

Attachment L

Draft Planning Commission Minutes, July 18, 2019

**NEWPORT BEACH PLANNING COMMISSION MINUTES
CITY COUNCIL CHAMBERS – 100 CIVIC CENTER DRIVE
THURSDAY, JULY 18, 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 Ellmore

III. ROLL CALL

PRESENT: Vice Chair Erik Weigand, Secretary Lee Lowrey, Commissioner Curtis Ellmore, Commissioner Sarah Klaustermeier, Commissioner Mark Rosene

ABSENT: Commissioner Lauren Kleiman, Commissioner Peter Koetting

Staff Present: Community Development Director Seimone Jurjis, Deputy Community Development Director Jim Campbell, City Attorney Aaron Harp, City Traffic Engineer Tony Brine, Associate Planner Makana Nova, Planning Technician Patrick Achis, Administrative Support Technician Amanda Lee

Vice Chair Weigand welcomed Commissioners Klaustermeier and Rosene, and the Commissioners introduced themselves.

IV. ELECTION OF OFFICERS

ITEM NO. 1 Election of Officers

Summary:

The Planning Commission's adopted rules require the election of officers at its annual meeting, which occurs at the first meeting of July each year. Officers include the Chair, Vice Chair, and Secretary and they would serve for a one-year term.

Recommended Action:

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 officers consisting of Chair, Vice Chair, and Secretary; and
3. Appoint the officers by majority approval of a motion.

Commissioner Ellmore noted two experienced Commissioners are absent, and the two new Commissioners should have an opportunity to meet the absent Commissioners.

Motion made by Commissioner Ellmore and seconded by Vice Chair Weigand to continue the election of officers to the next meeting of the Planning Commission.

AYES: Weigand, Lowrey, Ellmore, Klaustermeier, Rosene

NOES:

ABSTAIN:

ABSENT: Kleiman, Koetting

V. PUBLIC COMMENTS

None

VI. REQUEST FOR CONTINUANCES

None

VII. CONSENT ITEMS

ITEM NO. 2 Minutes of June 20, 2019

Recommended Action: Approve and file

Motion made by Vice Chair Weigand and seconded by Commissioner Ellmore to approve the minutes of the June 20, 2019, meeting as presented.

AYES: Weigand, Lowrey, Ellmore

NOES:

ABSTAIN: Klaustermeier, Rosene

ABSENT: Kleiman, Koetting

VIII. PUBLIC HEARING ITEMS

ITEM NO. 3 VIVANTE SENIOR HOUSING (PA2018-185)

Site Location: 850 and 856 San Clemente Drive

Summary:

The project consists of the demolition of the existing Orange County Museum of Art (23,632 square feet) and associated administrative office building (13,935 square feet) to accommodate the development of a 183,983-square-foot, six-story combination senior housing (90 residential dwelling units) and memory care facility (27 beds). The approximately 2.9-acre site is located on San Clemente Drive opposite the intersection with Santa Maria Road in the Newport Center area. In order to implement the project, the applicant requests the following approvals from the City of Newport Beach ("City"):

- General Plan Amendment – To change the land use category of the project site from PI (Private Institutions) to MU-H3 (Mixed-Use Horizontal). Additionally, the amendment would modify Anomaly No. 49 to add 90 dwelling units and reduce the non-residential floor area from 45,208 to 16,000 square feet in Statistical Area L1.
- Planned Community Development Plan Amendment – To modify the San Joaquin Plaza Planned Community Development Plan (PC-19) to include development and design standards to allow for 90 senior dwelling units and 27 memory care beds. The applicant also requests an increase in the height limit from 65 feet to 69 feet with 10 feet for rooftop and mechanical appurtenances.
- Development Agreement – To provide public benefits should the project be approved pursuant to Section 15.45.020 (Development Agreement Required) of the Municipal Code because the requested General Plan Amendment includes 50 or more dwelling units and adds dwelling units within Statistical Area L1.
- Conditional Use Permit – To allow the operation of the proposed senior housing and memory care facility, alcohol service for dining hall and lounge areas in the form of a Type 47 (On Sale General) and Type 57 (Special On Sale General) Alcoholic Beverage Control (ABC) license, and ensure use compatibility.
- Major Site Development Review – To allow the construction of 90 senior dwelling units and a 27-bed memory care facility and to ensure the site is developed in accordance with the applicable planned community and zoning code development standards and regulations pursuant to Newport Beach Municipal Code (NBMC) Section 20.52.080 (Site Development Reviews).
- Lot Merger – To merge the two existing parcels into one development site.
- Addendum to Environmental Impact Report (EIR) (SCH#2016021023) – To address reasonably foreseeable environmental impacts resulting from the legislative and project specific discretionary approvals, the City has determined that an addendum to a previously certified EIR is warranted pursuant to the California Environmental Quality Act (CEQA).

