



NEWPORT BEACH

City Council Staff Report

August 13, 2019
Agenda Item No. 15

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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TITLE: Mesa Drive Townhomes Call for Review (PA2017-218)

ABSTRACT:

A call for review was filed by Mayor Dixon on April 3, 2019, of the Planning Commission's March 21, 2019 decision to approve Major Site Development Review No. SD2017-008 for an eight-unit condominium development located at 1501 Mesa Drive and 20462 Santa Ana Avenue.

RECOMMENDATION:

- a) Conduct a de novo public hearing;
- b) 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 this project has no potential to have a significant effect on the environment; and
- c) Adopt Resolution No. 2019-73, *A Resolution of the City Council of Newport Beach, California, Upholding the Planning Commission's Approval of Major Site Development Review No. SD2017-008 for an Eight-Unit Residential Condominium Project Located at 1501 Mesa Drive and 20462 Santa Ana Avenue (PA2017-218)* (Attachment A).

FUNDING REQUIREMENTS:

There is no fiscal or budgetary impact related to this item.

Vicinity Maps



DISCUSSION:**Project Setting and Description**

The subject property is located in the West Santa Ana Heights area of the City, more specifically at the northeasterly corner of the intersection of Santa Ana Avenue and Mesa Drive. The site currently consists of two separate lots that will be consolidated into a single 14,180-square-foot parcel. Single- and multi-family uses are located to the north and directly east, within the City of Newport Beach jurisdiction. Single- and multi-family uses are also located to the south (across Mesa Drive) within unincorporated Orange County area. The single- and multi- family uses to the southwest across the intersection are located within the City of Costa Mesa. Directly to the west across Santa Ana Avenue is the Santa Ana Country Club, which is within unincorporated Orange County.

The adjacent property to the north (20452 Santa Ana Avenue) is currently under construction with the Santa Ana Cottages project, a seven-unit residential condominium development approved by the City Council in 2017 (PA2016-069). The adjacent project will be constructed as two separate buildings, three stories, and will reach the same maximum height of 33 feet as the proposed Mesa Drive Townhomes project.

The proposed project would consist of the demolition of the two existing two single-family residences, consolidation of the two lots into a single parcel, and redevelopment of the site with an eight-unit residential condominium development. The development would consist of two separate buildings, each containing four units, resident garages, uncovered guest parking, landscaping, and common open space consistent with all applicable zoning development standards.

A detailed discussion of the project and associated analysis is provided in the March 21, 2019, Planning Commission staff report prepared for the project (Attachment B).

Planning Commission Action and Call for Review

On March 21, 2019, the Planning Commission conducted a noticed public hearing. After presentations by staff and the applicant and receiving public comments, the Commission voted 4-1 (2 absent) to adopt Resolution No. PC2019-008 approving the project. The Resolution includes the written findings for the action and conditions of approval (Attachment C). The Planning Commission meeting minutes are included as Attachment D. This report provides additional information and analysis related to the concerns and public comments raised during the Planning Commission hearing, see the section below entitled “*Discussion of Project Issues.*”

On April 3, 2019, a call for review was filed by Mayor Dixon (Attachment E).

The call for review of Major Site Development Review No. SD2017-008 was timely because it was made within the fourteen-day appeal period provided in Newport Beach Municipal Code (NBMC) Section 20.64.030 (B); however, the appeal of Tentative Tract Map No. NT2017-003 was not timely because it was past the ten-day appeal period provided in NBMC Sections 19.12.050 and 20.64.030(B)(1).

Thus, due to the timing of the call for review, the approval Tentative Tract Map No. NT2017-003 is final and not subject to this call for review. However, it is important to note that the Tentative Tract Map cannot be implemented without Zoning Ordinance compliance (NBMC Title 20) that requires the approval of a Site Development Review application for residential construction consisting of 5 or more units (NBMC Section 20.52.080).

