

**NEWPORT BEACH PLANNING COMMISSION MINUTES
CITY COUNCIL CHAMBERS – 100 CIVIC CENTER DRIVE
THURSDAY, MAY 6, 2021
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 Rosene

III. ROLL CALL

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

ABSENT: None

Staff Present: Community Development Director Seimone Jurjis, Deputy Community Development Director Jim Campbell, City Traffic Engineer Tony Brine, Assistant City Attorney Yolanda Summerhill, Civilian Investigator Wendy Joe, Principal Planner Matt Schneider, Associate Planner Liz Westmoreland, Assistant Planner Joselyn Perez, Assistant Planner Patrick Achis, Administrative Support Specialist Clarivel Rodriguez

IV. PUBLIC COMMENTS

Jim Mosher suggested staff post draft minutes of Planning Commission meetings as soon as they are available rather than waiting to include them in the packet for the next meeting. Planning and zoning maps and classifications for parcels in the Upper Newport Bay Nature Preserve need to be reviewed and corrected.

V. REQUEST FOR CONTINUANCES

None

VI. CONSENT ITEMS

ITEM NO. 1 MINUTES OF APRIL 8, 2021
Recommended Action: Approve and file

Chair Weigand noted Mr. Mosher's proposed revisions to the minutes.

Motion made by Commissioner Ellmore and seconded by Secretary Kleiman to approve the minutes of the April 8, 2021 meeting with Mr. Mosher's revisions.

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

VII. PUBLIC HEARING ITEMS

ITEM NO. 2 SUPER PANGA RESTAURANT (PA2020-356)
Site Location: 2110 and 2112 West Ocean Front

Summary:

A request for a conditional use permit to remodel and expand an existing restaurant into the abutting tenant space, currently occupied by Henry's Groceries. Also included is a request to upgrade the existing Type 41 (On-Sale Beer and Wine - Eating Place) Alcoholic Beverage Control (ABC) license to a Type 47 (On-Sale General - Eating Place) ABC license. As part of the project, the existing Type 20 (Off-Sale Beer and Wine) ABC license held by Henry's Groceries will be eliminated. The proposed expansion will create an enlarged interior dining area, as well as improved kitchen and restroom

facilities. The proposed hours of operation are from 6 a.m. to 1 a.m., Monday through Thursday, and 6 a.m. to 1:30 a.m., Friday through Sunday.

Recommended Action:

1. Conduct a public hearing;
2. Find this project exempt under the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment; and
3. Adopt Resolution No. PC2021-011 approving Conditional Use Permit No. UP2020-198.

Assistant Planner Joselyn Perez reported the subject property is located on the Balboa Peninsula and contains a building constructed in the 1920s. Commercial uses are located on the ground floor of the building with residential units above, and the building has multiple non-conformities including a limited amount of onsite parking and an excessive floor area ratio (FAR). The project site is zoned Mixed-Use Water 2 (MU-W2), which allows restaurant uses. Surrounding properties are zoned primarily MU-W2; however, some standalone residential uses are located in the immediate vicinity. Henry's Market and Il Gelato restaurant occupy two ground-floor suites that will be merged to create a new restaurant space with 534 square feet of indoor dining area. The applicant proposes to upgrade the existing ABC license from Type 41 to Type 47. Merging the two suites will result in the elimination of the existing Type 20 license. The proposed hours of operation of 6 a.m. to 12:30 a.m., Monday through Thursday, and 6 a.m. to 1 a.m., Friday through Sunday, similar to current authorized hours of operation. The new restaurant will offer a small outdoor dining area. The Police Department has no objection to the project subject to certain conditions of approval. The project will reduce the total number of alcohol licenses in an over-concentrated area, rehabilitate two older storefronts, provide an amenity to both residents and visitors, and reduce parking demand from 15 spaces to 14 spaces. Proposed conditions of approval include employee parking locations, hours of operation, closing doors and windows to reduce noise, full menu service until closing, no live entertainment, no alcohol service on the patio, Operator License requirement, and potential review and new use permit for changes to the proposed operation or floor plan. Staff recommends approval of the project.

In response to Commissioner Rosene's question, Assistant Planner Perez advised that the original staff report includes an elevation of the proposed storefront.

