

# **Attachment M**

Planning Commission Staff Report, July 18, 2019



## CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

July 18, 2019  
Agenda Item No. 3

**SUBJECT:** Vivante Senior Housing (PA2018-185)

- General Plan Amendment No. GP2018-003
- Planned Community Development Plan Amendment No. PC2018-001
- Development Agreement No. DA2018-005
- Lot Merger No. LM2018-004
- Site Development Review No. SD2018-003
- Conditional Use Permit No. UP2018-019
- Addendum to Environmental Impact Report No. ER2016-002

**SITE LOCATION:** 850 and 856 San Clemente Drive

**APPLICANT:** Nexus Companies

**OWNER:** Vivante Newport Center, LLC.

**PLANNER:** Makana Nova, Associate Planner  
949-644-3249, mnova@newportbeachca.gov

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### **PROJECT 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).

### **RECOMMENDATION**

- 1) Conduct a public hearing; and
- 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).

VICINITY MAP			
			
GENERAL PLAN		ZONING	
			
LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	PI (Private Institutions)	PC-19 (San Joaquin Plaza Planned Community)	Orange County Museum of Art and administrative offices
NORTH	MU-H3 (Mixed-Use Horizontal)	PC-56 (North Newport Center Planned Community)	The Villas Fashion Island Apartment Community
SOUTH	RM (Multi-Unit Residential) and CO-R (Commercial Regional)	RM (Multi-Unit Residential) and CO-R (Commercial Regional)	The Colony Apartment Community and office
EAST	MU-H3 (Mixed-Use Horizontal)	PC-56 (North Newport Center Planned Community)	Parking structure
WEST	MU-H3 (Mixed-Use Horizontal)	PC-56 (North Newport Center Planned Community)	Office and parking structure

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## **INTRODUCTION**

### **Setting**

The site is located on the northwest portion of Newport Center. To the north are 524 apartment units known as Villas Fashion Island. To the east is a parking structure that serves surrounding land uses. To the west is an office building located at 888 San Clemente Drive. To the southwest across San Clemente Drive are 245 apartment units known as The Colony. To the southeast also across San Clemente Drive is a surface parking lot and office building occupied by Pacific Life.

The Property is presently occupied by the Orange County Museum of Art and supporting administrative office building. The site consists of two parcels, which are 86,910 square feet and 39,690 square feet (2.9 acres total) in area. Primary access is taken from a shared driveway to the southwest at 888 San Clemente Drive. A secondary access driveway is located at the northeast corner of the site providing access to and from Villas Fashion Island and the rear of the parking structure at 800 San Clemente Drive.

### **Background**

The 13,935-square-foot, single-story building at 856 San Clemente Drive was originally constructed in 1977 as the Newport Center Branch Library. The library closed after construction of the Central Library in 1994. In 1996, the building underwent a remodel and was then occupied as the Newport Harbor Art Museum Annex Building. The property is currently occupied by the Orange County Museum of Art administration and storage building.

The 23,632-square-foot (sq. ft.) building at 850 San Clemente Drive was constructed in 1976 as an art museum. In 1996, the building was renovated for the Newport Harbor Art Museum. Modification Permit No. MD2004-059 (PA2004-184) authorized the construction of three flagpole-type structures to accommodate banners and Use Permit No. UP2005-017 (PA2005-086) authorized beer and wine service associated with the Orange County Museum of Art. The use permit plans indicate that there are 120 parking spaces on the existing project site.

### **Museum House Project**

The Museum House residential project ("Original Project") was proposed in 2015 on the 1.99-acre parcel at 850 San Clemente Drive (Assessor's Parcel Number 442-261-05). The Original Project consisted of demolition of the existing 23,632-square-foot Orange County Museum of Art building to accommodate the development of a 25-story, 100-unit residential condominium tower with two levels of subterranean parking. The Museum House's building footprint was approximately 75 feet by 220 feet. The tower was 295 feet high from finished grade at the building entry to the top of the tower.

A draft Environmental Impact Report (DEIR) was prepared for the Museum House project and circulated for public review between August 17 and September 30, 2016, and certified on November 29, 2016 (State Clearinghouse No. 2016021023) by the City Council. The EIR concluded that implementation of the Original Project would potentially result in significant impacts related to air quality, cultural resources, geology and soils, and noise. With recommended mitigation measures, however, only impacts to construction noise remained significant and unavoidable.

Project opponents held a successful petition drive and referendum in late 2016. The referendum left the City Council with two choices: rescind its vote or leave the final decision of the Museum House project to voters. At a public hearing in February 2017, the City Council voted 5-2 to rescind its approval of the Museum House Project. However, the resolution certifying the 2016 EIR for the Original Project was not rescinded, thereby preserving the certified EIR.

### Project Description

The proposed project consists of the demolition of the existing Orange County Museum of Art and associated administrative office building on the 2.9-acre site to accommodate the development of a 183,983-sq.-ft., six-story combination senior housing (90 residential dwelling units) and memory care facility (27 beds). The project would provide for a range of care including assisted living and memory care under a Department of Social Services (DSS) license as a Residential Care Facility for the Elderly (RCFE).

The proposed building is designed in an L-shape and is centrally located on the property as shown on the project plans (Attachment No. PC12). The exterior would be comprised predominantly of light-finish, smooth-coat plaster walls, natural Travertine stone, vinyl windows, metal railings, window trims, and a porte-cochère. Massing off-sets, variations of roofline, varied textures, recesses, articulation, and design accents on the elevations would be integrated into the façade to enhance the building's architectural style.

The proposed 6-story building would be set back 94 feet from San Clemente Drive. The Project provides a minimum setback of 36 feet along the northern property edge adjacent to Villas Fashion Island.

The building reaches an overall height of 68 feet 8 inches to the top of the ceiling of the uppermost level with roof and mechanical appurtenances extending up to 77 feet 10 inches in height measured from finished grade at the building entrance.

The senior housing units are designed as flats with full kitchen facilities. Proposed plans show 54 one-bedroom units and 36 two-bedroom units. The units range in size between 530 square feet to 2,500 square feet. Because of the kitchens and independent access, the proposed units are defined as dwelling units per Title 20 (Planning and Zoning) of the Newport Beach Municipal Code.

The memory care facility occupies approximately half of the second floor level and would be approximately 15,382 gross square feet. The 27 beds are distributed across six, two-bedroom suites with four beds each and three studios with one bed each. The memory care beds do not provide independent access or kitchens and therefore, this portion of the facility would not be classified as residential units and is categorized as nonresidential floor area per the Zoning Code.

The facility includes common resident dining areas, a fitness room, a yoga room, an indoor pool, a lounge area with bowling alley, a beauty salon, an art room, a theater, a library, a golf simulator, and support uses such as offices, mechanical and storage rooms, mail room, laundry, and housekeeping. Residents would have access to a large outdoor courtyard that would feature a lounge with a fire pit, outdoor dining area, barbecue with bar seating, gardens, five-hole golf putting course, and a dog run with artificial pet-friendly turf. The common areas would be accessible for residents including memory care residents when accompanied by staff.

The facility will be staffed at all times with varying shifts, which could range from 15 to 30 employees with a maximum of 45 employees at the busiest time of a peak shift change.