Pursuant to Newport Beach Municipal Code (NBMC) Section 20.64.030(C)(3) (Conduct of Hearing), a public hearing on a call for review is conducted “de novo,” meaning that it is a new hearing and the prior decision of the Planning Commission to approve the application has no force or effect. The City Council is not bound by the Planning Commission’s prior decision.

Discussion of Project Issues

At the March 21, 2019, Planning Commission meeting, a number of public comments were submitted and/or made (Attachment F). The comments were primarily from two neighboring property owners expressing concerns with the project. Their concerns were focused on neighborhood compatibility with lower density residential development within the City of Costa Mesa, potential increases in traffic, and traffic safety at the intersection of Mesa Drive and Santa Ana Avenue. In addition, the Planning Commission discussed the project’s compliance with the Zoning Code due to an error in the purpose and name of the zoning district that resulted from the 2010 Zoning Code Update. The following discussion addresses these issues in more detail.

Neighborhood Compatibility

Nearby residents of the City of Costa Mesa indicated that the area to the south and west contains mostly single-family development and that the proposed four-story, multi-family development would be out of character. The neighboring properties across Mesa Drive (to the south) are within the County’s jurisdiction and zoned for single-family and multi-family uses. The area to the west is in the City of Costa Mesa and is also characterized by a mix of single-family and multi-family development of varying heights. The City does not regulate the zoning or land use limitations within the aforementioned areas.

Although the project will look different from the single-family development in Costa Mesa, the proposed project is consistent with the existing zoning and development located within the City of Newport Beach. Specifically, the project is consistent with the Medium Density Residential (RMD) zoned block and is compatible with the neighboring Santa Ana Heights multi-family development that contains predominately multi-family development. Further, the applicant has designed the project to reduce impacts to other properties across Mesa Drive and the intersection. These issues are further detailed below.

The RMD Zone (refer to Vicinity Map) consists of a mixture of attached apartments and condominiums with a few detached single-family residential uses. Specifically, there are seven detached single-family dwelling units (including the subject properties), one detached two-unit development, and eight developments containing about 163 attached dwelling units (inclusive of the Santa Ana Cottages).

The adjacent Santa Ana Cottages project (PA2016-069) will reach the same 33-foot-height as the proposed Mesa Drive Townhomes project. To the north, the RMD Zone contains attached multi-unit residential apartments and condominiums ranging from 5 to 36 dwelling units.

The project is not proposing the maximum allowed density on the site. The subject site allows up to 13 dwelling units to be constructed pursuant to the General Plan and Zoning Code density limits. The proposed eight-unit development provides only 62 percent of the allowed density. Additionally, the project is consistent with the development standards for the area and in-keeping with the existing pattern of development within the RMD Zone.

The subject property is located near the Santa Ana Heights Specific Plan area - Residential Multiple Family (1500) District, which is to the east of the site towards the Back Bay. This zoning district allows for (and is developed with) multi-family uses with 1,500 square feet of site area per unit (29 units per acre). The proposed project contains approximately 1,773 square feet of site area per unit (24.5 units per acre), which is less dense than the nearby Santa Ana Heights Specific Plan multiple family district.

Further, General Plan Policy LU 6.6.2, promotes the development of a mix of residential types and building scales. The proposed project includes an attached product type that will contribute to the variety of housing types in Santa Ana Heights and the surrounding areas. The applicant has provided substantial architectural treatment and building articulation to create visual interest. Additionally, visual interest is also created through varied materials and colors, such as metal clad siding and a mix of vertical and horizontal lines. The proposed design includes additional setbacks beyond the minimum requirements for the tallest portions of the buildings visible from Mesa Drive in order to provide additional relief. The top floor is pulled back an additional eight feet from the required setback line, and the top floor is approximately half the floor area of the floor below. These design features will provide massing relief and visual interest.