If approved, Project approval would revoke and replace Use Permit No. UP2005-017 (PA2005-086) and Modification Permit No. MD2004-059 (PA2004-184).

Recommended Action:

1. Conduct a public hearing;
2. Adopt Resolution No. PC2019-021 (Attachment No. PC 1) and attached Exhibits recommending the City Council:
 - Certify the addendum to Environmental Impact Report No. ER2016-002;
 - Approve General Plan Amendment No. GP2018-003, Planned Community Development Plan No. PC2018-001, Development Agreement No. DA2018-005, Lot Merger No. LM2018-004, Site Development Review No. SD2014-003, and Conditional Use Permit No. UP2018-019; and
 - Rescind Modification Permit No. MD2004-059 (PA2004-184) and Use Permit No. UP2005-017 (PA2005-086).

Associate Planner Makana Nova reported the application was submitted on August 8, 2018, and the Planning Commission conducted a study session regarding the application on April 18, 2019. The project site is composed of two parcels totaling 2.9 acres. The site is the former location of the Orange County Museum of Art and an associated administration building. The site is surrounded by Villas Fashion Island to the northeast, Fire Station 3 and a police station to the northwest, an office building and parking structure to the west, The Colony apartment complex to the southwest, the Pacific Life office building to the southeast, and a public parking structure to the east. The site was developed with a 13,935-square-foot administrative office building and a 23,129-square-foot building for a library in 1976. In 1996, the larger building underwent a tenant improvement to accommodate the Orange County Museum of Art. In 2016, an application for a General Plan Amendment was submitted to develop the Museum House condominium project. The Newport Beach City Council approved the application and certified an EIR for the project; however, a successful referendum resulted in the City Council rescinding its approval of the application. The EIR remains valid. The current project consists of 90 units of senior housing and 27 beds of memory care. For land use purposes, the senior housing component is viewed as residential housing and the memory care component is viewed as nonresidential floor area. The project contains a number of shared amenities. The Zoning Code requires 117 on-site parking spaces, and the project proposes 118 on-site parking spaces.

Associate Planner Nova continued, stating the applicant requests a General Plan Amendment to change the land use from PI to MU-H3, reduce the nonresidential floor area from 45,208 square feet to 16,000 square feet, and add 90 dwelling units to Statistical Area L1. The applicant requests a Planned Community text amendment to allow the senior housing land use and the proposed building height and setbacks. The proposed MU-H3 land use is consistent with the surrounding block. Nine existing senior housing facilities in Newport Beach provide approximately 752 senior housing units for independent living, assisted living, and convalescent/congregate care and 265 additional beds strictly for strictly convalescent care. The community needs senior housing as census data indicates approximately 22 percent of the City's population is 60 years of age and older.

Associate Planner Nova explained that under the existing Planned Community, development is limited to 48,208 square feet. The existing Planned Community allows a maximum building height of 65 feet. The applicant requests an increase in the maximum allowable height to 69 feet for top of ceiling and 79 feet for top of roof and rooftop appurtenances. The existing setbacks are stated in the approved site plan for the Orange County Museum of Art. The applicant requests setbacks of 15 feet from San Clemente Drive and 5 feet from the side and rear property lines. The proposed standards are based on PC-56 (North Newport Center Planned Community), which surrounds the Planned Community for the site. Building height can be measured from finished grade at the building entry to the top of the last-occupied space with additional height allowed for rooftop and mechanical appurtenances. The height of the structure to the top of the last-occupied space measures 68 feet 8 inches, and the height to the top of the roof and associated appurtenances measures 77 feet 10 inches. At the entry to the museum, the grade is approximately 175 feet in elevation. Along San Clemente Drive, the grade ranges in elevation between 165 feet and 190 feet. Along the rear of the museum parcel, elevation ranges between 150 feet and 165 feet. For the site, the grade elevation is 181 feet, which is commensurate with the grade elevation at the intersection of Santa Maria Road and San Clemente Drive. The applicant proposes to relocate the primary access to the site from the west side of the property to the intersection of Santa Maria Road and San Clemente Drive. The subject property is located within the high-rise height limitation zone of the Zoning Code, and the zone allows building heights up to 300 feet. Despite the zone, the Planned Community allows a maximum building height of 65 feet.

