

Attachment D

Planning Commission Meeting Minutes from March 21, 2019

**NEWPORT BEACH PLANNING COMMISSION MINUTES
CITY COUNCIL CHAMBERS – 100 CIVIC CENTER DRIVE
THURSDAY, MARCH 21, 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** – Chair Zak

III. **ROLL CALL**

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

ABSENT: Commissioner Lauren Kleiman, Commissioner Peter Koetting

Staff Present: Community Development Director Seimone Jurjis, Deputy Community Development Director Jim Campbell, Assistant City Attorney Yolanda Summerhill, City Traffic Engineer Tony Brine, Associate Planner Chelsea Crager, Assistant Planner Liz Westmoreland, Planning Technician Patrick Achis, Administrative Support Technician Amanda Lee

IV. **PUBLIC COMMENTS**

None

V. **REQUEST FOR CONTINUANCES**

None

[The Planning Commission heard Item Number 2 before Item Number 1.]

VI. **CONSENT ITEMS**

ITEM NO. 1 MINUTES OF MARCH 7, 2019

Recommended Action: Approve and file

Chair Zak announced that Commissioners Ellmore, Lowrey and he will abstain from voting on the minutes as they were not present for the March 7 meeting.

Motion made by Chair Zak and seconded by Vice Chair Weigand to continue the minutes for the March 7, 2019, meeting.

AYES: Zak, Weigand, Lowrey, Ellmore, Kramer

NOES: None

ABSTAIN: None

ABSENT: Kleiman, Koetting

VII. **PUBLIC HEARING ITEMS**

ITEM NO. 2 Mesa Drive Townhomes (PA2017-218)
Site Location: 20462 Santa Ana Avenue and 1501 Mesa Drive

Summary:

Demolition of two existing single-family residences and the construction of a new eight-unit residential condominium development. The development would consist of two separate buildings, containing four units each. Each unit will consist of four stories (including a roof deck) with an attached two-car garage. Guest parking and common open space is included. A tract map is requested to merge the two existing lots and allow for each of the eight units to be sold individually as condominiums.

Recommended Action:

1. Conduct a public hearing;
2. Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15332 under Class 32 (In-Fill Development) of the CEQA Guidelines because it has no potential to have a significant effect on the environment; and
3. Adopt Resolution No. PC2019-008 approving Major Site Development Review SD2017-008 and Tentative Tract Map No. NT2017-003.

Assistant Planner Liz Westmoreland reported the project is located at the corner of Santa Ana Avenue and Mesa Drive and borders the City of Costa Mesa and the County of Orange. The project is located within the Multi-Unit Residential (RM) General Plan land use category, which allows for the construction of up to 13 dwelling units, and within the Multi-Unit Residential Detached (RMD) zoning district, which is a unique zoning district isolated to this area of the City. The City annexed the property in 2008 and adopted the County's zoning for the property. When adopted, the zoning allowed attached units. With the update of the Zoning Code in 2010, an error removed the allowance for attached units; however, most of the development in the area consists of attached units.

Assistant Planner Liz Westmoreland further noted the project site currently contains two single-family residences. The adjacent Santa Ana Cottages project will contain seven condominium units and will reach the same maximum height as the proposed project. Existing large hedges and walls that encroach into the front yard setback and impede visibility at the intersection will be removed, and the project will comply with Zoning Code standards including the traffic visibility triangle. The two parcels contain three driveways, two off Santa Ana Avenue and one off Mesa Drive. The project will have one driveway in the center of the site that provides access to Santa Ana Avenue. Each unit will have a two-car garage, which the Municipal Code requires to be maintained free and clear of any obstructions. An area for trash and other types of storage is located outside the garage dimensions. Four guest parking spaces will be located at the rear of the property. The project provides open space and adequate areas for turning around. Two main levels of living space are located above the garage. The fourth floor contains a media or bonus room and two private roof decks for the individual use of the units. The project is subject to development fees including fair share traffic fees, Transit Corridor Agency (TCA) traffic fees, and park fees.