In reply to Chair Weigand's inquiry, Assistant Planner Perez clarified that the notice provides the latest closing time. The applicant proposes to close at 12:30 a.m., Monday through Thursday, and 1 a.m., Friday through Sunday, with 30 minutes allowed for patrons to vacate the premises.

Commissioner Koetting reported communications with one of the proprietors. Commissioner Rosene reported no ex parte communications. Secretary Kleiman reported a meeting with the applicant and consultants. Commissioner Klaustermeier reported communications with the applicant's consultant. Commissioner Ellmore reported communications with the applicant. Vice Chair Lowrey and Chair Weigand reported communications and meetings with the applicant's consultant.

Chair Weigand opened the public hearing.

Mario Marovic, applicant representative, indicated the proposal is to expand an existing restaurant into the adjacent liquor store. He and his partner own 12 businesses in Orange County, employ approximately 600 people, founded the Newport Beach Bar and Tavern Association in conjunction with the Newport Beach Police Department, and have invested millions of dollars in the Newport Pier and McFadden Square area. The existing restaurant closed during the pandemic. The existing liquor store has late night hours and multiple ABC violations. Super Panga Taqueria will be similar to Dory Deli with a substantially reduced occupancy. He requested modifications to Conditions of Approval 12, 25, and 37 to allow closing times of 1 a.m., Monday through Thursday, and 1:30 a.m., Friday through Sunday, with food service ending one hour prior to closing and to require the closing of doors and windows one hour prior to closing.

In answer to Commissioner Rosene's queries, Mr. Marovic related that a glass-paneled garage door will close onto a 42-inch-tall counter where patrons dine. The concept is similar to that utilized at Dory Deli.

In response to Commissioner Klaustermeier's inquiry, Mr. Marovic explained that two tables with four chairs each will be located on the outdoor patio, which measures 36 inches by 104 inches and was entitled in 2007.

In reply to Commissioner Koetting's questions, Mr. Marovic indicated the buildings are located on one parcel. Construction staging can occur on the carport and parking lot located behind the restaurant.

In answer to Chair Weigand's query, Mr. Marovic reported he and his partner own all but one residential unit on the block. As part of the lease, residential tenants acknowledge that the units are located in a high-concentration commercial area. Tenants have not complained about noise in the past.

Jim Mosher commented that signage and the website for Henry's Market indicate it is a grocery store. A grocery store may be rarer than a restaurant in the area. He inquired whether the City charges rent for the use of the public sidewalk and, if so, the amount.

Chair Weigand closed the public hearing.

Commissioner Koetting believed the project is an improvement for the area. The operator has done an excellent job. Mr. Marovic's requested modifications to Conditions of Approval 12, 25, and 37 are acceptable.

In answer to Commissioner Rosene's inquiries, Deputy Community Development Director Jim Campbell reported the patio was authorized in 2007 through an outdoor dining permit and an encroachment permit. It is consistent with current standards. If the Council expands outdoor dining standards in the future, the applicant may be able to expand the patio area consistent with future standards. If the Council chooses to prohibit dining in the public right-of-way, it will have to amend the Newport Beach Municipal Code (NBMC).

Secretary Kleiman appreciated the project eliminating the Type 20 License.

Chair Weigand reopened the public hearing.

In response to Chair Weigand's query, Mr. Marovic accepted the modified conditions of approval with a clarification that staff will stop taking food orders one hour prior to closing, and doors and windows will close at the same time as food orders cease or the kitchen closes, whichever is sooner.

Andrew Gabriel, applicant representative, accepted the proposed conditions of approval and modifications thereto.

Chair Weigand closed the public hearing.

Motion made by Commissioner Koetting and seconded by Secretary Kleiman to approve the staff recommendation with modifications to the conditions of approval as discussed.

AYES: Ellmore, Klaustermeier, Koetting, Rosene, Kleiman, Lowrey, Weigand

NOES:

RECUSED:

ABSENT:

VIII. STUDY SESSION

ITEM NO. 3 RESIDENCES AT NEWPORT CENTER (PA2020-020) Site Location: 150 Newport Center Drive

Summary:

A study session to allow staff and the Applicant to present information regarding the proposed Residences at Newport Center residential development project. The project site includes approximately 1.3 acres in Newport Center bounded to the north by Newport Center Drive and the east by Anacapa Drive. The proposed project consists of the demolition of an existing 2,085-square-foot car wash and gas station to accommodate the development of 28 dwelling units. The project requires the following discretionary approvals to be reviewed by the Planning Commission: General Plan Amendment, Zoning Code Amendment, Planned Community Development Plan, Site Development Review, Tentative Tract Map, Development Agreement, and certification of an

Environmental Impact Report. This study session will be informational only and no decisions will be made at this meeting. The Planning Commission is tentatively scheduled to consider the project on August 19, 2021. City Council approval is also required.