Associate Planner Nova noted that the requested General Plan Amendment is subject to the requirements contained in Charter Section 423, more commonly known as a greenlight analysis. The project does not meet or exceed the thresholds set out in Section 423; therefore, a vote by the general public is not required for the requested General Plan Amendment.

Associate Planner Nova explained that a Major Site Development Review will ensure the development is consistent with the adopted Planned Community development standards while a Conditional Use Permit will ensure the project is compatible with the site and allow a Type 47 and a Type 57 alcohol license. The applicant proposes to merge the two parcels into one parcel with a six-story, 183,983-square-foot building. Along with a main entry from San Clemente Drive, the applicant proposes a secondary egress point on the eastern portion of the site to the existing Villas Fashion Island access drive. A delivery area is located on the western side of the building. The applicant proposes a staging area for fire apparatus at the southwest corner of the property and additional emergency access via the secondary access drive.

Associate Planner Nova stated that the project requires a Development Agreement, and the mandated components of the Development Agreement are shown in the draft Development Agreement attached to the staff report. Negotiation of the public benefit fee continues.

Associate Planner Nova noted that an EIR Addendum has been prepared for the project. Staff found the project will not cause any increased impacts or significant changes that would warrant a new CEQA document. Mitigation measures are associated with the categories of air quality, cultural resources, geology and soils, noise, and tribal cultural resources as part of the Museum House EIR. The language of the mitigation measures have been modified as necessary to fit the proposed project. The Museum House EIR found noise would have a significant impact following mitigation. Because the tribal cultural resources category was added to the CEQA checklist after the Museum House EIR was prepared, this checklist category was incorporated into the Addendum. The City has completed the tribal consultation process. The Gabrieleno Band of Mission Indians-Kizh Nation requested modification of a mitigation measure to require an on-site monitor during grading. The applicant agreed to the request, and the mitigation measure has been modified accordingly. The EIR Addendum was made available for public review on July 8, 2019. The museum and administrative office building generated approximately 164 average daily trips. The proposed project will generate approximately 293 average daily trips. The net increase is 129 average daily trips. The threshold for a traffic phasing ordinance is an increase of 300 average daily trips; therefore, the net change does not trigger a traffic study. The Museum House project would have generated approximately 310 average daily trips. Because the current project does not generate more trips than the Museum House project, additional traffic analysis is not required.

Associate Planner Nova discussed the fiscal analysis that was prepared and that the analysis projects an annual net revenue of approximately \$41,000, despite an increased demand for emergency services. Staff believes the project will serve the aging population and is compatible with the Newport Center area. The Airport Land Use Commission considered and approved the project earlier in the day, conditioned on the Planning Commission's approval of the project and assuming the proposed height of the building and the proposed land use will not change. If the Planning Commission recommends the City Council approve the project, staff anticipates presenting the project to the City Council on August 13, 2019. In the draft resolution, staff proposes revising Table LU1 in the General Plan to adjust the maximum number of allowed dwelling units from 450 units to 540 units. Staff inadvertently omitted the lot merger action from the action items in the draft resolution; therefore, a motion to approve the project should include approval of the lot merger.

In response to Commissioner Klaustermeier's inquiry, Community Development Director Seimone Jurjis advised that the City Council has full discretion to determine the use of the public benefit fee. Typically, the City Council applies the funds to facilities.

In answer to Vice Chair Weigand's questions, Community Development Director Jurjis explained that the Planning Commission will recommend the City Council approve or deny the project, and the City Council will make the final decision to approve or deny the project. The Planning Commission's motion should include the Development Agreement. Associate Planner Nova recommended the Planning Commission add a Number 8 to Section 4 of the resolution recommending the City Council approve the lot merger. The title of the resolution and the findings already refer to the lot merger.

In reply to Commissioner Ellmore's query, Community Development Director Jurjis reiterated that the City Council will make the final determination as to all the applications for the project.