RMD Code Amendment

Following adoption of the City's comprehensive 2010 Zoning Code Update, City staff discovered that the name of the RMD Zoning District was inadvertently changed from Medium Density Residential to Multiple Residential Detached. Additionally, the provision allowing attached dwelling units was removed from the purpose description. Given that the proposed project consisted of attached units, the Planning Commission requested staff process an amendment to the Zoning Code to correct the error.

Code Amendment No. CA2019-003 was initiated by the Planning Commission and later approved by the City Council on June 25, 2019. The amendment renamed the RMD Zoning District to Medium Density Residential and authorized attached dwellings units consistent with the regulations that were in effect prior to 2010, and consistent with the predominant pattern of development in the block. The amendment became effective on July 25, 2019.

New Concern Regarding RMD Density

At the June 25, 2019, City Council meeting regarding the Code Amendment, comments were received (Attachment G) suggesting that the 2010 Zoning Code Update also erred in establishing a maximum density of 43 dwelling units per acre (1,000 square foot site area per unit) for the RMD zoned area. The comment suggests the density should have been only 14 dwelling units per acre (3,000 square foot of site area per unit). If this were the case, it would reduce the maximum allowed density on the project site from 13 units to 4 units and it would not allow the requested 8 units. Upon further review of these comments, staff discovered that the allowed density was increased from the County General Plan and Zoning Code in effect prior to the 2008 annexation of the area; however, the increase in allowed density was not in error and was intentionally increased to reflect existing densities to avoid creating nonconforming development (i.e. nonconforming residential density). The maximum density of 43 dwellings per acre included in the 2010 Zoning Code Update correctly implements the density established for the area as part a 2007 General Plan Amendment (GP2007-007). A separate and more detailed discussion has been provided in Attachment H of this report addressing this issue.

Traffic Generation

The net increase of six dwelling units would generate approximately 40 additional vehicle trips per day and would not require a traffic study pursuant to the City Traffic Phasing Ordinance (TPO)¹. For comparison purposes, and because the site is bordered by the City of Costa Mesa, staff also reviewed the City of Costa Mesa's thresholds for requiring a traffic study. The City of Costa Mesa Municipal Code indicates that development projects generating 100 or more vehicle trip ends during a peak hour would trigger the requirement for a traffic study. Thus, the net increase of 40 daily trips does not meet the City of Costa Mesa or the City of Newport Beach thresholds for requiring a traffic study.

The Traffic Flow Maps for Orange County Transportation Authority (OCTA) show the average daily traffic on Santa Ana Avenue as 7,000 trips (daily) south of Mesa Drive and 10,000 trips (daily) north of Mesa Drive (no traffic volume data for Mesa Drive was provided). Thus, the projected 40 daily trips would result in a negligible increase in drivers traveling on Santa Ana Avenue.

Intersection Safety

The traffic signal at the intersection of Santa Ana Avenue and Mesa Drive is owned and operated by the County of Orange. According to conversations with the County of Orange, there has been one traffic complaint in the last 12 years, which was related to motorists running red lights at the intersection at Mesa Drive and Santa Ana Avenue. The County stated that they have since added improved traffic signage (signal ahead and speed limit) and contacted the California Highway Patrol (CHP) for additional enforcement.

¹ Per the City of Newport Beach Traffic Phasing Ordinance, traffic study is required to be prepared when a project generates more than 300 average daily vehicle trips.

In addition, the City of Costa Mesa Transportation Services Manager provided a Collision Summary Report to the City of Newport Beach Traffic Engineer for the intersection of Mesa Drive and Santa Ana Avenue (Attachment I). The report indicated that four total collisions occurred between May 2016 and March 2019, and were related to red light running. One of the accidents was a fatal accident that was caused by an intoxicated driver.

Sight distance has also been noted as a concern at the intersection. All four properties that are directly adjacent to the intersection contain fences, landscaping, and other features that reduce visibility for motorists, cyclists, and pedestrians at the intersection. The subject property is directly adjacent to this intersection. Three of the aforementioned properties are not located within the City's jurisdiction, and our requirements for visibility are not applicable at these corners.