Recommended Action:

Discuss the proposed project and provide direction to staff and the applicant as necessary. No action may be taken on this study session discussion of the project.

Associate Planner Liz Westmoreland reported the project is located in the Gateway Plaza area and across the street from Muldoon's Irish Pub. A car wash was constructed in 1970 on the site. A trench drain on the site collects and clarifies onsite wastewater before sending it to the sewer system. In 2014, a project was proposed for the site, but it was withdrawn in 2016 prior to Council action. The proposed project includes 28 condominium units, two levels of subterranean parking, and common and private open space. The building will contain four stories and have a height of 53 feet. Units will range from approximately 1,430 square feet to 5,689 square feet. The applicant proposes a General Plan Amendment to change the General Plan designation from a commercial land use to a residential land use. If the General Plan Amendment is approved, the General Plan anomaly table will need to be updated to allow residential units. A Zoning Code amendment is proposed to change the Office Regional (OR) designation to the Planned Community (PC) designation. The applicant proposes a Planned Community Development Plan to establish development standards for the site. The applicant proposes Site Development Review to allow the construction of 28 units, a Tract Map to allow the sale of individual units, a Development Agreement, and an Environmental Impact Report (EIR) to comply with the California Environmental Quality Act (CEQA). An existing access drive is located offsite, will be maintained as part of the project, and will provide the main access to the driveway leading to subterranean parking. Common areas, amenities, and eight residential units are located on the first level of the project. Setbacks of 15 feet are required along Anacapa Drive and Newport Center Drive, and the applicant proposes larger setbacks. A guest and valet entrance is proposed along Anacapa Drive. Staff performed a Greenlight analysis and found that the project will not exceed Section 423 thresholds. A Draft EIR (DEIR) has been prepared, and the public comment period ends June 14, 2021. The EIR identified no significant and unavoidable impacts. Biological resources, cultural resources, geology and soils, and tribal cultural resources require mitigation measures. Staff anticipates completing the EIR process, returning to the Planning Commission for a public hearing in August 2021, and presenting the project to the Council in September 2021.

Coralee Newman, applicant representative, advised that meetings with SPON and Harbor View Hills Community Association were held April 13 and 27, 2021, and a meeting with Irvine Terrace Community Association is scheduled for May 19, 2021. The applicant team continues to work with the Broadmoor associations to schedule a public meeting. The center of the block is owned by the Irvine Company and is zoned PC 56. The total lot area is 54,959 square feet, and the project proposes 83 onsite parking spaces and 15,830 square feet of open space. The ground floor of the building will contain a lobby, lounge, kitchen, fitness room, lap pool, and spa. The main entrance will have outside concierge service that interfaces with delivery services. Each unit will have a two-car garage. Twenty residential garages will be located on the second parking level. Visitor parking will be located at the center of the garage.

Glenn Butler, project architect, indicated that the building will have two residential wings connected by a ground-floor lobby. The style will be California Coastal Contemporary. All units will have generous balconies and large windows. The exterior of the building will be clad in a light-colored limestone or travertine with a darker accent stone. Four units will be located in each wing of the first through third floors. The fourth floor will have two penthouse units in each wing. Residents will have access to all elevators.

Mark Schattinger, landscape architect, described the plant palette as leafy and colorful. Stone pavers will be used in the motor court. A pool, seating area, and spa are located in the rear courtyard, which is located above the parking structure. An evergreen screen will be planted along the rear property line adjacent to the parking lot.

Ms. Newman noted the building height is commensurate with surrounding building heights. The project will be barely visible from Harbor View Hills, Broadmoor communities, and Civic Center Park. The height and number of units have been reduced in response to community concerns. The project will reduce traffic and water usage, enhance the area, and pay a community benefit fee.