Commissioner Rosene disclosed that he visited the site and met with the applicant. Commissioner Klaustermeier disclosed that she received an email from the applicant and responded that she did not have time to tour the facility. Commissioners Ellmore and Lowrey disclosed that they met with the applicant and toured the applicant's Costa Mesa facility. Vice Chair Weigand disclosed that he met with applicant's consultant, toured the facility, met with residents, and answered general questions regarding the relationship of the Costa Mesa facility with the Newport Beach project.

Vice Chair Weigand opened the public hearing.

Cory Alder, President of Nexus Development, reported the applicant recognizes the need for quality senior housing and wants to create a facility where seniors can live their final years with integrity, comfort, and love. The facility from start to finish is meant to take care of seniors. The applicant will not sell the facility and has no institutional or publicly traded partners. The applicant operates its facilities based on residents' happiness rather than expenses. The applicant provides high-quality meals, entertainment, and amenities for residents and pays its employees better than other entities pay their employees. The building will be 100 percent concrete rather than less-costly wood framing. All units will be adaptable so that residents do not have to change units as their needs change. The facility will have an indoor pool, outdoor space, a fitness facility, a beauty salon, a game room, and a movie theater for residents and their families. The applicant's memory care unit has received all kinds of awards. Residential units will have full kitchens with stainless steel appliances.

Rob Eres, Nexus Development Vice President of Entitlements, related that the facility will be a state-licensed Residential Care Facility for the Elderly (RCFE). The facility will offer 99 units total, 90 assisted living units and 9 memory care units. Most RCFEs do not offer full kitchens in assisted living units. The facility will have approximately 36 two-bedroom units, and many of those two-bedroom units may be occupied by a single person. A new curb cut from San Clemente Drive will serve as the main entrance to the facility. The existing access drive at the northeast corner of the property is not documented as an easement. Consequently, the applicant worked with the Irvine Company to establish an easement for the drive. The outdoor courtyard will contain more than 21,000 square feet where there will be raised herb gardens, a barbecue area, a putting green, a bocce ball court, and a dog park. Pets weighing no more than 25 pounds are allowed. The existing driveway at the southwest corner of the property will be replaced with landscaping. The basement level will house a bowling alley, indoor pool and spa, beauty salon, art studio, movie theater, fitness center, and golf simulator. The ground floor will house the lobby, café, bar, dining room, library, game room, and activity areas. The secure memory care unit and 10 senior housing units will be located on the second floor. The remaining assisted living units will be located on floors three through six. The Newport Beach facility will offer two-bedroom, two-bathroom memory care units. More than 25,000 residents live within a 7-mile radius of the project site, which results in a market penetration rate of 13 percent. Three RCFE projects are currently operating in Newport Beach; one additional RCFE project is under construction; and one other RCFE project has been approved but not constructed. The total of five RCFE projects offer a total of 505 units, 380 assisted living units and 125 memory care units. In the Costa Mesa and Newport Beach facilities, 27 percent of total units are memory care beds. The industry average is 20 to 30 percent. The grade elevation established for the Museum House project was 187 feet. Using that figure, the proposed building with a height of 65 feet could extend to an elevation of 252 feet. The applicant proposes pushing the grade from 187 feet to 181 feet and increasing the building height to 68 feet 8 inches. Measuring the requested building height of 69 feet from an elevation of 181 feet would still be less than the elevation of 252 feet. The elevator overrun will be the highest point of the roof and reach a height of 77 feet 10 inches. The elevator overrun will occupy 869 square feet of the 25,000-square-foot roof. The facade of floors three through six will be smooth plaster in a beige color. Floors one and two will have a facade of natural stone. The porte-cochere canopy is now taller with more detail. The applicant accepts the proposed conditions of approval.

In response to Commissioner Ellmore's questions, Mr. Eres indicated the applicant and the Irvine Company have agreed to install landscaping between the property line and the roadway at the southwest corner of the property in addition to replacing the existing drive into the property with landscaping. The green screen will be located on the building facade facing west. The green screen will have a height of around 17 feet and be made

of a wire back with green vines growing over the wire. The applicant has worked with the Irvine Company to create the green screen.

In reply to Commissioner Rosene's query, Mr. Eres advised that the access easement for the northeast corner of the property has been negotiated and prepared and will be recorded if the project is approved.