Assistant Planner Liz Westmoreland further indicated the project is consistent with all development standards contained within the Zoning Code, including height, setbacks, and floor area. The project provides adequate code-required parking. The Zoning District does not have a requirement for open space; however, the proposed open space complies with RM zoning requirements for open space. The main frontage of the property is along Mesa Drive. The frontage has substantial building articulation and architectural treatment. Public Works has reviewed and approved the design for the driveway and sidewalk improvements. At the fourth floor, the applicant has pulled back the building to provide rooftop decks and visual relief. The project will be developed approximately 3 feet lower than the existing grade of the adjacent sidewalk that facilitates the inclusion of the fourth floor. Three public comments support the project, and two public comments oppose the project generally related to environmental issues, traffic and signal concerns, density and compatibility, and outreach with the City of Costa Mesa.

Assistant Planner Liz Westmoreland further stated the project complies with the requirements of the Class 32 California Environmental Quality Act exemption for in-fill development as it is replacing a residential use with another residential use consistent with the General Plan. Staff does not anticipate any environmental impacts related to air quality or noise, as compliance with standard regulations would be sufficient. The City's Traffic Engineer contacted the City of Costa Mesa to evaluate traffic safety concerns about the intersection. Ms. Westmoreland referred to the City Traffic Engineer for further information regarding the intersection. The project is compatible with the general area, in particular the RMD zone and adjacent Santa Ana Heights, as many condominium and apartment developments are located in the corridor. Staff recommends approval of the project.

In reply to Vice Chair Weigand's inquiries, Assistant Planner Westmoreland advised that the Fire Department reviewed the plans and did not object to the building overhangs at the driveway. The Fire Department reviewed the driveway to determine if there was adequate space for fire access. Community Development Director Jurjis indicated the clearance for vehicles at the overhangs is approximately 8 feet 2 inches, which is the minimum clearance for projects of this type in the area and the standard for parking structures.

Commissioners reported no ex parte communications.

Chair Zak opened the public hearing.

Anastasios Nikolaou, applicant/owner, related that most projects in the corridor have driveways in the center of the lot. He attempted to set back the mass of the buildings from Mesa Drive. With the first floor located below grade, passersby will see primarily the second and third floors. Based on comments from neighbors and comments about the Santa Ana Cottages projects, he utilized quality materials such as Hardie board, metal shingles, and smooth stucco. Removing the hedges and walls will increase visibility of traffic for vehicles exiting the site. The neighbors like the project.

Jim Mosher believed the four-story buildings are not compatible with the neighborhood. Public comments that the project should blend with the neighborhood are correct. He inquired about the adequacy of drainage for the site and egress from the fourth floor in the event of a fire. With more units on the site, more cars will be entering the street near the intersection. The project is clearly not consistent with the Zoning Code requirement for detached multifamily units. He did not understand why the annexed property is not part of the Santa Ana Heights specific plan.

Berkley Egenes expressed concern about traffic and safety at the intersection. He opposed any development at the intersection until something could be done to increase safety at the intersection. Potentially 20 cars will be added to the busiest street in Costa Mesa/Newport Beach. Three different speed zones exist for traffic approaching the intersection. The project design is aesthetically pleasing.

Malcolm Wentz expressed concern about the height of the project. He questioned whether four stories would set a precedent for the City. Rooftop decks are not open space. Adding 16 cars to the street at busy times is an accident waiting to happen. The project needs to be smaller.

Chair Zak closed the public hearing.

In reply to Vice Chair Weigand's and Chair Zak's questions, City Traffic Engineer Tony Brine related that the streets around the intersection are controlled by the City of Costa Mesa. The traffic signal is controlled by the County of Orange. Costa Mesa is working on a sidewalk project at the intersection and has no plans for additional projects. The border between Newport Beach and Costa Mesa is essentially the property line of the project site. The City has not discussed improvements at the intersection with the City of Costa Mesa. He did not know whether the golf course is located within the City of Costa Mesa or the County of Orange. The proposed driveway will be in the approximate location of an existing driveway, but it will be twice as wide as the existing driveway. The project will generate a net of approximately 40 additional daily trips, which is not considered an impact. He did not see anything related to access to the project site that would cause an issue.

