applicant has a Type 48 Alcoholic Beverage Control (ABC) license, which does not require food service and minors are not permitted on site. The property has no on-site parking. The operator of the establishment has an Operator License.

Associate Planner Zdeba further reported the applicant requests an increase in the maximum customer occupant load from 207 to 260 persons. The Zoning Code requires additional parking at a rate of one parking space per four occupants, which is an additional 13 parking spaces for the increase in occupant load. Consequently, the applicant requests a waiver of the 13 additional parking spaces. The applicant further requests additional restrictions on the operating hours such that doors will close to new patrons at 1 a.m. and a last call for alcohol service will be issued at 1:30 a.m. The applicant also proposes a revision of the security plan to add one security guard. With Planning Commission approval of the project, the Police Department will review the revision as part of the new Operator License. Finally, the applicant proposes to upgrade the building to comply with California Fire

and Building Codes, including the installation of fire sprinklers. The Police Department does not oppose the application with the applied conditions of approval.

Associate Planner Zdeba reported the applicant has provided a parking study prepared by a qualified engineer. The parking study found a shared parking situation occurs and the use's peak demand for parking does not conflict with the peak parking demand for adjacent retail businesses. The City Traffic Engineer reviewed the parking study and accepted its methodology. While not conclusive, the parking study found 87 percent of Stag Bar patrons utilize alternate modes of transportation, which is indicative of how many patrons choose to travel there. Suggested conditions of approval pertain to operational hour restrictions, maximum customer occupant load, annual review of the use permit, an improved security plan, installation of fire sprinklers, and compliance with the Building Code. Staff recommends revision to Conditions of Approval No. 29 related to the security plan, as suggested by the Police Department and No. 12, to clarify "customer" occupant load. Staff received public comments supporting and opposing the project. Staff's recommendation is not contingent upon the addition of a Police Officer and is independent of the presentation to the City Council.

In answer to Commissioner Koetting's inquiry, Community Development Director Jurjis replied that the presentation to the City Council provided a number of different crime statistics. In general, crime is decreasing.

Commissioners Kramer and Ellmore and Chair Zak disclosed meetings with the applicant and his consultant. Commissioner Kleiman disclosed an exchange of phone calls with the applicant's consultant. Commissioner Koetting disclosed no ex parte communications. Commissioner Lowrey disclosed phone conversations with the applicant and his consultant. Vice Chair Weigand disclosed conversations with the applicant and his consultant regarding the merits of the project and their concerns.

Chair Zak noted the public hearing was opened on June 6, 2019, and was not closed.

Mario Marovic, applicant, shared his educational and work background and engagement with charitable organizations. In 2006, he purchased the Stag Bar and the property on which it is located. In 2014, he submitted an application to replace the on-site liquor store with a kitchen, ADA-compliant bathrooms, and patio seating. At that time, he and the Police Department agreed he would artificially suppress the occupant load to 207 customers to establish a record of performance. If the record of performance was acceptable after a few years, he could apply for an increase in the customer occupant load. His initial request was an occupancy of 321 persons. After negotiating with the City, he agreed to halt new customer admission at 1 a.m. and to increase the occupant load to 260 persons. The Code allows an occupant load of 308 persons. Approving the application will not affect parking. The applicant does not propose any changes to the net public area or furniture plan. The Stag Bar will most likely reach full capacity after 10 p.m., when the beach and most small shops are closed. He supports the City of Newport Beach's efforts to fund an additional Police Officer, whether for the Peninsula or the City as a whole.

Paul Lucas remarked that Mr. Marovic has invested in area businesses and in improvements to buildings, which creates jobs in the area and increases tax revenues for the City. He supported the application because Mr. Marovic is a great business operator and his request is reasonable.

Carmen Rawson advised that on June 15 at 6:00 p.m. both municipal parking lots were full, and vehicles were searching for parking. At 10:00 p.m., 31 vehicles were waiting for a parking space. Parking demand is high after the beach and shops close. Stag Bar does not need additional capacity to be successful. She inquired regarding parking for employees. She suggested the Planning Commission approve an occupancy of 260 persons during the winter season and 207 persons during the summer months or an occupancy of 260 persons Monday through Thursday and 207 persons Friday through Sunday or allow an occupancy of 260 persons after 10:30 p.m. year round.