In reply to Secretary Kleiman's question, Ms. Newman clarified that the benefits are determined by comparing the proposed project to the previously proposed project.

In response to Vice Chair Lowrey's inquiry, Ms. Newman indicated construction is likely to occur over a couple of years.

In answer to Commissioner Rosene's query, Ms. Newman explained that the traffic reduction results from a comparison of car trips for the existing car wash and the proposed project.

In reply to Commissioner Koetting's questions, Mark Nero, project engineer, indicated moving vans will access the building through the driveway on the south side of the property. There are easements on the private street. Mr. Butler advised that no amenities are proposed for the rooftop. The majority of mechanical equipment will be located on the first basement level.

In answer to Commissioner Ellmore's inquiries, Mr. Butler related that an exterior lighting plan has not been fully developed. The project includes a dog run.

Commissioner Rosene suggested the applicant provide a photometric study and make the south side of the property pedestrian-friendly. In response to his questions, Mr. Butler explained that the texture of the exterior cladding in the drawings will not be as apparent when it is installed on the building. City Traffic Engineer Tony Brine related that he reviewed the project and has no concerns about traffic movements to and from Anacapa. Associate Planner Westmoreland explained the process staff utilized to measure the height of the building. The drawing reflects measurements at different points along the structure. Mr. Butler added that he worked with Deputy Community Development Director Campbell to establish the datum as the grade outside the main entry. The height of the roof structure is 52 feet 11 inches. The elevator overrun is taller but within 7 feet of the roof height.

In answer to Chair Weigand's queries, Ms. Newman noted the Irvine Company's comments were incorporated into the EIR. Most of the Irvine Company's issues pertained to access. The Covenants, Conditions, and Restrictions (CC&Rs) will acknowledge that residential units are located near businesses that create noise at night, such as Muldoon's Irish Pub. The property includes a gas station. The gasoline storage tanks have already been mitigated.

Jim Mosher appreciated the applicant reducing the bulk of the building. The original vision for Block 100 restricted building height to 32 feet. The residential units will count toward the above-moderate-income component of the City's Regional Housing Needs Assessment (RHNA).

Chair Weigand recessed the meeting for a 5-minute break.

IX. PUBLIC HEARING ITEMS

ITEM NO. 4 OC VETERINARY CENTER (PA2020-325) Site Location: 1220 Bison Avenue, Suite A7

Summary:

The Applicant proposes a full-service animal clinic for domestic pets (i.e., veterinary services) within an existing 3,414-square-foot retail tenant space. Clinic services include a range of outpatient offerings such as preventive animal care and pain management, wellness exams, surgeries, and vaccinations. Only animals in critical condition would be kept on-site longer than 24 hours. The hours of operation would be restricted to between 8 a.m. to 6 p.m., Monday to Friday; 9 a.m. to 4 p.m. on Saturday; and closed on Sunday.

Recommended Action:

1. Conduct a public hearing;
2. Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, because it has no potential to have a significant effect on the environment; and

3. Adopt Resolution No. PC2021-010 approving Use Permit No. UP2020-191.

Assistant Planner Patrick Achis reported the existing suite is located within the Newport North Shopping Center. The former tenant was a retail use. Uses to the north and south of the site are multifamily residences. The Bluffs Shopping Center is located east of the site, and industrial uses and a U.S. Post Office are located west of the site. The project is consistent with the General Plan and zoning designations, which are commercial in nature. The applicant proposes a small-scale, full-service animal clinic offering wellness exams, preventative care, vaccinations, surgeries, and other services. Most services will be offered by appointment. Only animals in critical condition will remain onsite overnight. The applicant does not propose to board animals. To provide future flexibility, staff recommends hours of operation of 8 a.m. to 6 p.m. daily. The suite measures approximately 3,400 square feet. Tenant improvements consist of repartitioning walls and installing equipment. The rear of the site contains a walk area. Only clinic staff will walk animals but not on residential properties. Staff will promptly pick up and dispose of animal waste. A 30-foot drive aisle, landscaping, and an 8-foot-tall wall separate the animal clinic from residences. The shopping center provides 269 onsite parking spaces when 265 spaces are required. Typically, an animal clinic requires one parking space per 400 square feet. The project will be a more intensive use, and a requirement of one space per 250 square feet is more appropriate. The higher requirement results in no change to parking demand from the existing retail use. The project complies with additional requirements for animal service. Staff recommends approval of the project.