Commissioner Kramer understood the "D" in RMD does not mean detached. Both attached and detached structures are located within the RMD zone. The project conforms with the Zoning Code. Assistant Planner Westmoreland added that the prior Zoning Code allowed attached and detached units. Development standards do not provide guidance as to the detached nature of structures. The Planning Commission and City Council utilized staff's interpretation of the RMD zone to approve the previous Santa Ana Cottages project that includes attached units.

In answer to Chair Zak's queries, Assistant Planner Westmoreland advised that Public Works, the City's geotechnical expert, and the Building Division have reviewed the project to ensure it will comply with drainage requirements. Additional studies and a will-serve letter from various agencies serving the site will be needed for the project. A preliminary Water Quality Management Plan (WQMP) for the site has been reviewed and found the site has adequate drainage via pavers and grass.

In response to Vice Chair Weigand's inquiries, Assistant Planner Westmoreland reported both rooftop decks are accessible via the media or bonus room. City Traffic Engineer Brine indicated cars exiting the property can legally turn either left or right onto Santa Ana. Because the driveway is near the intersection, a left turn will require driver judgment.

Commissioner Kramer noted Finding A (1) refers to multiunit residential detached. Multiple uses of RMD within the staff report is confusing. The Zoning Code has not been amended to rectify the erroneous omission of attached units. On its face, the Zoning Code does not allow attached units in this area. Deputy Community Development

Director Campbell clarified that the "D" in RMD stands for detached. When the City annexed the property from the County of Orange in 2008, the property had an RMD designation, but it was for both attached and detached units. Many attached units were built in the RMD zone under the County's jurisdiction. When updating the Zoning Code in 2010, staff erroneously included the word detached in the title of the zone. Technically, the project is inconsistent with the description of the RMD zone. As part of the team that updated the Zoning Code in 2010, Deputy Community Development Director Campbell stated the 2010 update was not intended to restrict the RMD zone to detached units. The project may be inconsistent with the existing Zoning Code, but the language of the Zoning Code contains an error. Staff does not feel the issue is a significant impediment to approving the project. In reply to Commissioner Kramer's questions, Deputy Community Development Director Campbell indicated the Code has not been amended because of the priority of other work. As resources permit, staff is updating the Zoning Code for a variety of issues as they arise.

Chair Zak understood the error made in updating the Zoning Code, but the project is inconsistent with the Zoning Code as written. Approval of the Santa Ana Cottages project is not sufficient justification for approving this project.

In answer to Vice Chair Weigand's query, Assistant Planner Westmoreland indicated the Santa Ana Cottages project consisted of attached units.

In reply to Commissioner Lowrey's inquiry, Community Development Director Jurjis advised that an amendment to the Zoning Code likely would not be placed on the Council's agenda within three months.

In response to Chair Zak's question, Assistant City Attorney Yolanda Summerhill reported the Planning Commission can direct staff to modify the Zoning Code. The timing of the amendment with the issuance of a building permit is unknown, but staff can ensure the modification to the code is properly implemented.

Chair Zak reopened the public hearing.

In answer to Chair Zak's inquiries, Mr. Nikolaou advised that he accepts the proposed conditions of approval and could accept an additional condition of approval requiring amendment of the Zoning Code prior to issuance of a building permit.

Community Development Director Jurjis explained that the Planning Commission should direct staff to process an amendment to the Zoning Code rather than add a condition of approval. Assistant City Attorney Summerhill clarified that conditions of approval are requirements for the applicant. In this case, staff would be responsible for having the Code amended. The direction to staff should state the ordinance amending the Zoning Code is to be implemented prior to the issuance of a building permit for the project.

In reply to Commissioner Kramer's queries, Deputy Community Development Director Campbell related that staff will present several Zoning Code errors to the City Council in April in order to initiate Zoning Code amendments. The RMD zone revision may be included with other revisions.

Chair Zak closed the public hearing.