Mike Rahavi commented that the applicant's requests are allowed under the Code.

Steve Rosansky, Newport Beach Chamber of Commerce President and CEO, indicated the applicant and his organization are reputable, and the applicant deserves approval of his proposal. Mr. Marovic has supported the City in many ways.

Bill Kenney felt the Planning Commission's decision should be an easy one. The applicant's track record should be a factor in the Planning Commission's decision. Should the Planning Commission deny the application, the applicant will not be required to adhere to the proposed conditions of approval. The Fire Marshal has stated an occupancy load of 260 people in a building with fire sprinklers is much safer than an occupancy load of 207 people in a building without fire sprinklers. The Police Department does not oppose an increase in the occupancy limit. He requested the Planning Commission approve an increase in the occupant load.

Ken Rawson disclosed that residents near Mc Fadden Square have no parking after 6:00 p.m. because of the overflow from the two municipal parking lots. At his request, staff prepared a list of the maximum occupant load for the top 12 restaurants in the area. The total occupant load for the 12 restaurants exceeds 1,100 people. Twenty-two ABC licenses in the area increase the total maximum load to more than 1,400 people. The top 12 restaurants likely employ more than 100 people. The City has granted parking waivers for too many new construction projects in the area.

Steve Darden reported most Stag Bar employees use alternate modes of transportation to travel to and from work. People parking in the residential areas are visiting Marina Park rather than the commercial businesses.

Jim Mosher recalled staff's statement that no residential uses are located in the area; however, apartments are located above the Stag Bar. The theme of Mayor Dixon's presentation was an increase in crime, especially on the Peninsula. He questioned the accuracy of the parking study. A conditional use permit runs with the land rather than the business operator.

Mike Ishazell reiterated Stag Bar employees' use of alternate transportation, which does not impact parking. He requested the Planning Commission approve the application.

Mr. Marovic reported all property owners located within a two-block radius of Stag Bar support the application. Stag Bar is the number one drop-off location and number two pick-up location in Orange County for Uber. The project will not affect traffic or parking.

In answer to the Planning Commission's queries, City Traffic Engineer Tony Brine reported the traffic analysis did not consider trip generation to the area. The parking study observed that many clients were already in the area awaiting entrance to Stag Bar. He did not anticipate an increase in occupancy generating a significant number of additional trips. Based on the use of alternative modes of transportation, he expected the number of trips would be limited. Assistant Planner Zdeba indicated the occupant load equals the patron/customer count. Staff recommends Condition of Approval No. 12 be revised to read, "The occupant load for customers of the eating and drinking establishment ..." Condition of Approval No. 13 is contained in the prior approval, and the applicant did not request its removal. At the time, lower table tops were perceived to generate a dining experience as opposed to a drinking experience. Condition of Approval No. 13 was intended to limit noise from the patio as customers would be seated at lower table tops.

Chair Zak proposed revising Condition of Approval No. 12 to, "The occupant load for customers (not including employees) of the eating and drinking establishment ..."

Commissioner Kramer proposed deleting Condition of Approval No. 13, as it is illogical and deleting Condition of Approval No. 26, as the Planning Commission already has the ability to call a conditional use permit for review. The Police Department's conditions of approval are thorough.

In reply to Commissioner Kramer's inquiry, Community Development Director Jurjis explained that an occupant load greater than 100 people requires fire sprinklers. Fire sprinklers are required for any increase over the existing 207 occupant load. Without Condition of Approval No. 38, the applicant could appeal to the Building and Fire Appeals Board even though the Building Code requires fire sprinklers. The Fire Department and the Building Division feel strongly that any increase in the occupant load requires fire sprinklers. Staff has discussed the condition with the applicant. If the condition of approval is included, the only way the applicant can increase occupancy without installing fire sprinklers is through the Planning Commission amending the condition. Mr. Marovic indicated he does not oppose Condition of Approval No. 38. He will comply with, but does not want to exceed Code requirements. Community Development Director Jurjis added that fire sprinklers for the upstairs have not been discussed. The assembly use on the ground floor is the Fire Department's concern. The fire