Chair Weigand felt a closing time of 6 p.m. was early and proposed a closing time of 8 p.m. to provide some flexibility for the applicant.

Commissioners reported no ex parte communications.

Chair Weigand opened the public hearing.

Rajat Garhwal, business owner, concurred with the proposal for extending the closing time to 8 p.m. even though he plans to limit hours of operation initially.

In response to Commissioner Koetting's inquiry, Mr. Garhwal advised that animals in critical condition will be either transferred to an emergency clinic or monitored by staff.

Mr. Garhwal agreed to the proposed conditions of approval.

Chair Weigand closed the public hearing.

Motion made by Secretary Kleiman and seconded by Commissioner Rosene to approve the staff recommendation with the amendment to the hours of operation.

AYES: Ellmore, Klaustermeier, Koetting, Rosene, Kleiman, Lowrey, Weigand

NOES:

RECUSED:

ABSENT:

ITEM NO. 5 TATTOO ESTABLISHMENT ZONING ORDINANCE UPDATE (PA2020-030)
Site Location: Citywide

Summary:

Amendments to Sections 20.20.020, 20.70.020 and the addition of Section 20.48.230 of Title 20 (Planning and Zoning) and amendments to Sections 21.20.020 and 21.70.020 of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (NBMC) to define tattoo establishments (a previously undefined use) as a land use category and establish objective standards to regulate its use

Recommended Action:

1. Conduct a public hearing;
2. Find this project categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3), the general rule that CEQA applies only to projects, which have

- the potential for causing a significant effect on the environment and pursuant to Section 15265(a)(1), which exempts local governments from the requirements of CEQA in connection with the adoption of a Local Coastal Program;
3. Adopt Resolution No. PC2021-012 recommending the City Council approve Zoning Code Amendment No. CA2020-002 updating development standards related to tattoo establishments; and
 4. Adopt Resolution No. PC2021-013 recommending the City Council authorize staff to submit Local Coastal Program Amendment No. LC2020-002 to the California Coastal Commission.

Principal Planner Matt Schneider reported staff analyzed legal decisions related to the zoning of tattoo establishments. Tattoos are considered protected speech under the First Amendment. A jurisdiction is allowed to implement reasonable time, place, and manner restrictions for tattoo establishments. Current regulations define tattoo services as a restricted personal services use. Tattoo establishments are allowed in all office zones, commercial zones, with the exception of Commercial Marine (CM) zones, and mixed-use zones subject to approval of a minor use permit. On April 14, 2020, the Council directed staff to initiate a zoning amendment to create a ministerial process and establish objective standards. Other jurisdictions' regulations for tattoo establishments, Police Department calls for service, and case law informed the proposed amendments. Staff proposes to define a tattoo establishment as its own use type, permit a tattoo establishment in Commercial General (CG), Office General (OG), and Office Regional (OR) zoning districts, allow tattoo establishments as a ministerial use subject to standards for specific land uses, and require a 1,000-foot buffer between other tattoo establishments, a 500-foot buffer between schools, parks, and playgrounds, and a 500-foot buffer from residential structures or uses including residential uses in mixed-use zoning districts. Staff proposes operating hours of 10 a.m. to 10 p.m.; a requirement for a security camera system; screening tattoo artists while they work; prohibition of outdoor seating/waiting areas and alcohol and marijuana use; noise, signs, and parking be subject to NBMC standards; and a requirement for tattoo establishments to comply with all applicable State, County, and City health regulations. Staff sent notice of the public hearing to the property owners and business operators for the five existing tattoo establishments. If the proposed amendments are adopted, the five existing tattoo establishments will become legal non-conforming uses. Staff recommends adoption of the two proposed resolutions as amended by a memorandum distributed earlier in the day.

In reply to Commissioner Klaustermeier's inquiry, Principal Planner Schneider noted owners of the existing tattoo establishments may sell their businesses, and the establishments may continue to operate under a new owner because entitlements run with the land. If the businesses are vacant for 180 days, the owners lose their vested right in the business.