In response to Vice Chair Weigand's questions, City Traffic Engineer Brine reported he did not inquire about the City of Costa Mesa's approval of the project. Costa Mesa's Traffic Engineer indicated a total of four accidents has occurred at the intersection over the prior three years. Four accidents at one intersection over a three-year period is not unusual. The accident history and the sidewalk project were the topics of his conversation with Costa Mesa's Traffic Engineer. He did not know whether approval of the project fell within the City of Costa Mesa's purview. He is willing to work with the City of Costa Mesa to evaluate improvements at the intersection.

Vice Chair Weigand was not comfortable approving the project until the City of Costa Mesa approved the project because, while the property was within the City of Newport Beach, the residents were traveling on City of Costa Mesa streets. He hesitated to approve the project when cars exiting the property, which is on the corner, can legally make a left turn across traffic. City Traffic Engineer Brine clarified that visibility at the intersection will be improved with the setback of the building and the removal of the shrubs and walls.

In answer to Commissioners' queries, Assistant Planner Westmoreland explained that building height is measured from the grade that exists prior to construction. The grade for the purpose of height measurement is determined

by an average of the elevation of the four corners of the proposed structure. The maximum height is 33 feet if the roof slope is at least 3:12 pitch, which the project proposes. Because of the lowering of the grade by approximately 3 feet, the structures can accommodate four stories and comply with the maximum height requirement. The maximum height for the site is 33 feet per the Zoning Code. Chair Zak added that the structures' pads will be 3 feet below grade. If the structures were constructed at grade, the building heights would be 36 feet, which is 3 feet over the height limit. Assistant Planner Westmoreland clarified that building height is measured from the average of the existing grade. If the buildings are constructed 3 feet below grade, the site can accommodate 36-foot tall buildings. The height regulation for flat elements such as railings, parapets, and flat roofs is lower than a building height limit. The traditional roof slope for most homes is a 3 and 12 pitch, and the maximum height in the zone is 33 feet. The grade existing prior to construction is used to measure a building's height.

Deputy Community Development Director Campbell added that Assistant Planner Westmoreland described the standard practice for lots throughout Newport Beach. Excavating a site to provide higher ceilings or another story is not uncommon. Assistant Planner Westmoreland advised that the staff report contains the primary development standards for the RMD zone. Development standards regulate the overall height of buildings rather than the number of stories. The applicant is proposing four stories within a building height of 36 feet, but it is 33 feet high as measured from the existing grade. The plans show approximately 8-foot ceilings within several floors of the units. The City does not have standards for ceiling heights beyond building code requirements. Deputy Community Development Director Campbell stated a three-story at-grade building with higher ceiling heights would have the identical building mass and virtually the same appearance as the proposed structures.

Commissioner Kramer appreciated the applicant's strategy to maximize the unit count on the parcel by combining the two parcels. He was concerned about the building height and the number of stories, but he could make the findings for the project.

Motion made by Commissioner Kramer and seconded by Commissioner Ellmore to find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15332 under Class 32 (In-Fill Development) of the CEQA Guidelines; to adopt Resolution No. PC2019-008 approving Major Site Development Review SD2017-008 and Tentative Tract Map No. NT2017-003; and to direct staff to prepare an amendment to the Zoning Code rectifying the error in the RMD zone.

Substitute Motion made by Vice Chair Weigand to deny the project based on Finding C.2 regarding hazards to persons residing or working in the neighborhood.

Substitute Motion failed for lack of a second.

Chair Zak had similar concerns to Commissioner Kramer, but liked many elements of the project, including the aesthetics. The ceiling heights will likely be a challenge to marketing the units. He did not like the four-story product, but the project complies with development standards and he can make all the findings.

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

ITEM NO. 3 E Art Gallery Appeal (PA2018-177)
Site Location: 2721 East Coast Highway

Summary:

Based on new information provided to them, the City Council requested the Planning Commission reconsider Minor Use Permit Application No. UP2018-014. The application is for the approval to operate a tattoo studio (Personal Services, Restricted land use) in an art gallery within an existing 513 square foot commercial space. Proposed hours of operation are 10:00 a.m. to 8:00 p.m., daily.

Recommended Action:

1. Conduct a public hearing;