Required parking is 1.2 parking spaces per senior dwelling unit and one space per three beds of memory care for a total of 117 required spaces. The proposed design provides a 118-space surface parking lot. Resident, visitor, delivery, moving vehicle, and residential valet access to the project site will be provided by a new two-way drive aisle access from San Clemente Drive at the southern portion of the project site located opposite Santa Maria Road. Secondary access is located at the existing driveway pursuant to an ingress/egress access easement over the Irvine Company property at the northeast corner of the Project property near the Villas Fashion Island. Additionally, transportation services, such as shuttle vans and sedans, would be provided to residents for daily typical activities such as shows, shopping, dining, doctor appointments and other services outside the facility.

The applicant currently operates a facility in Costa Mesa, which is undergoing an expansion. Phase 1 at the existing facility includes 185 independent/assisted living dwelling units and an 80-bed memory care facility.

## **DISCUSSION**

### **I. Legislative Amendments – GPA and PC Development Plan**

Prior to considering project specific design, the Planning Commission should consider whether the project site is appropriate for mixed-use development. Amendments to the General Plan and Zoning Code as well as the establishment or amendment of a Planned Community Development Plan are legislative acts. Neither City nor State Planning Law sets forth required findings for approval or denial of such amendments. However, when making a recommendation to the City Council, the Planning Commission should consider



applicable goals and policies to ensure internal consistency with the General Plan. The subsequent sections analyze the legislative amendments for consistency with the General Plan goals and policies, Charter Section 423, SB-18/AB-52 (Tribal Consultation Guidelines), and the proposed Planned Community Development Plan.

#### General Plan Amendment - Land Use Element

The current General Plan land use designation for the property is PI (Private Institutions). The PI land use designation is intended to provide for privately owned facilities that serve the public, including places for religious assembly, private schools, health care, cultural institutions, museums, yacht clubs, congregate homes, and comparable facilities. The site is designated as Anomaly No. 49, and the combined maximum development capacity is 45,208 square feet for both properties. This land use designation is based on the Orange County Museum of Art and associated administrative office building, which totals approximately 37,567 gross square feet.

The applicant requests to amend the General Plan designation for the properties from PI (Private Institutions) to MU-H3 (Mixed-Use Horizontal) modifying Anomaly No. 49 in Table LU2 of the General Plan adding 90 dwelling units to accommodate the proposed senior housing units and reducing the nonresidential floor area to 16,000 square feet to accommodate the proposed memory care facility in Statistical Area L1 (Refer to Exhibit "C" of Attachment No. PC 1 for an exhibit of the proposed land use change).

As described in the General Plan:

*Newport Center is a regional center of business and commerce that includes major retail, professional office, entertainment, recreation, and residential in a master planned mixed-use development. While master planned, the principal districts of Newport Center/Fashion Island are separated from one another by the primary arterial corridors. Fashion Island is developed around an internal pedestrian network and surrounded by parking lots, providing little or no connectivity to adjoining office, entertainment, or residential areas.*

The proposed senior housing component is a residential use with dwelling units and the memory care facility is an ancillary nonresidential use, despite the fact that it has a residential character. The proposed project does not include commercial uses open to the public; however, the amenities provided to residents and their guests have a commercial and recreational character. The proposed MU-H3 land use designation is intended to provide for the horizontal intermixing of regional commercial office, hotel, multi-family residential and ancillary commercial uses.



### *Land Use Goals and Policies*

The General Plan identifies Newport Center/Fashion Island as a sub-area that includes goals and policies specific to this area. Goal LU 6.14 of the General Plan states Newport Center is intended to provide:

*A successful mixed-use district that integrates economic and commercial centers serving the needs of Newport Beach residents and the subregion, with expanded opportunities for residents to live close to jobs, commerce, entertainment, and recreation, and is supported by a pedestrian-friendly environment.*

The Project will provide additional housing for the City's growing aging population and assist the City in meeting its housing goals. This senior demographic over 60 years of age comprises almost 22 percent of the City's total population according to the latest available Census Bureau data from 2018. At present, there are approximately 752 units (congregate and independent living) and 265 beds (convalescent care) in similar facilities citywide. Refer to Attachment No. PC 3, which provides a full analysis of existing senior housing development in the City.

The Project will be developed in close proximity to retail and service uses, restaurants, entertainment, and recreation amenities present in Newport Center/Fashion Island and would not result in increases in office development in the area. A full analysis of the General Plan land use policies is provided in Section 3 of the draft resolution and in the land use section of the EIR Addendum (Attachment No. PC 1 and Exhibit "A" to Attachment No. PC 1).

The surrounding properties within the same block are also designated for mixed-use development within Newport Center and surrounding uses are a mix of office, commercial, and residential. Residential and commercial uses within proximity of each other are a common development pattern throughout the City and typically operate in a compatible manner. Staff recommends finding that the proposed mixed-use land use is appropriate for this location and is consistent with the goals set forth for the greater context of the Newport Center area.

### *Analysis of Loss of Potential Reduction of Private Institutional (PI)-Designated Land*

Staff considered the impact of the proposed land use change on the ability to maintain and continue to provide areas for private institutional uses in Newport Center and the broader community. The project would replace the Orange County Museum of Art site, which has a development capacity of 45,208-square-feet.

The General Plan states the following for the PI land use category:

*The PI designation is intended to provide for privately owned facilities that serve the public, including places for religious assembly, private schools, health care, cultural institutions, museums, yacht clubs, congregate homes, and comparable facilities.*

As indicated by the General Plan description, religious institutions, yacht clubs, private schools, and several congregate care and convalescent homes are located on property designated PI. Citywide, there are approximately 69 parcels totaling 223 acres with the PI designation. The proposed project would remove approximately 2.9 acres from this designation. Other notable businesses and organizations with a PI designation include Hoag Hospital, Sherman Library and Gardens, and the Kerckhoff Marine Laboratory.

Staff believes the requested GPA from PI to MU-H3 does not eliminate existing or future land uses to the overall detriment of the community. Numerous PI-designated properties are located throughout the City that can accommodate privately owned facilities that serve the public. The nearest existing sites are located at 2200 San Joaquin Hills Road and 2100 Mar Vista Drive (Our Lady Queen of Angels Church), and 750 Domingo Drive (Saint Mark's Presbyterian Church). In addition to the PI-designated properties with a corresponding PI zoning, cultural institutions land uses (which include museums) are allowed "by right" in 10 zoning districts and several planned communities, including the North Newport Center PC. An example is the OceanQuest (formerly ExplorOcean) museum in Balboa Village, which is located on property designated as Visitor Serving Commercial (CV).

#### *Charter Section 423 (Measure S) Analysis*

Pursuant to City Charter Section 423 and Council Policy A-18 (Guidelines for Implementing Charter Section 423), an analysis must be prepared to establish whether a proposed General Plan amendment (if approved) requires a vote by the electorate. The amendment would be combined with 80 percent of the increases in traffic, dwelling units, and nonresidential floor area allowed by previous General Plan amendments (approved within the preceding 10 years) within the same statistical area. The following thresholds are applicable: 100 dwelling units, 100 a.m. peak hour trips, 100 p.m. peak hour trips, or 40,000 square feet of nonresidential floor area. If any of the thresholds are exceeded and the City Council approves the requested General Plan Amendment, the Amendment would be classified as a "major amendment" and be subject to voter consideration. Approved amendments, other than those approved by the electorate, are tracked for 10 years and factored into the analysis of future amendments within the same statistical area as indicated.