In response to Commissioner Koetting's questions, Principal Planner Schneider indicated the expansion of a non-conforming use requires a conditional use permit. The existing tattoo establishments would have to amend their conditional use permits to expand the business. Based on ordinances implemented in other jurisdictions after the legal decisions, the buffer distances seem to be best practices. The City has to provide viable sites for tattoo establishments in order to preserve the First Amendment right. The buffer distances may be increased or decreased. An increase or decrease will affect the areas of the City where tattoo establishments may locate. Assistant City Attorney Yolanda Summerhill advised that a 1,000-foot buffer is probably sufficient to address the secondary impacts of tattoo establishments.

In answer to Secretary Kleiman's queries, Principal Planner Schneider indicated the Planning Commission has the discretion to call for a review of businesses with conditional use permits. Staff relies on Code Enforcement officers and the Police Department to refer businesses for review. Staff has not received any referrals. Community Development Director Seimone Jurjis added that staff will investigate the calls for service for the establishment located at 2611 Newport Boulevard and, if warranted, place an item on the Planning Commission's agenda. Principal Planner Schneider reported CG, OG, and OR zones allow medical and dental uses by right. The Office Medical zone is located primarily around Hoag Hospital, but the buffer from residential uses would preclude tattoo establishments in that zone. A combination of zones could reduce the areas in which tattoo establishments may locate, which raises a legal question of whether the City is providing sufficient viable sites. Staff proposed the hours of operation based on hours of operation allowed for the existing tattoo establishments and in other jurisdictions. Assistant City Attorney Summerhill indicated staff will review the hours that calls for service were made.

Secretary Kleiman did not believe the proposed buffer between tattoo establishments and schools is sufficient. Restricting tattoo establishments to daytime hours will likely reduce their negative secondary effects.

Vice Chair Lowrey related his review of ordinances and concerns in other jurisdictions. Riverside prohibited tattoo establishments within 500 feet of any business that sells alcohol. Treating future tattoo establishments as medical offices may balance Constitutional issues with concerns. Taking a couple of weeks to consider the methods that other jurisdictions utilized to address legal issues is a good idea.

Assistant City Attorney Summerhill noted the Private Institutional zone, where many medical uses are located, has the same classification as private schools. Staff may have to create a new subcategory for tattoo establishments. Staff's proposed buffers are more restrictive than those implemented in Oceanside.

Secretary Kleiman clarified that tattoo establishments do not have to be associated with medical or private institution uses, but their hours of operation should be similar to those of a medical use.

Assistant City Attorney Summerhill interpreted Secretary Kleiman's comments as staff is to analyze medical zones and properties zoned for medical-type uses. She requested Commissioners review operational standards and ensure the standards are consistent with Commissioners' wishes.

Secretary Kleiman wanted to hear from the Police Department as to their experiences with existing tattoo establishments so that the Commission can address concerns.

In answer to Commissioner Rosene's query, Deputy Community Development Director Campbell indicated staff provided a map of potential locations for tattoo establishments based on proposed standards. Staff can explore buffers for daycares, preschools, and alcohol uses. The area for tattoo establishments gets smaller as more separation standards are imposed. Most medical uses have daytime office hours, not because of regulations but because of owners' preferences. Perhaps staff can create business-friendly daytime hours of operation for tattoo establishments. The City needs to avoid eliminating all areas where tattoo establishments can locate.

Chair Weigand stated he originally thought 10 p.m. was too early for tattoo establishments to close. After some internet research, he learned that 10 p.m. is an appropriate closing time. People want to visit tattoo establishments that are not located in medical areas. Therefore, requiring tattoo establishments to locate in medical areas is too restrictive. In response to his questions, Principal Planner Schneider related that more than one tattoo establishment could conceivably locate in the Irvine Avenue area, but that scenario is not likely. Zoning is fluid and can become more or less restrictive based on residential zoning changes. As proposed, tattoo establishments may locate in only one or two sites. Chair Weigand concurred with obtaining clarification of the calls for service and proposed restricting tattoo establishments to operating by appointment only. It is important not to restrict the sites so severely that a lawsuit arises as a result. Perhaps somebody from the industry could present the industry's viewpoint at the next Commission discussion.

In reply to Vice Chair Lowrey's inquiry, Assistant City Attorney Summerhill reported the Planning Commission cannot call for review a permit approved ministerially.

In answer to Chair Weigand's query, Community Development Director Jurjis indicated the Commission can call for review the existing tattoo establishments.

Chair Weigand opened and closed the public hearing with no public comment.