In answer to Vice Chair Weigand's inquiry, Mr. Eres related that the number of medical offices in the area around the project is a benefit for the project. The facility will offer shuttle services to medical offices located near Hoag Hospital and in the Newport Center area. Staff and the Fire Department have developed some projections for the project's demand for emergency services, but he is not aware of a specific statistic for that demand. Seniors will require emergency services whether they live in a single-family neighborhood or in an RCFE facility. The location of the Fire Station in relation to the project will be beneficial in that response times will be quick.

Jim Mosher disagreed with staff's greenlight analysis. The number of dwelling units for this project and the Fashion Island Villas will increase the maximum number of allowed dwelling units to 619, which is 169 units more than the voters approved. A vote will be required. He was unsure whether the findings to increase the height limit are necessary for this project. However, contrary to Finding B on page 10 of 44, the height increase will not be used to create vertical elements of architectural interest, recessed planes, and varying rooflines. He recommended the Planned Community text retain the amendment history. The requested setbacks do not seem appropriate for the development. He questioned whether the total nonresidential square footage includes commercial operations such as the beauty salon. He did not believe the statement regarding the John Wayne Airport being located approximately 2.94 miles from the property is true.

In response to Vice Chair Weigand's questions, Deputy Community Development Director Jim Campbell clarified that the City Council in 2012 approved a transfer of development from a hotel site in Newport Center to the North Newport Center Planned Community. That transfer of development and conversion of use resulted in 79 additional residential units that became the Villas Fashion Island. Staff does not believe the 79 units should be added to the Charter 423 analysis because it was not a prior General Plan Amendment. Staff can retain the amendment history in the Planned Community text. Staff believes they can make the height findings. Associate Planner Nova explained that bird protections were discussed in the Initial Study of the EIR for the Museum House project. The Migratory Bird Treaty Act can apply to ornamental trees. The handout is meant to advise City contractors that birds are protected and applies to ministerial and discretionary projects.

Vice Chair Weigand felt many Newport Beach residents are sensitive about bird protections and tree removals. Addressing the issues appropriately is important.

Vice Chair Weigand closed the public hearing.

Commissioner Ellmore remarked that the design is thoughtful. The need for such a facility is present in the community. The community appears to agree that the use is appropriate for the site.

Commissioner Klaustermeier commented that the concrete structure speaks to the quality of the project.

Commissioner Lowrey related that he was impressed with the executive team's involvement in the project and interactions with residents of the Costa Mesa facility. The project will be an asset for the City.

Vice Chair Weigand concurred with Commissioners' comments. As the population ages, more facilities will be needed in Newport Beach. The project is unique and will be great for Newport Beach residents.

In reply to Vice Chair Weigand's inquiry, Associate Planner Nova reported a condition of approval requires Public Works' review of a construction management plan prior to issuance of building permits.

Motion made by Commissioner Lowrey and seconded by Commissioner Rosene to adopt staff's recommendation with the revision to Table LU1 and the inclusion of language for the lot merger in Section 4 of the resolution.

AYES: Weigand, Lowrey, Ellmore, Klaustermeier, Rosene
NOES:
RECUSED:
ABSENT: Kleiman, Koetting

IX. STAFF AND COMMISSIONER ITEMS

ITEM NO. 4 MOTION FOR RECONSIDERATION

None

ITEM NO. 5 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 welcomed Commissioners Klaustermeier and Rosene and thanked all Commissioners for their voluntary service to the City. Three items are scheduled for the Planning Commission's August 8, 2019, hearing. A Planning Commission hearing is also scheduled for August 22. The agenda for the upcoming City Council meeting includes an item to allow homeowners associations to opt out of the ordinance prohibiting construction on Saturday.

Jim Mosher inquired regarding the General Plan Update Steering Committee's meeting with the consultant.

Community Development Director Jurjis advised that the City Council approved a contract with Kearns and West for public outreach. Staff is working with the firm to execute the contract. The next meeting of the Steering Committee may occur in September.

In response to Vice Chair Weigand's question, Community Development Director Jurjis related that staff envisions a General Plan Update Committee composed of 25 to 30 stakeholders including one or two Commissioners, but the City Council will determine the composition of the committee.

ITEM NO. 6 REQUESTS FOR EXCUSED ABSENCES

None

IX. ADJOURNMENT – 7:54 p.m.

The agenda for the July 18, 2019, Planning Commission meeting was posted on Friday, July 12, 2019, at 1:30 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, July 12, 2019, at 12:55 p.m.

Chairman

Secretary