The project site is located within Statistical Area L1 of the General Plan Land Use Element and would result in an increase of 90 dwelling units to Anomaly No. 49 of Table LU2. The current Charter Section 423 table before the proposed Amendment is provided as

Attachment No. PC 4. There has been one prior major amendment approved within Statistical Area L1 in the past 10 years. The amendment authorized the Newport Beach Country Club to construct a larger clubhouse by increasing the development allocation by 21,000-square-foot pursuant to General Plan Amendment No. GP2008-005. This amendment did not include a project that added new dwelling units to this statistical area.

There are currently 100 units remaining in Statistical Area L1 toward the threshold for a vote of the electorate. Based on the trip generation rates contained in the Council Policy A-18 (private institutions blended rate for the existing use and retirement community plus commercial blended rate for the proposed Project), the proposed Amendment is forecast to result in an increase of 27 a.m. peak hour trips and an increase of 52 p.m. peak hour trips. There would be no addition of nonresidential floor area with the Amendment (rather a reduction from 45,208 square feet to 16,000 square feet). Table 1 summarizes the changes created by the proposed Amendment with the addition of 90 dwelling units to Anomaly No. 49. The table also shows threshold totals under Charter Section 423. As indicated, none of the thresholds specified by Charter Section 423 would be exceeded, and therefore, a vote would not be required.

<b>Table 1: Charter Section 423 Analysis Summary Statistical Area L1</b>				
	<b>Increase in Allowed Floor Area (sq. ft.)</b>	<b>Increase in A.M. Peak Hour Trips</b>	<b>Increase in P.M. Peak Hour Trips</b>	<b>Increase in Allowed Dwelling Units</b>
GP2018-003 (PA2018-185) 850 and 856 San Clemente Drive	0	27	52	90
<b>Prior Amendments (80%)</b>	0	0	0	0
• <b>Newport Beach Country Club</b> GP2008-005 (PA2008-152)	21,000	0	0	0
<b>TOTALS</b>	<b>16,800</b>	<b>27</b>	<b>52</b>	<b>90</b>
<b>Charter Section 423 Thresholds</b>	<b>40,000</b>	<b>100</b>	<b>100</b>	<b>100</b>
<b>Vote</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>

If the proposed General Plan Amendment is approved by City Council, this Amendment will become a major amendment and 80 percent of the increases will be tracked for 10 years.

#### *AB52 and SB18 - Tribal Consultation Guidelines*

Pursuant to Section 65352.3 (SB18) of the California Government Code, a local government is required to contact the appropriate tribes identified by the Native American Heritage Commission (NAHC) each time it considers a proposal to adopt or amend the General Plan. If requested by any tribe, the local government must consult for the purpose of preserving or mitigating impacts to cultural resources. The City received comments from the NAHC indicating that four tribal contacts should be provided notice regarding the proposed amendment. The tribal contacts were provided notice on April 4, 2019. Section

65352.3 of the California Government Code requires 90 days prior to Council action to allow tribe contacts to respond to the request to consult. The City was not contacted by any tribal contacts during this 90-day period and the notice period ended on July 3, 2019.

Pursuant to Section 21080.3.1 (AB52) of the California Government Code, a local government is required to consult with California Native American tribes that have requested in writing to be informed of a proposed project in the geographic area that is traditionally and culturally affiliated with the tribe. As a result, a letter was received from the Gabrieleno Band of Mission Indians-Kizh Nation requesting that a monitor from their tribe oversee ground-disturbing construction work. Staff consulted with their representative, Mr. Andrew Salas by phone and in writing regarding the matter. Mr. Salas expressed concern of the project's location being an area with potential tribal cultural resources. In response, and out of abundance of caution, the applicant has agreed to retain a tribal monitor in the unlikely event any resources are found and the EIR mitigation measures have been updated accordingly.

#### Planned Community Text/Development Plan Amendment

The subject properties encompass the entirety of the PC-19 (San Joaquin Plaza Planned Community) Zoning District. Although designated PI by the General Plan, the PC allows for uses such as retail sales and services, administrative and professional offices, restaurants, bars, theaters/nightclubs, institutional, financial, & governmental facilities, civic, cultural, commercial recreational, & recreational facilities, and parking lots, structures, & facilities.

When originally adopted, the PC was over 26 acres and included the properties to the immediate west, north and east of the current boundaries. In 2007, approximately 23 acres, including the surrounding office buildings and parking structure sites and the land where the Villas at Fashion Island are located, were removed from the PC and placed in the North Newport Center Planned Community.

The purpose of the requested amendment is to amend the Planned Community Zoning District for the entire project site with site-specific development standards and regulations to accommodate senior housing and memory care uses.

The draft San Joaquin Plaza Planned Community Development Plan standards (Exhibit "D" to Attachment No. PC 1) are modeled after the PC-56 (North Newport Center Planned Community) regulations with variations to the required height to support the proposed project as designed. Table 2, below, provides a comparison between the existing and proposed PC-19 development standards:

<b>Table 2: Residential Planned Community Standards</b>			
<b>Development Standards</b>	<b>Existing PC-19 Standards</b>	<b>Proposed PC-19 Standards</b>	<b>Proposed Project</b>
<b>Lot Size</b>	N/A for Private Institutions	126,600 sq. ft. (2.9 acres)	126,600 sq. ft. (2.9 acres)
<b>Max. Density</b>	N/A (45,208 sq. ft. per General Plan)	90 senior housing units and 16,000 square feet of convalescent facilities (memory care units)	90 senior housing units and 15,382 sq. ft. of memory care
<b>Setbacks</b>	In substantial conformance with the approved site plan.		
<b>Front</b>		15 feet, San Clemente Drive (south)	94 feet, San Clemente Drive (south)
<b>Side</b>		5 feet minimum (east and west)	63 feet minimum
<b>Rear</b>		5 feet (north)	36 feet (north)
<b>Height</b>	<ul style="list-style-type: none"> <li>65 feet</li> </ul>	<ul style="list-style-type: none"> <li>69 feet (top of ceiling)</li> <li>79 feet for rooftop and architectural appurtenances</li> </ul>	<ul style="list-style-type: none"> <li>68 feet 8 inches (top of ceiling)</li> <li>77 feet 10 inches (top of appurtenances)</li> </ul>
<b>Maximum Floor Area</b> Buildable Area x Floor Area Limit (FAL)	No current maximum Building location per approved site plan	189,900 sq. ft. (1.5 FAR) including 16,000 sq. ft. (memory care facility)	183,983 sq. ft. (1.45 FAR) including 15,382 sq. ft. of memory care
<b>Open Space</b>	N/A		
Common (75 sq. ft./unit)		6,330 sq. ft.	21,233 sq. ft.
Private (5% of gross floor area/unit)		1,080 sq. ft. = 40% of units (36 units) to provide a minimum of 30 sq. ft. of private open space (minimum 6-foot dimension)	4,352 sq. ft.
<b>Landscape Area</b>	N/A	316 sq. ft. (10% of common open space area landscaped) Landscape standards per NBMC	15,487 sq. ft.
<b>Parking</b>			
Museum (3.5/1,000 square feet)	121 spaces		
Office			
Senior Housing-Market Rate (1.2 per unit covered)		108 spaces	108 spaces
Memory Care-Convalescent Facility (1/3 beds)		9 spaces	9 spaces
Total	121 spaces, 120 spaces provided	117 spaces	118 spaces
<b>Solid Waste and Recyclable Materials</b>	192 sq. ft. – 25,001-50,000 sq. ft. nonresidential	384 sq. ft. – 76-100 DU residential	Conditioned to provide 384 sq. ft.