sprinkler issue will be worked out in the permit process. Condition of Approval No. 38 is intended to apply to the bar and restaurant use on the ground floor. Chair Zak suggested Condition of Approval No. 38 could be amended to state "... the Applicant shall install a fire sprinkler system as required by the California Building Code ...". Community Development Director Jurjis and Mr. Marovic concurred with the proposed language for Condition of Approval No. 38. City Attorney Aaron Harp understood staff wishes to ensure there are no future disputes about whether fire sprinklers are required. Applying the condition of approval to the restaurant/bar area is appropriate. Retaining the condition of approval would be a good idea. Commissioner Kramer requested staff prepare appropriate language for Condition of Approval No. 38.

In answer to Vice Chair Weigand's query, Mr. Marovic reported a fire sprinkler system for the bar/kitchen area would cost more than \$220,000.

At Commissioner Kleiman's request, Associate Planner Zdeba read staff's recommended language for Condition of Approval No. 29, as shown in Additional Materials 3e.

Commissioner Koetting referred to Condition of Approval No. 23 regarding doors and windows remaining closed after 10 p.m. The applicant's agreement to the condition of approval is a major concession for a beachfront bar and restaurant.

Commissioner Lowrey concurred with Commissioner Kramer's comments regarding Condition of Approval No. 26. It seems redundant to Condition of Approval No. 5. He relies upon Condition of Approval No. 5 as a means for the Planning Commission to call a use permit for review.

Vice Chair Weigand concurred with comments regarding Condition of Approval No. 26. He appreciated the improvements made to Stag Bar. He could support approval of the project.

Chair Zak closed the public hearing.

**Motion** made by Commissioner Kramer and seconded by Vice Chair Weigand to find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines; and adopt Resolution No. PC2019-018 approving Conditional Use Permit No. UP2018-013 with the following modifications:

- (1) Condition of Approval No. 12 will state, "The occupant load for customers (not including employees) of the eating and drinking establishment shall not exceed 260 persons including the outdoor patio area (211 persons interior and 49 persons outdoor patio), subject to compliance with the California Building Code ("CBC") and the approval of the Building Division. A building permit is required prior to any occupant load increase,"
- (2) Deletion of Condition of Approval No. 13,
- (3) Deletion of Condition of Approval No. 26,
- (4) Condition of Approval No. 38 will state, "Prior to implementing any increased occupant load, the Applicant shall install a fire sprinkler system throughout the restaurant and bar areas with any increase in occupant load above 207 persons, as required by the California Building Code ("CBC") and California Fire Code ("CFC)," and
- (5) Condition of Approval No. 29 shall state, "A revised comprehensive security plan that includes one additional security guard due to the increase in customer occupancy count for the eating establishment shall be submitted for review and approval by the NBPd. The procedures included in the security plan shall be implemented and adhered to for the life of the Conditional Use Permit. There shall be at least one security staff member on duty for every 50 patrons after 10:00 p.m. There shall further be at least four security staff members on duty Friday and Saturday evenings after 10:00 p.m. At least one security staff member shall be posted at each entrance. All security staff must possess a guard card and be trained in responsible beverage service. After 2:00 a.m. closing, there shall be at least two security staff members posted outside to deter any potential problems until the crowd has dispersed from the immediate area."

AYES: Zak, Weigand, Lowrey, Ellmore, Kleiman, Koetting, Kramer  
NOES:  
ABSTAIN:  
ABSENT:

**ITEM NO. 4 HOAG MEMORIAL HOSPITAL PRESBYTERIAN DEVELOPMENT AGREEMENT  
AMENDMENT (PA2018-024)  
Site Location: 1 Hoag Drive**

**Summary:**

The City and Hoag Memorial Hospital Presbyterian ("Hoag") entered into a Development Agreement in 1994 to ensure the orderly development of the hospital over time. The term of the agreement was 25 years. On March 12, 2019, the City and Hoag agreed to extend the agreement for six months with no other changes. Hoag requests a 10-year extension of the agreement, which includes a requirement for Hoag to provide certain public benefits to the community. The agreement provides Hoag the vested right to develop the hospital campus consistent with an extensive set of regulations and mitigation measures.