Mesa Drive Townhomes project would remove the existing non-conforming walls, fences, hedges, and landscaping that are located in the front yard of the property along the intersection to meet all City traffic visibility triangle requirements. No garden walls, fences, or other structures would be allowed to exceed 42 inches in height within the 20-foot front yard setback. The Public Works Department has reviewed the proposed design and found it compliant with all visibility requirements.

Furthermore, the project site's two existing narrow driveways along Santa Ana Avenue and one existing driveway along Mesa Drive would be removed and consolidated to provide one wider driveway along Santa Ana Avenue. Removing the narrow driveways on Santa Ana Avenue would allow the residents to exit and enter the site in a forward direction with greater visibility and allow vehicles to turn around on-site.

Thus, based on the reconfiguration of the driveways and removal of existing non-conforming structures within the front yard setbacks, staff believes the project would improve the intersection for pedestrians, cyclists, and motorists at the intersection.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council 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, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.

The Class 32 exemption applies to projects meeting all of the following conditions:

- a. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations;
- b. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses;
- c. The project site has no value as habitat for endangered, rare or threatened species;
- d. Approval of the project would not result in any significant effects relating to traffic, noise, air quality or water quality; and
- e. The site can be adequately served by all required utilities and public services.

In this case, the project is consistent with the General Plan Land Use Element category of Multi-Unit Residential (RM) as well as the RMD Zoning District. Residential condominiums are an allowed use in the land use category designation as well as in RMD. The project site area is less than five acres and generally surrounded by residential development and a golf course. The lot is substantially developed and is not within environmentally sensitive areas. The proposed project was reviewed by the Public Works Department and concerns with traffic were not found. Further, a traffic study was not required under the City's Traffic Phasing Ordinance (TPO). No significant effects are anticipated for the lot with regard to noise or air quality as the proposed project will be replacing an existing multi-family development. A preliminary water quality management plan (WQMP) was reviewed and approved to address potential water quality issues. The project was also reviewed by the Public Works and Fire Departments and it was determined both lots maintain adequate access to both utilities and public services.

NOTICING:

Notice of this hearing was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days before the scheduled meeting, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website. The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ALTERNATIVES AND HOUSING ACCOUNTABILITY ACT COMPLIANCE:

The City Council has the following alternatives:

1. The City Council may require or suggest specific design changes that are necessary to alleviate any areas of concern. If the requested changes are substantial, staff will return with a revised resolution incorporating new findings and/or conditions; or
2. If the City Council believes there is new information that was not presented to the original review authority (the Planning Commission), the Council may choose to refer the project back to the Planning Commission for review; or
3. If the City Council chooses to deny or reduce the density of the project, findings must be made consistent with the Housing Accountability Act (Government Code Section 65589.5), which restricts the City's ability to deny, reduce density of, or make infeasible housing developments for projects that are consistent with objective general plan and zoning standards. Therefore, if after consideration of all written and oral evidence presented, the City Council desires to either disapprove or impose a condition that the project be developed at a lower density or with any other conditions that would adversely impact feasibility of the proposed project, staff will return with a revised resolution with findings based upon evidence provided at the public hearing. The City Council must articulate the factual basis for making the following findings for the decision:

- (A) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.
- (B) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified, other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

ATTACHMENTS:

Attachment A – Resolution No. 2019-73

Attachment B – Planning Commission Staff Report from March 21, 2019

Attachment C – Planning Commission Resolution No. PC2019-008, adopted March 21, 2019

Attachment D – Planning Commission Meeting Minutes from March 21, 2019

Attachment E – Mayor Dixon’s Call for Review Application

Attachment F – PC March 21, 2019 Written Public Comments

Attachment G – RMD Ordinance Public Comments

Attachment H – RMD Density Analysis

Attachment I – City of Costa Mesa Collision Summary Report

Attachment J – Public Comments on Call for Review

Attachment K – Project Plans and Renderings