### *Building Height in Newport Center*

The applicant proposes a mixed-use building that is 68 feet 8 inches in height to the top of the ceiling with roof and mechanical appurtenances that extend up to 77 feet 10 inches measured from finished grade at the building entrance. Building height is typically measured from established grade in the Zoning Code. However, in the surrounding PC-56 (North Newport Center Planned Community), heights are measured from finished grade at the building entry up to the roof of the last occupied space. Height for this project and the Planned Community Development Plan would be measured in this manner.

A variety of building heights in Newport Center are allowed by the General Plan and implemented through Planned Communities, the Zoning Code, and discretionary approvals. The guiding policy for building height in Newport Center is General Plan Policy LU6.14.4 Development Scale, which states the following:

*Reinforce the original design concept for Newport Center by concentrating the greatest building mass and height in the northeasterly section along San Joaquin Hills Road, where the natural topography is highest and progressively scaling down building mass and height to follow the lower elevations toward the southwesterly edge along East Coast Highway.*

The existing development in Newport Center reflects this policy as the majority of the office towers over 200 feet and the Fashion Island Hotel are located in the northeasterly section of Blocks 500 and 600. However, the Zoning Code does not restrict high-rise development to only the northeasterly section as indicated by Map H-1 High Rise and Shoreline Height Limitation (Attachment No. PC 5) in the NBMC. This map depicts the project site and nearby properties in Block 700 and Block 800 as eligible for a 300-foot height limit. Although this height limit is applicable to nonresidential buildings, the type and design of a structure, not just the use, are important in determining if the bulk and scale of building are appropriate for a particular location. Additionally, per NBMC [Section 20.30.060 \(Height Limits and Exceptions\)](#), height limits in planned communities are not bound by its limitations provided that a proposed height limit is consistent with the General Plan and is appropriate given surrounding development. A discussion of required findings are discussed later in this section of the report. Attachment No. PC 5 provides exhibits that demonstrate the height limits in Newport Center. Height limits range between 21 feet and up to 300 feet.

Table 3, below, provides a comparison of existing building heights and height limits for other residential properties in Newport Center (Statistical Area L1):

**Table 3: Residential Development in Newport Center (Statistical Area L1)**

Residential Development	Height Limit	Actual Height	Dwelling Units (DU)
Granville	28'/33'	18'	67 DU
Villa Point	32'	2-3 stories	228 DU
Sea Island	32'/37'	2 stories	132 DU
The Colony***	200'	50' (+ appurtenances)	245 DU
Meridian***	65'	65' (+10' appurtenances)	79 DU
Villas Fashion Island***	65'	65' (+10' appurtenances)	524 DU
Newport Beach Country Club*	31'	N/A	5 DU
Vivante**	68'8"	68' 8" (+10' appurtenances)	90 DU

\* entitled

\*\* proposed

\*\*\* communities in the North Newport Center Planned Community are measured from finished floor elevation

As shown in the table, existing multi-family residential building heights range from 18 feet up to 65 feet in height in Newport Center and height limits in the area range from 21 feet up to 300 feet in height. The applicant's requested building height of 69 feet to the top of the ceiling (six stories) with rooftop and mechanical appurtenances up to 79 feet (Project plans are provided as Attachment No. PC 12). This height is similar to that of the recently constructed Meridian and San Joaquin Plaza Apartments, which are 65 feet in height with an additional 10 feet for rooftop mechanical appurtenances. Mechanical equipment on the roof (rooftop appurtenances) would be screened to appear as part of the building roofline and their visibility would be minimized from the street frontage.

Existing grade elevation points on the property are at approximately 170 feet North American Vertical Datum of 1988 (NAVD 88) at each building entrance where the grade at the street along San Clemente Drive ranges from 165 feet (NAVD 88) up to 190 feet (NAVD 88). The proposed project grade will be built at 181 feet (NAVD 88) at the building entrance, commensurate with the grade elevation at the street where the new driveway access will be located across from the intersection of Santa Maria Road. While the existing pad elevation will be raised from its lowered condition, the new building entrance will appear to occur at grade with the street along San Clemente Drive.

Existing grade elevations on the adjacent property to the north (Villas Fashion Island) range from 150 feet up to 165 feet. The property to the north is 5 to 20 feet lower and will appear lower (16 to 31 feet) once the proposed project is constructed. Thus, this project will sit slightly higher than Villas Fashion Island. The grade differential at the access drive on Villas Fashion Island is not an issue, the residential structures in Villas Fashion Island are of a comparable height, and the buildings would be approximately 100 feet apart.



Therefore, the increase in grade is not a significant issue and does not present a compatibility issue with the adjacent residential development.

General Plan Policy LU 1.6, Public Views, states,

*Protect and, where feasible, enhance significant scenic and visual resources that include open space, mountains, canyons, ridges, ocean, and harbor from public vantage points. (Imp 1.1)*

The project does not inhibit designated coastal view corridors along Jamboree Road as identified in Figure NR3 of the General Plan. The applicant has provided view simulations of the proposed height contemplated in the EIR addendum (68 feet 8 inches with appurtenances to 77 feet 10 inches) taken from these locations (Attachment No. PC 6). The nearest coastal view road is Jamboree Road with views oriented toward the ocean. The project site will not be visible from this location. Further, the proposed building will fit into the height and architectural context of other office buildings and multi-family residential development in the Newport Center area. The building is comparable in building height and elevation to the existing office development located at 888 Newport Center Drive that is 61 feet 9 inches and nearby residential development at Villas Fashion Island where the building is 65 feet in height (plus 10 feet for rooftop appurtenances).

#### *Shade/Shadow Analysis*

A shade and shadow study of the proposed project was prepared with the project plans (Attachment No. PC 12) to determine if the shadow cast by the building would create an impact on the adjacent apartments. Since the area of shadows cast vary from season to season, the winter solstice presumes the worst case scenario because this is when the longest shadows are cast due to the tilt of the earth and corresponding location of the sun. The City does not have an established citywide threshold for shade or shadow impacts. However, the North Newport Center PC, which includes the adjacent Villas at Fashion Island site, does:

*Prior to issuance of a building permit for a structure over 200 feet in height that has the potential to shade residential areas north of San Joaquin Hills Road, a shade study shall be prepared by the applicant and submitted to the City. The shade study shall demonstrate that the new development will not add shade to the designated residential areas beyond existing conditions for more than three hours between the hours of 9:00 a.m. and 3:00 p.m. Pacific Standard Time, or for more than four hours between the hours of 9:00 a.m. and 5:00 p.m. Pacific Daylight Time.*

Although the project site is not located within PC-56, does not exceed 200 feet in height, nor would it cast shade to residential areas north of San Joaquin Hills Road, this methodology was considered while evaluating the effect of shade and shadow to the adjacent apartments. The study concluded that shadows would only be cast on nearby

residential apartments during the winter solstice (Pacific Standard Time) and that shadows would not be cast on any individual apartment unit for more than 3 hours on the winter solstice (Pacific Standard Time). Therefore, the shade and shadow impact was determined to be less than significant. For the more detailed analysis, see Chapter 5.1 Aesthetics of the EIR addendum.