**Recommended Action:**

1. Conduct a public hearing;
2. Find all significant environmental concerns for the proposed project have been addressed in a previously certified Final Environmental Impact Report (EIR) and Supplemental EIR, and that the City of Newport Beach intends to use said document for the above noted project, and further that there are no additional reasonable alternative or mitigation measures that should be considered in conjunction with said project; and
3. Adopt Resolution No. PC2019-019 recommending City Council adoption of Development Agreement No. DA2018-004 amending Amended and Restated Development Agreement No. 5 to extend the term of the agreement by ten (10) years.

Commissioner Ellmore recused himself from this item because he is a member of a board for Hoag Hospital.

Associate Planner Chelsea Crager reported the applicant requests an extension of the Development Agreement for a period of ten years. Hoag Hospital was constructed in 1952 as a 75-bed hospital on what is now known as the upper campus. In 1979, a Master Plan and Environmental Impact Report (EIR) for development on the upper campus was approved. In 1991, Hoag Hospital began development of the lower campus. In 1992, the Master Plan EIR was certified, and Planned Community text regulations and a Development Agreement were adopted. In 1994, the Development Agreement was amended to reflect the Coastal Commission's consideration. The Development Agreement was set to expire after 25 years in March 2019. In March 2019, the City Council approved a six-month extension of the Development Agreement to provide additional time for negotiations of the terms of the agreement to be completed. The applicant requests a ten-year extension of the Development Agreement such that it would expire in September 2029. Terms of the amended Development Agreement include Hoag Hospital's payment of \$300,000 per year for ten years for a total of \$3 million to a community partner that is determined by the City Council and that addresses homelessness and Hoag Hospital's continued funding of the Melinda Hoag Smith Center for Healthy Living. The applicant requests no other changes to the Development Agreement.

In reply to Commissioner Koetting's inquiry, Deputy Community Development Director Jim Campbell advised that the Master Plan is contained within the Hoag Planned Community text. There is no plan showing development of the remaining 450,000 square feet. The square footage could be built on the upper and lower campuses via replacing buildings or filling in open space.

Commissioner Kramer disclosed receipt of a voice mail from the applicant's consultant. Commissioners Kleiman, Koetting, and Lowrey and Vice Chair Weigand disclosed brief conversations with the applicant's consultant wherein they advised the consultant that they had no questions. Chair Zak disclosed that he did not meet with the applicant.

Chair Zak opened the public hearing.



Sanford Smith, Hoag Hospital Senior Vice President for Real Estate and Facilities, agreed with the terms outlined in the staff recommendation.

Jim Mosher assumed a consequence of approving the requested extension of the Development Agreement would be the insulation of Hoag Hospital from potential changes resulting from the General Plan update. He questioned whether changes in the General Plan update would apply to Hoag Hospital upon expiration of the Development Agreement in 2029.

Chair Zak closed the public hearing.

In answer to Commissioners' questions, Deputy Community Development Director Campbell indicated the City could not amend the General Plan to reduce the development intensity at Hoag Hospital if the City Council adopts the requested Development Agreement extension. Any development agreement involves negotiation. Negotiations and terms of a development agreement are within the Council's discretion. The City has a pattern of requiring public benefit payments as a provision of development agreements, and he suspected the pattern would continue. He would not speculate as to possible actions in ten years.

Chair Zak reopened the public hearing.

In response to Commissioner Kleiman's queries, Mr. Smith explained that having a development agreement allowed Hoag Hospital to respond fairly rapidly to the changing needs of the community. Development is dictated by need, advances in medical technology, and community philanthropy and support. Hoag Hospital does not have a specific plan for the lower campus.

Chair Zak closed the public hearing.

Deputy Community Development Director Campbell related that the Zoning Administrator conducts the annual review of the agreement each year. In the past few years, Hoag Hospital has been found in good faith compliance with the Development Agreement. Hoag Hospital has been working to resolve noise issues.

City Attorney Harp indicated City staff typically leads the development agreement negotiations. The amount of the benefit is an issue for the Council rather than the Planning Commission.