In response to Commissioner Rosene's question, Principal Planner Schneider explained that the Zoning Administrator's decision is discretionary and may be appealed to the Planning Commission. The proposed code would establish a ministerial permit process. If an application for a new tattoo establishment meets objective standards, the permit would be approved by staff and issued. Ministerial decisions are not appealable to the Planning Commission.

Motion made by Commissioner Ellmore and seconded by Secretary Kleiman to continue the item to a date uncertain.

AYES: Ellmore, Klaustermeier, Koetting, Rosene, Kleiman, Lowery, Weigand

NOES:
RECUSED:
ABSENT:

X. DISCUSSION ITEMS

**ITEM NO. 6 DIRECTOR'S INTERPRETATION FOR ACCESSORY RESIDENTIAL USES ASSOCIATED WITH HOTELS (PA2021-096)
Site Location: Citywide**

Summary:

The Community Development Director has issued a determination that residential uses are allowable as an accessory use to resort hotels under certain parameters. This determination is consistent with City Council Policy K-4 (Reducing the Barriers to the Creation of Housing).

Recommended Action: Receive and file.

Community Development Director Jurjis reported the item is presented to the Planning Commission in order to provide transparency for the Planning Commission and community. Local travel is returning, but international and group travel will return over many years. Business travel is questionable due to the use of virtual meetings. To support the hotel industry, the Council adopted Policy K-4 that covers accessory dwelling units (ADU), mixed-use, and resort hotels. The Director's Determination looks at the conversion of hotel units, a maximum of 30 percent on a one-to-one basis to residential units. The Determination does not trigger Section 423 but recognizes a land use. Residential can be an accessory use to a resort hotel. Limiting conversion to a maximum of 30 percent of units preserves the primary use as a hotel.

In answer to Commissioner Rosene's inquiries, Community Development Director Jurjis advised that a hotel can increase or decrease a room's size. The Determination does not focus on floor area. Trip count is a sensitive issue, and a one-to-one conversion does not increase the trip count. The conversion is tied to room count. The Determination also applies to the demolition and rebuilding of hotel units.

Jim Mosher did not understand how the Director made the Determination of what has or does not have resort-like qualities. One-third of a hotel could be demolished and replaced with a completely residential building. The Determination seems to be inconsistent with Greenlight, the General Plan, and history. Council Policy K-4 is inconsistent with Policy A-18.

In reply to Commissioner Koetting's query, Community Development Director Jurjis indicated the units may be sold or leased but not time shared.

In response to Commissioner Ellmore's questions, Community Development Director Jurjis indicated the Director's Determination is consistent with Council policy. Section 423 specifically relates to General Plan amendments.

Chair Weigand stated the Director's Determination helps the hotel industry, provides housing, and creates funding that can be used for homeless programs, transitional housing, or affordable housing.

XI. STAFF AND COMMISSIONER ITEMS

ITEM NO. 7 MOTION FOR RECONSIDERATION

None

ITEM NO. 8 REPORT BY THE COMMUNITY DEVELOPMENT DIRECTOR OR REQUEST FOR MATTERS WHICH A PLANNING COMMISSION MEMBER WOULD LIKE PLACED ON A FUTURE AGENDA.

Deputy Community Development Director Campbell reported the City Council reviewed the draft Housing Element in a study session and directed staff to increase the number of ADUs and adjust the density and

distribution of units throughout the community. Staff will present a revised draft Housing Element at a public workshop and a Council meeting in July.

In response to Chair Weigand's inquiries, Deputy Community Development Director Campbell indicated the City Council held a public hearing on the mixed-use project located at 2510 Coast Highway and asked the applicant to consider redesigning the project. The item will likely return to the Council in June for final consideration. The applicant may present a redesign of the project. At the current time, staff intends to leave the project at the Council level. Staff will provide notice to the community so that the community may review changes to the project, if and when changes are submitted.

ITEM NO. 9 REQUESTS FOR EXCUSED ABSENCES

None

X. ADJOURNMENT – 9:27 p.m.

The agenda for the May 6, 2021, Planning Commission meeting was posted on Friday, April 30, 2021, at 3:25 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, April 30, 2021, at 3:15 p.m.

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Erik Weigand, Chairman

DocuSigned by:



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Lauren Kleiman, Secretary