### *Height Findings*

[Section 20.30.060.C.3 \(Height Limits and Exceptions, Required Findings\)](#) requires findings to be made to amend a Planned Community District with an increase in the height of the structure above the 65-foot height limit currently allowed by the Planned Community:

- a. The project applicant is providing additional project amenities beyond those that are otherwise required. Examples of project amenities include, but are not limited to:*
  - i. Additional landscaped open space;*
  - ii. Increased setback and open areas;*
  - iii. Enhancement and protection of public views; and*
- b. The architectural design of the project provides visual interest through the use of light and shadow, recessed planes, vertical elements, and varied roof planes;*
- c. The increased height will not result in undesirable or abrupt scale changes or relationships being created between the proposed structure(s) and existing adjacent developments or public spaces. Where appropriate, the proposed structure(s) provides a gradual transition to taller or shorter structures on abutting properties; and*
- d. The structure will have no more floor area than could have been achieved without the approval of the height increase.*

In this case, staff believes that required findings can be made to authorize an increased height limit up to 69 feet, with roof and mechanical appurtenances up to 79 feet in height. The building design provides a high level of design with open space, landscaping, residential amenities, and building setbacks that are similar or greater than those required on adjoining properties. The project provides 15,487 square feet of landscaped area and extensive common open space amenities including outdoor seating areas, raised gardens and vegetable planters, bocce ball court, outdoor kitchen, dog park, and putting green. Building setbacks range from 36 feet along the northern property nearest to residential uses and up to 94 feet at the San Clemente Drive street frontage. The nearest buildings are at least 100 feet away at Villas Fashion Island. The proposed floor area could be achieved within the current 65-foot height limit if the building footprint was enlarged. The proposed design with additional height affords additional site area to provide code-required parking, circulation, and open space amenities to support the Project. The project does not inhibit designated public view points or coastal view corridors as identified in Figure NR3 of the General Plan. The nearest coastal view road occurs to the

southwest along Jamboree Road and views are oriented toward the ocean. Additionally, the project site will not be visible from this location.

Further, the proposed building will fit into the height and architectural context of other office buildings and development in the Newport Center area. The building style is complementary to surrounding office buildings in Newport Center and the façade is architecturally modeled after the office building located at 888 San Clemente Drive. The proposed building height of 68 feet 8 inches is comparable to surrounding building heights of 61 feet 9 inches at 888 San Clemente Drive, 65 feet at Villas Fashion Island, 80 feet at Pacific Life (700 Newport Center Drive), and 125 feet at 800 Newport Center Drive. Further, these buildings allow an additional 10 feet for architectural appurtenances, consistent with the proposed building height for the Project.

## **II. Project Entitlement - Discretionary Applications**

### **Major Site Development Review**

Due to the proposed construction of a mixed-use development with more than four dwelling units, a major site development review is required per NBMC [Section 20.52.080 \(Site Development Reviews\)](#). In accordance with Section 20.52.080(F), the Planning Commission may approve or conditionally approve a site development review application, only after first finding that the proposed development is:

1. *Allowed within the subject zoning district;*
2. *In compliance with all of the applicable criteria identified in 20.52.080(C)(2)(c) below:*
  - i. *Compliance with this section, the General Plan, this Zoning Code, any applicable specific plan, and other applicable criteria and policies related to the use or structure*
  - ii. *The efficient arrangement of structures on the site and the harmonious relationship of the structures to one another and to other adjacent developments; and whether the relationship is based on standards of good design;*
  - iii. *The compatibility in terms of bulk, scale, and aesthetic treatment of structures on the site and adjacent developments and public areas;*
  - iv. *The adequacy, efficiency, and safety of pedestrian and vehicular access, including drive aisles, driveways, and parking and loading spaces;*
  - v. *The adequacy and efficiency of landscaping and open space areas and the use of water efficient plant and irrigation materials; and*
  - vi. *The protection of significant views from public right(s)-of-way and compliance with Section 20.30.100 (Public View Protection).*
3. *Not detrimental to the harmonious and orderly growth of the City, nor endangers, jeopardizes, or otherwise constitutes a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed development.*

The proposed project will comply with all applicable policies of the General Plan and PC Development Plan requirements, as amended. Without the approval of the proposed legislative amendments, the findings for the site development review cannot be made.

Site design includes useable open space, landscaping, residential amenities, and building setbacks that are similar or greater than those required on adjoining properties. The project is designed to be compatible with the adjoining residential and commercial uses by incorporating perimeter landscaping and site walls, as well as a setback of 36 feet from the adjoining residential properties to the north. The neighboring properties within the PC-56 (North Newport Center Planned Community) require a 15-foot setback from major rights-of-way such as San Clemente Drive. The proposed project is consistent with this approach, where a setback of 94 feet is provided along San Clemente Drive. The Project provides a minimum setback of 36 feet along the northern property edge adjacent to Villas Fashion Island.

Site access, including the drive aisles, driveways, parking, and loading spaces have all been reviewed by the Public Works Department, City Traffic Engineer, and the Fire Department for adequacy, efficiency, and safety and they support the recommendation for project approval. A new curb cut will be created for site access and will be located directly across from Santa Maria Drive and used as the primary entry and exit. Secondary egress and emergency access will occur across an existing access drive at the northeast corner of the property.

The architectural treatment will be compatible with surrounding residential and office development and is composed of smooth-coat plaster walls, natural Travertine stone, vinyl windows, metal railings, window trims, and a porte-cochère. The proposed structure will maintain a similar size and scale to that of the existing adjacent buildings to the west and east along San Clemente Drive. The total gross floor area will be no more than 189,900 square feet, which will be compliant with the maximum floor area allowed by the revised PC regulations. The proposed structure complies with the proposed PC-19 maximum height of 69 feet for this area as measured from building entrance grade to the top of the uppermost ceiling. An additional 10 feet is allowed for roofing and mechanical screening. All mechanical equipment on the rooftop will be screened in compliance with [Subsection 20.30.020 \(Buffering and Screening\)](#) of the NBMC.

The Project design complies with the required parking ratio of 1.2 parking spaces per dwelling unit of congregate care/senior housing (i.e., 90 units multiplied by 1.2 spaces = a minimum of 108 parking spaces) and one parking space for every three beds of memory care (i.e., 27 beds divided by three = a minimum of nine parking spaces). A total of 118 parking spaces are provided on-site.

The project includes approximately 15,487 square feet of landscape area, which has been designed to meet state and NBMC requirements with respect to drought tolerance and water efficiency. Landscaping is provided throughout the site in areas that are not used for site access and for parking circulation. The project's perimeter and street landscaping

will complement the existing street tree pattern (seven 48-inch box Rusty Leaf Fig trees), enhance the pedestrian experience, and soften the view of the building façade.

As previously noted, the project does not have the potential to obstruct public views from identified public view points and corridors, as identified on General Plan Figure NR 3 (Coastal Views) due to the location of the project site in relation to vantage points and roadways. Please refer to Attachment No. PC 7 showing General Plan Figure NR3 and the project site.

The proposed structure and use will comply with all current Building and Fire Codes. The RCFE facility is required to be licensed by the Department of Social Services and meet all the requirements to obtain and maintain this license.