Commissioner Kleiman believed the language of Development Agreement Section 2(a) could be written more clearly. City Attorney Harp advised that staff would review the language before presenting it to the City Council.

**Motion** made by Commissioner Koetting and seconded by Commissioner Lowrey to find all significant environmental concerns for the proposed project have been addressed in a previously certified Final Environmental Impact Report (EIR) and Supplemental EIR, and that the City of Newport Beach intends to use said document for the above noted project, and further that there are no additional reasonable alternative or mitigation measures that should be considered in conjunction with said project; and adopt Resolution No. PC2019-019 recommending City Council adoption of Development Agreement No. DA2018-004 amending Amended and Restated Development Agreement No. 5 to extend the term of the agreement by ten (10) years.

AYES: Zak, Weigand, Lowrey, Kleiman, Koetting, Kramer  
NOES:  
RECUSED: Ellmore  
ABSENT:

**ITEM NO. 5: HO SUM BISTRO (PA2019-001)**  
**Site Location: 3112 Newport Boulevard**

**Summary:**

Conditional use permit to change the existing fast food (take-out service), eating and drinking establishment to a new food service, eating and drinking establishment. In conjunction with this change, the applicant requests to upgrade the current Alcoholic Beverage Control License Type from a Type 41 (On-Sale Beer & Wine – Eating Place) to a Type 47 (On-Sale General – Eating Place), to allow the use

of the upstairs dining area throughout the day, and reduce the hours of operation to exclude late hours (i.e. no operations after 11:00 p.m.). The applicant also requests a continuation of historical parking reductions.

**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. PC2019-020 approving Conditional Use Permit UP2019-002 (PA2019-001) and rescinding Use Permit No. UP3110.

Assistant Planner Liz Westmoreland reported the restaurant is located on the Balboa Peninsula near the Lido House Hotel, Sabatinos, and the former Rudy's. The applicant seeks to upgrade its existing alcohol license to a Type 47 license for full liquor. The applicant proposes to reduce the hours of operation such that the restaurant will close by 11:00 p.m. The Police Department supports the application because one less facility will operate with alcohol service after 11:00 p.m.. Granting the application will allow staff to implement modern conditions and standards. The Use Permit was last updated in 1991. No issues related to the restaurant have been reported. The applicant also requests full use of the upstairs dining area as use of the area is currently restricted to evening hours only. The applicant requests continuation of historical parking reductions. The 1991 Use Permit allows a Type 41 license for beer and wine, hours of operation until midnight during the week and 1:00 a.m. on weekends, 43 total seats with 12 of the 43 seats located in the upstairs dining area.

Assistant Planner Westmoreland indicated the restaurant was considered a take-out restaurant in 1991 and parking demand was based on the gross floor area. The current Zoning Code calculates parking demand based on the area in which the public will dine and spend time. The restaurant contains 501 square feet of net public area with approximately 200 square feet located in the upstairs dining area. Using a moderate demand rate of one space per 40 square feet of net public area, parking demand is calculated as 13 spaces, for which a waiver of eight spaces is needed. The 1991 Use Permit granted a parking waiver for 29 spaces. This large reduction from the existing Use Permit justifies staff recommending the applicant be allowed full use of the upstairs dining area. The location of the existing accessible parking space is problematic; therefore, staff recommends relocation of the accessible parking space such that it is directly adjacent to the alley. A second benefit of relocating the accessible space is individuals who need to use the accessible entrance can access it directly and safely from the sidewalk. In addition, relocating the accessible space will provide a small space for construction of a trash enclosure. Staff requests the applicant construct a trash enclosure in the small space to the extent feasible. Staff proposes an additional condition of approval that prohibits the applicant from displaying alcohol-related advertisements and signage.

In reply to Commissioners' inquiries, Assistant Planner Westmoreland advised that according to the approved use permit plans, the restaurant currently contains 43 seats. Under the proposed plans, the restaurant will contain 33 seats. Staff has conditioned the upstairs dining area specifically to contain only 12 seats. Overall, the restaurant will have approximately 33 total seats. Staff did not find any complaints alleging that the restaurant has provided full service in the upstairs area during daytime hours. However, as the Use Permit was approved in 1991, it is possible that knowledge of the conditions may have been lost over time. Staff finds that updating these older use permits allows for improved enforcement.