Although a photometric survey has not been provided, lighting of the building is conditioned to meet the requirements of the Zoning Code to minimize and mitigate impacts to neighboring properties. Compliance would be addressed during the review of the construction drawings for building permits through the preparation and review of appropriate photometric plans based upon the final lighting plans.

The project plans reflect a 400-square-foot trash enclosure within the surface parking lot at the northwest corner of the project site. Condition No. 23 requires the enclosure to provide a minimum 384 square feet of trash/recycling area in accordance with [Section 20.30.120 \(Solid Waste and Recyclable Materials Storage\)](#).

In summary, staff believes facts to support the required findings exist to approve the Major Site Development Review, and they are included in the attached draft resolution for approval (Attachment No. PC 1).

#### Conditional Use Permit Findings

In accordance with NBMC [Section 20.52.020 \(Conditional Use Permits and Minor Use Permits\)](#), the Planning Commission must make the following findings for approval of a use permit:

- 1. The use is consistent with the General Plan and any applicable specific plan;*
- 2. The use is allowed within the applicable zoning district and complies with all other applicable provisions of the Zoning Code and the Municipal Code;*
- 3. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity;*
- 4. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities; and*
- 5. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise*

*constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Staff believes that sufficient facts exist in support of each finding and they are included in the attached draft resolution for approval (Attachment No. PC 1). The amendments to the General Plan Land Use Element and PC designations of the project site would allow for the proposed use. The proposed building complies with the development standards of the amended PC Development Plan, as well as applicable requirements of the Zoning Code.

Conditions of Approval No. 12 limits delivery and commercial trash pick-up hours to minimize vehicular traffic and noise during the evening and early morning hours.

Conditions of Approval Nos. 29 and 30 ensure that lighting of the facility will not create excessive glare and light spillage onto the adjacent neighbors.

Sufficient code-required parking is available on-site. The senior housing units are parked at the senior housing-market rate parking rate of 1.2 parking spaces per dwelling unit and the memory care facility is parked at a rate of one space per three beds in accordance with the convalescent care parking requirement in the Zoning Code. The applicant anticipates that there may be special occasions where additional parking demand can be managed on-site through valet parking. For example, during holidays such as Mother's Day, valet parking may be implemented on-site to better manage the influx of family and visitors. Street parking is not permitted on San Clemente Drive and parking spillover off-site is not anticipated. A valet parking program for these days will be reviewed and approved by the City traffic engineer prior to the issuance of building permits for the project (Condition No 37).

The project would provide for a range of care including assisted living and memory care under a Department of Social Services license as a Residential Care Facility for the Elderly. Approval of the proposed project would provide an opportunity for the property owner to revitalize the project site while providing a needed service for an aging population in an area that provides nearby goods and services.

#### *Police Department Review*

The Newport Beach Police Department will provide a staff memorandum regarding the applicant's request for Type 47 (On-Sale General) and Type 57 (Special On-Sale General) Alcoholic Beverage Control licenses as supplemental materials prior to the public hearing. The proposed project is located in Police Reporting District 39 (RD 39), which has a higher crime rate than the citywide average. However, with the introduction of the 90 units of senior housing and a 27-bed memory care facility, the crime rate and per capita ratio of alcohol licenses is expected to decrease. Should the Planning Commission approve the applicant's request, the Police Department has recommended several conditions of approval to regulate and control potential nuisances that the establishment may create.

### *Alcoholic Beverage Sales*

When reviewing an application to allow alcohol service, Section 20.48.090 (Eating and Drinking Establishments) of the Zoning Code requires the Planning Commission to evaluate the potential impacts upon adjacent uses (within 100 feet as measured between the nearest lot lines) and to consider the proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption. The uses adjacent to the site are commercial, public facilities, and residential. The dining hall and lounge spaces are incorporated into the first and second level floor plans of the building. The draft resolution includes conditions of approval to minimize negative impacts that the alcohol service may have to surrounding uses and to help ensure that the use remains compatible with the surrounding community.

In order to approve a use permit for alcohol sales, the Planning Commission must also find that the use is consistent with the purpose and intent of NBMC Section 20.48.030 (Alcohol Sales). In doing so, the following must be considered:

- a. The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.*
- b. The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.*
- c. The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.*
- d. The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.*
- e. Whether or not the proposed amendment will resolve any current objectionable conditions.*

The establishment is proposed to be located within Reporting District 39 (RD 39). For a map of Reporting Districts, see Attachment No. PC 8. Alcohol-related statistics from 2017 and 2018, is provided in Attachment No. PC 9. The Police Department does not oppose the operation as proposed by the applicant. A formal memorandum will be provided as supplemental materials prior to the public hearing. A discussion of the factors is provided below:



- a. *The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.*

<b>Reporting District (RD)</b>	<b>Part One Crimes (serious offenses)</b>	<b>Part Two Crimes (all other offenses)</b>
RD 39	227	291
RD 37	57	48
RD 38	26	22
RD 43	22	23
Newport Beach	2,192	3,456

The Part One Crimes rate in Reporting District 39 is higher than the Part One Crimes rate for the City and adjacent districts. However, with the introduction of the new residential units, the crime rate is expected to decrease. The Police Department does not object to this project as conditioned.

- b. *The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.*

<b>Reporting District</b>	<b>Alcohol-Related Arrests</b>	<b>Total Arrests</b>
RD 39	64	319
RD 37	9	25
RD 38	9	24
RD 43	7	21
Newport Beach	855	3,455

RD 39 has a higher number of total arrests, alcohol-related arrests, and calls for service compared to all adjacent reporting districts. This may be attributed to the high concentration of commercial uses within North Newport Center. The subject property had 43 calls for service in 2018, which were primarily attributed to vehicle stops and traffic hazards.

- c. *The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.*

The proposed alcohol service would be part of dining hall and lounge areas located within the facility and is intended to serve residents and their guests. The complex is surrounded by mixed-use, commercial and residential zoning districts and uses. The dining hall and lounges are located within the facility and would not be open

to the public. There are no day care centers, hospitals, park and recreation facilities, places of worship, or similar uses in the immediate vicinity.

- d. *The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.*

Reporting District	Active ABC Licenses	Per Capita
RD 39	70	12
RD 37	33	179
RD 38	8	870
RD 43	18	156
Newport Beach	451	189

The per capita ratio of one license for every 12 residents is higher than all adjacent reporting districts and the average citywide ratio. This is due to the commercial nature of RD 39, which contains all of North Newport Center, including Fashion Island and limited residential uses.

- e. *Whether or not the proposed amendment will resolve any current objectionable conditions.*

There are no current objectionable conditions caused by the sale of alcohol at the project site. The project has been reviewed and conditioned to ensure that the purpose and intent of [Section 20.48.030 \(Alcohol Sales\)](#) of the Zoning Code is maintained and that a healthy environment for residents and businesses is preserved. The service of alcohol is intended for the convenience of residents of the senior housing complex and their guests. Operational conditions of approval relative to the sale of alcoholic beverages will help ensure compatibility with the surrounding uses and minimize alcohol-related impacts.

### Lot Merger

In accordance with NBMC [Section 19.68.030 \(Lot Mergers\)](#), the Planning Commission must make the required findings for approval of a lot merger. These findings are intended to ensure site compatibility with the welfare of the surrounding community where legal access must be provided, the lots to be merged must be under common fee ownership, and the lots must be consistent with the surrounding pattern of development concerning lot width, depth, orientation, and compatibility with nearby lots.

The two abutting lots are under common fee ownership and are located at 850 and 856 San Clemente Drive in the PC-19 (San Joaquin Plaza Planned Community) Zoning District. The General Plan Land Use Element designation will be amended for this parcel

from PI (Private Institutions) to MU-H3 (Mixed-Use Horizontal), which is consistent with the surrounding block in Newport Center.

Merging of the two existing parcels will comply with Zoning Code requirements relating to minimum lot area and minimum lot width. The proposed parcel will be 126,600 square feet in area (2.9 acres) for which there is no current required minimum lot size. The width of the parcel will be 429 feet, for which there is no current minimum lot width. The PC-19 (San Joaquin Plaza Planned Community) text will establish minimum lot area and lot widths based on the proposed lot merger.

Properties along San Clemente Drive consist of varying shapes and sizes. Although the proposed lot merger will create a larger parcel, it will not create an excessively large parcel in comparison to existing lots and parcels in Newport Center. The width of the San Clemente Drive frontage will appear unchanged and consistent with the widths of other properties on San Clemente Drive.

Neither of the merged parcels, nor the adjoining parcels, will be deprived of legal access as a result of the merger. Access to both properties is provided from San Clemente Drive and a new driveway and curb cut will be provided to serve the merged project site. Secondary access will be recorded for egress and emergency vehicle access to the northeast of the property across the Villas Fashion Island property (APN No. 442-261-23).

As demonstrated in the attached draft resolution, the proposed lot merger meets the requirements of NBMC Title 19 (Subdivisions). The lot merger and easements will be required to be recorded prior to issuance of building permits.

#### Environmental Review - EIR Addendum

On November 29, 2016, the City Council adopted Resolution No. 2016-126 certifying [Environmental Impact Report No. ER2016-002](#) for the Museum House project and approving a mitigation monitoring and reporting program (MMRP) that was prepared in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and City Council Policy K-3. The project reviewed under the EIR included a General Plan amendment, Planned Community Development Plan amendment, tentative vesting tract map, major site development review, traffic study, and development agreement to allow demolition of the existing 23,632-square-foot Orange County Museum of Art (OCMA) building to accommodate the development of a 25-story, 100-unit residential condominium building with two levels of subterranean parking on a two-acre site ("Original Project").

The Applicant proposes to include additional land area to the project site (856 San Clemente Drive), resulting in the demolition of the 23,662-square-foot OCMA and supporting administration offices building totaling approximately 37,567 square feet, and construction of a 183,983-square-foot, six-story senior housing development (90

residential dwelling units) and memory care facility (27 beds). Due to these proposed changes compared with the Original Project considered in the EIR, an addendum to the EIR was prepared pursuant to Section 15162 (Subsequent EIRs and Negative Declarations) and 15164 (Addendum to an EIR or Negative Declaration) of the State CEQA Guidelines. The City retained PlaceWorks to prepare the addendum because they prepared the EIR for the Original Project. A revised Mitigation Monitoring and Reporting Program (MMRP) was also prepared, and all applicable mitigation measures from the previous MMRP were included, which is included as Attachment No. PC 1, Exhibit B. Where necessary, mitigation measures have been updated, refined, and/or supplemented to ensure mitigation is implemented as intended for the Modified Project. However, no mitigation measures have been added.

The following environmental topics were identified as potentially affected by the implementation of the proposed project: Aesthetics, Air Quality, Cultural Resources, Geology/Soils, Greenhouse Gas Emissions, Hazards/Hazardous Materials, Hydrology and Water Quality, Land Use/Planning, Noise, Population and Housing, Public Services recreation, Transportation/Traffic, and Utilities and Sewer Services. These topics were the subject of the draft EIR analysis, and potential impacts were identified. The document includes mitigation measures to reduce the potentially significant adverse effects to a less than significant level related to Air Quality, Cultural Resources, Geology and Soils and Transportation/Traffic.

The noise analysis concluded that even with nine mitigation measures, the construction-related noise impact would be significant and unavoidable. In particular, the impact is due to the proximity of the apartments to the north of the site which will be occupied prior to the start of construction. The nine mitigation measures address vehicle and equipment maintenance and the erection of a temporary sound barrier/curtain between the construction site and apartments. All mitigation measures are identified in the Mitigation Monitoring and Reporting Program. Although the proposed project requires less excavation and grading and has a shorter construction period, (a less impactful project but still a significant and unavoidable impact) all previously identified noise mitigation will be applied.

The analysis in the addendum shows that the Project will not result in any new significant impacts that were not analyzed in the EIR for the Original Project, nor will the project cause a substantial increase in the severity of any previously identified environmental impacts. The potential impacts associated with this Project would either be the same or less than those described in the EIR. In addition, there are no substantial changes to the circumstances under which the Project would be undertaken that would result in new or more severe environmental impacts than previously addressed in the EIR, nor has any new information regarding the potential for new or more severe significant environmental impacts been identified. Therefore, in accordance with Section 15164 of the State CEQA Guidelines, an addendum to the previously adopted EIR is the appropriate environmental documentation for the current Project. Updated Findings of Fact and Statement of Overriding Considerations must be adopted for the proposed project by City Council,

since these documents were previously rescinded with the Original Project's General Plan amendment resolution. In taking action on any of the approvals for the proposed project, the City Council will consider the whole of the data presented in the EIR, as augmented by the addendum, and the MMRP. A copy of the draft EIR addendum is provided as Exhibit "A" to Attachment No. PC 1.

### *Water Availability*

Although the statewide drought has officially ended, numerous state and local mandates and regulations remain in-effect, which are intended to reduce water consumption and make water use more efficient. These regulations are not intended to stop growth and development. State officials recognize that the state's population and demand for more housing will likely increase; some experts predict a dramatic increase in the future. This is evidenced by the California Department of Housing and Community Development Regional Housing Needs Assessment (RHNA). This program has identified the need for thousands of housing units across the state, and local jurisdictions are required to provide housing opportunities in the general plan and zoning regulations to accommodate the assigned number. The goal of these regulations is not to stop all development but to require that new development and infrastructure is as efficient as possible and reduce the use in existing developments.

In July 2016, the City completed its 2015 Urban Water Management Plan (UWMP) in compliance with the Water Code Sections of the Urban Water Management Planning Act. The UWMP outlines water supplies, use, reliability, projects and contingency plans. The City is in a fortunate situation in that it receives 75 percent of its water from the Orange County Water District groundwater supplies. The remaining supply is imported through the Municipal Water District of Orange County. Both water suppliers have indicated in the UWMP that they can meet the water demands of Newport Beach in dry and wet years. Projected increases in water demand from General Plan projects and known projects were considered in estimating use and reliability. Future development projects must submit hydraulic and demand estimates for City approval.