Commissioners disclosed no ex parte communications.

Chair Zak opened the public hearing.

Ed O'Neill, owner/operator, indicated the restaurant caters to sit-down clientele and offers takeout. Over the years, customers have requested liquor service, and he has always replied that a liquor license was cost prohibitive. The restaurant won a liquor license through the lottery system. Because of customers' loyalty following a fire and reconstruction of the restaurant, he wants to grant customers' requests for liquor service. He operates a neighborhood restaurant and has no desire to operate a bar. The restaurant does not operate during late hours and does not play loud music. Neither neighbors nor the general public have complained about inappropriate or unruly behavior related to the restaurant. He accepted the proposed conditions of approval.

In response to Commissioner Kleiman's question, Mr. O'Neill related that he has not been able to utilize the upstairs dining room prior to 6:00 p.m. The upstairs dining room is used for overflow parties probably a couple of times per week on a limited basis. Commissioner Koetting reported he observed 12 to 14 people having lunch in the upstairs dining area at 1:30 on Tuesday this week. Mr. O'Neill explained that chairs salvaged from the fire are stored outside. If an exceptionally large group comes into the restaurant, chairs are brought in from the outside storage. The existing seating will be reduced from 43 to 33 if the use permit is approved. Most of the restaurant business is takeout.

Chair Zak closed the public hearing.

In answer to Vice Chair Weigand's question, Assistant Planner Westmoreland advised that staff considered the applicant's proposed seating plan for 33 seats. Prior to the fire, the restaurant had counter seating in the upstairs and in the front of the first floor. The counter seating no longer exists. Compliance with accessibility requirements will cause the elimination of a few seats. Staff attempted to fit as many seats as possible into the space while maintaining compliance with Building Code standards.

**Motion** made by Vice Chair Weigand and seconded by Chair Zak to find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines; and adopt Resolution No. PC2019-020 approving Conditional Use Permit UP2019-002 (PA2019-001) and rescinding Use Permit No. UP3110.

AYES: Zak, Weigand, Lowrey, Ellmore, Kleiman, Koetting, Kramer  
NOES:  
ABSTAIN:  
ABSENT:

## **VIII. STAFF AND COMMISSIONER ITEMS**

### **ITEM NO. 6 MOTION FOR RECONSIDERATION**

None

### **ITEM NO. 7 REPORT BY THE COMMUNITY DEVELOPMENT DIRECTOR OR REQUEST FOR MATTERS WHICH A PLANNING COMMISSION MEMBER WOULD LIKE PLACED ON A FUTURE AGENDA.**

Community Development Director Jurjis thanked Chair Zak and Commissioner Kramer for their service to the City and the community. Chair Zak remarked that members of the public offered thoughtful comments to the Planning Commission. Commissioner Kramer thanked Larry Tucker for serving as his mentor and thanked his family for their support. Vice Chair Weigand appreciated Chair Zak's and Commissioner Kramer's knowledge and service.

Community Development Director Jurjis reported the July 4 meeting is canceled. If the developer of the 4302 Ford Road project submits a redesigned project, staff will schedule it for a public hearing and notice the community of the date and time of the hearing.

### **ITEM NO. 8 REQUESTS FOR EXCUSED ABSENCES**

None

Commissioner Kramer appreciated working with a very talented staff over the prior eight years. He encouraged staff to consider a broad vision for the future of the City in the General Plan Update. Working with his fellow Commissioners has been a pleasure.

Chair Zak concurred with many of Commissioner Kramer's comments. The City's Planning Division has won an award of merit from the local section of the American Planning Association. The award is well deserved. He appreciated Commissioner Kramer's encouraging him to apply for the Planning Commission. He appreciated serving with the various Commissioners.

**IX. ADJOURNMENT – 9:16 p.m.**

**The agenda for the June 20, 2019, Planning Commission meeting was posted on Friday, June 14, 2019, at 2:45 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, June 14, 2019, at 3:15 p.m.**

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Chairman

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Secretary

DRAFT