### *Traffic*

An analysis was conducted of the proposed project's projected increase of vehicle trips pursuant to the City's Traffic Phasing Ordinance. Municipal Code Chapter 15.40 (Traffic Phasing Ordinance) requires that a traffic study be prepared and findings be made if a proposed project will generate in excess of 300 average daily trips (ADT). The traffic was evaluated under the Continuing Care Retirement Community traffic classification, where a combination of dwelling units and memory care beds are added together to identify the total "occupied units" for parking purposes. As shown in Table 9, below, the project is anticipated to generate 129 new net ADT's and thus does not trigger the preparation of a traffic study for this project:

**Table 9 Modified Project Trip Generation Summary**

Land Use	Land Use Size	Daily	AM Peak Hour			PM Peak Hour		
			In	Out	Total	In	Out	Total
Modified Project	117 occupied units	293	12	6	18	9	14	23
Museum (Existing)	24 TSF	-108	-3	-1	-4	-1	-4	-5
Administrative Office Building (Existing)	15 TSF	-56	-2	0	-2	-1	-2	-3
<b>Net New Trips</b>		<b>129</b>	<b>7</b>	<b>5</b>	<b>12</b>	<b>7</b>	<b>8</b>	<b>15</b>

### Revocation of Existing Discretionary Approvals

Revocation of Use Permit No. 2005-017 is requested which allowed beer and wine sales at the museum. Revocation of Modification Permit No. MD2004-059 is also required, which allowed additional flagpoles/signage beyond that allowed by the NBMC. The demolition of the museum would make these previous approvals inconsistent with the residential project and no longer applicable.

### **III. Other Considerations**

#### Development Agreement

Pursuant to [NBMC Chapter 15.45 \(Development Agreements\)](#), a development agreement is required because the applicant is requesting a General Plan amendment of more than 50 units in Statistical Area L1 (Newport Center). The Code requires the contents to identify the permitted uses, density or intensity of the use, height and size of buildings, and provisions for reservation or dedication of land for public purposes if required by the City. The agreement may also include conditions, terms, restrictions for discretionary actions, and a timeline for construction to be accomplished.

The draft Development Agreement is provided as Exhibit “E” to Attachment No. PC 1. The term of the Development Agreement will be 10 years. The short duration is appropriate because the project will be implemented in one construction phase. The term is sufficiently long enough to account for changing market conditions. The applicant will pay a fee per unit for the senior housing and a flat fee for nonresidential development to the City to secure development rights. The development agreement committee continues to discuss a per unit public benefit fee that would be entitled to the applicant at this project site. Payment will be made at the time of the City’s issuance of building permits. Funds will be available to the City for any purpose. Staff will provide an update to the Planning Commission at the time of the public hearing.

### Airport Land Use Commission (ALUC)

John Wayne Airport is located approximately 2.94 miles north of the property and is the nearest public airport. The Project is within the notification area of the Airport Environs Land Use Plan (AELUP) for John Wayne Airport.

Since the proposed project includes General Plan and PC amendments, review for consistency with the AELUP is required by Section 21676(b) of the Public Utilities Code. The General Plan and PC amendments have been forwarded to the ALUC for their review prior to the City Council consideration. The ALUC meeting is expected to occur on July 18, 2019, and staff will provide an update at the Planning Commission meeting. Should the ALUC find the project consistent with the AELUP, the project can proceed to the City Council without further delay. If the ALUC finds the project inconsistent with the AELUP, the City Council would have to initiate a process to potentially override the ALUC by a two-thirds vote of the Council if they choose to approve the project.

According to the Federal Aviation Administration (FAA) notice criteria tool, the Project is in proximity to a navigation facility and may impact the assurance of navigation signal reception to and from aircraft. However, many nearby and taller buildings exceed the height of the proposed Project. A “No Hazard” determination was provided by the Federal Aviation Administration (FAA) for the prior 300-foot tall Museum House project and current proposal. The project site also falls outside the 60 dBA Community Noise Equivalent Level contour line established by the AELUP and would, therefore, not conflict with any land use compatibility issues related to noise. Finally, the project site does not fall within any of the AELUP Safety Zones for John Wayne Airport or any nearby heliports, in which certain land uses have been identified as incompatible and restricted. As a result, staff anticipates a finding of consistency from the ALUP for the proposed project.

### Fiscal Impact Model

The City’s consultant, Applied Development Economics, Inc., has prepared an independent fiscal impact model (Attachment No. 10) in accordance with [General Plan Implementation Policies 12.1 and 12.2](#). The City’s fiscal impact model is designed to calculate the average cost of public services required by new development, on the assumption that new development affects City services in the same way that existing development does. The net impact of the growth in land uses at build-out of the General Plan compared to existing land uses in 2006 when the Plan was adopted, would result in a net positive fiscal impact for the General fund of \$21.7 million per year.

The existing museum land use on-site results in an annual cost of \$14,963 to the City. By contrast, retail land uses provide lower property tax revenue, increased sales tax revenue and moderate costs for municipal services. Residential land uses, especially for-sale homes or condominiums, provide higher property tax revenues, lower indirect sales tax revenues and higher costs for municipal services.



The fiscal impact model estimates that the project results in a net revenue of \$41,569. The analysis identifies property taxes as the primary revenue source related to the project. This positive benefit is in contrast to the existing public use of the site which does not generate property tax for the City. In terms of costs for City services, the project could have a higher than average use of paramedic services (Fire Services are estimated at \$70,872). Based on the fiscal model estimates for City services, it is projected that the revenues generated by the project would pay for City services that the project might require.

### Correspondence Received

Several public comments have been received since the Planning Commission study session on April 18, 2019. They are attached as Attachment No. PC 11.

### Summary

Overall, the proposed project would result in the redevelopment of an under-utilized private institutional site with compatible senior housing and a memory care facility that serves the needs of the aging population in Newport Beach. The environmental effects of project implementation are limited and short-term and the overall benefits of the project outweigh the negative effects. Although the fiscal benefits from senior housing would not be as significant compared to market-rate housing, the proposed project would generate sufficient revenue to cover municipal services. Staff recommends that the Planning Commission recommend the City Council certify the EIR addendum, approve the project applications, and rescind what would become outdated and unnecessary discretionary approvals related to the existing museum use that would no longer exist with project implementation.

### Alternatives

Although staff has reason to believe that the findings for approval can be made for the proposed project as recommended and the facts in support of the required findings are presented in the draft resolution (Attachment No. PC 1), the following alternatives are available to the Planning Commission:

1. The Planning Commission may recommend approval to the City Council with suggest specific changes that are necessary to alleviate any identified concerns. If the requested changes are substantial, staff will return with a revised resolution incorporating new findings and/or conditions.
2. If the Planning Commission believes the change in land use is inappropriate, or if there are insufficient facts to support the project, the Planning Commission may recommend denial to the City Council of the application (Attachment No. PC 2).

### Public Notice

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.

Prepared by:

  
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Makana Nova  
Associate Planner

Submitted by:

  
\_\_\_\_\_  
Jim Campbell  
Deputy Community Development Director

### ATTACHMENTS

- ~~PC 1 Draft Resolution with Findings and Conditions~~
- ~~PC 2 Draft Resolution for Denial~~
- ~~PC 3 Existing Senior Housing Facilities Summary~~
- ~~PC 4 Charter Section 423 Analysis~~
- ~~PC 5 Map H-1 High Rise & Shoreline Height Limitation and Newport Center Building Heights Exhibits~~
- ~~PC 6 View Simulations~~
- ~~PC 7 General Plan Figure NR3~~
- ~~PC 8 Police Department Reporting Districts~~
- ~~PC 9 Police Department Memorandum~~
- ~~PC 10 Fiscal Impact Model~~
- ~~PC 11 Public Comments~~
- ~~PC 12 Project Plans~~

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