

RESOLUTION NO. 1920

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING MASTER SITE DEVELOPMENT REVIEW NO. SD2013-002 FOR THE 25.05 ACRE PLANNED COMMUNITY KNOWN AS UPTOWN NEWPORT LOCATED AT 4311-4321 JAMBOREE ROAD (PA2013-129)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

- A. An application was filed by Uptown Newport LP (“Uptown Newport” or “Applicant”) with respect to a 25.05-acre property generally located on the north side of Jamboree Road between Birch Street and the intersection of Von Karman Avenue and MacArthur Boulevard, legally described on Exhibit A, which is attached hereto and incorporated herein by reference (the “Property”), requesting approval of the Master Site Development Review (MSDR) application for the development of up to 1,244 residential dwelling units, 11,500 square feet of retail commercial uses, and 2.05 acres of parklands (the “Project”).
- B. The Property has a General Plan designation of Mixed-Use District Horizontal-2 (MU-H2), and is zoned Uptown Newport Planned Community (PC-58) District.
- C. On February 26, 2013, the City Council certified the Uptown Newport Final Environmental Impact Report No. ER2012-001 (SCH No. 2010051094) and approved the following entitlement applications for the Project:
 1. Planned Community Development Plan Amendment No. PD2011-003: An amendment to Planned Community Development Plan #15 (Koll Center Planned Community) to remove the subject property from the Koll Center Planned Community, pursuant to Chapter 20.66 (Amendments) of the Municipal Code.
 2. Planned Community Development Plan Adoption No. PC2012-001: A Planned Community Development Plan (PCDP) adoption to establish the allowable land uses, general development regulations, and implementation and administrative procedures, which would serve as the zoning document for the construction of up to 1,244 residential units, 11,500 square feet of retail commercial, and 2.05 acres of park space to be built in two (2) separate phases on a 25.05-acre site, pursuant to Chapter 20.56 of the Municipal Code. The PCDP has three (3) components: 1) Land Uses, Development Standards & Procedures; 2) Phasing Plan; and 3) Design Guidelines.
 3. Tentative Tract Map No. NT2012-002: A tentative tract map to establish lots for residential development purposes pursuant to Title 19 of the Municipal Code.

4. Traffic Study No. TS2012-005: A traffic study pursuant to Chapter 15.40 (Traffic Phasing Ordinance) of the Municipal Code.
 5. Affordable Housing Implementation Plan No. AH2012-001: A program specifying how the proposed project would meet the City's affordable housing requirements, pursuant to Chapter 19.53 (Inclusionary Housing) and Chapter 20.32 (Density Bonus) of the Municipal Code.
 6. Development Agreement No. DA2012-003 (adopted on March 12, 2013): A Development Agreement between the applicant and the City of Newport Beach describing development rights and public benefits, pursuant to Section 15.45.020.A.2.a of the Municipal Code and General Plan Land Use Policy LU6.15.12.
- D. Public hearings were held on August 22 and September 5, 2013, in the City Hall Council Chambers, at 100 Civic Center Drive, Newport Beach, California. Public notices of the time, place, and purpose of the aforesaid meetings were provided in accordance with the Newport Beach Municipal Code ("NBMC"). The staff reports, and evidence, both written and oral, were presented to and considered by the Planning Commission at the scheduled hearings.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

- A. All significant environmental effects for the PCDP have been adequately addressed in the previously certified Environmental Impact Report No. ER2012-001 (SCH No. 2010051094) ("EIR"), which included a mitigation, monitoring and reporting program and statement of overriding considerations, and the City of Newport Beach intends to use said document for the approval of the subject MSDR application and its implementation. Copies of the previously prepared environmental document are available for public review and inspection at the Planning Division or at the City of Newport Beach website at www.newportbeachca.gov/ceqadocuments.
- B. The MSDR application is a subsequent application required by the PCDP in order to ensure that the subject property is developed consistent with the previously approved entitlements identified above.
- C. None of the conditions described in Section 15162 of the CEQA Guidelines calling for preparation of a subsequent or supplemental EIR have occurred, and the MSDR application and its implementation do not require changes or additions to the EIR pursuant to Section 15164 of the CEQA Guidelines.
- D. No new effects would occur, nor would a substantial increase in the severity of previously identified significant effects occur as the result of this approval as the MSDR application identifies the same previously approved project with refined detailed drawings, no increase in intensity, and no changes to the development standards.

- E. There are no additional reasonable alternatives or mitigation measures that should be considered in conjunction with the MSDR application or its implementation.
- F. The Planning Commission finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial challenge, and bear the responsibility for any costs, attorneys' fees and damages which may be awarded to a successful challenger.

SECTION 3. FINDINGS.

In accordance with Section 4.1 of the Land Uses, Development Standards and Procedures (LUDSP) of the PCDP, the purpose of the Master Site Development Review is to ensure that the Uptown Newport Project is developed consistent with the PCDP, Development Agreement, applicable environmental mitigation measures, and applicable City Codes and standards. The following consistency findings and facts in support of the MSDR application are set forth:

Finding

- A. *The MSDR application is in compliance with the provisions of the Land Uses, Development Standards and Procedures of the PCDP.*

Fact in Support of Finding

- A1. The LUDSP provides for a maximum height of 75 feet for low-rise and mid-rise buildings and a maximum height of 150 feet for high-rise portions of buildings. The proposed prototypical building elevations are in compliance with these height restrictions.
- A2. Section 3.3 of the LUDSP identifies a network of streets centered around the internal Spine Street and traffic roundabout, and Section 3.4 allows for parking along internal streets and within integrated structured parking. The proposed MSDR plans depict street improvements for both phases that establish clear and convenient access to individual development parcels, structured parking entrances, and street parking consistent with the Master Site Plan of the PCDP and Tentative Tract Map No. 17438. The MSDR plans also emphasize pedestrian connectivity, paseos, public open space, and accessibility as required by the PCDP.
- A3. Section 3.7 of the LUDSP requires public parks, on-site recreational amenities and open space. The MSDR plans identify areas for residential amenities, open space and balconies throughout the project consistent with this requirement.

Finding

- B. *The MSDR application is consistent with the Phasing Plan of the PCDP.*

Fact in Support of Finding

- B1. The MSDR application includes Phase 1 and 2 development plans that are consistent with the Phasing Plan of the PCDP. Each plan set contained landscape plans, wall and fence plans, lighting plans, signage plans, and civil engineering plans designed considering the phased nature of the project. The prototypical architectural building elevations for Phase 1 and for Phase 2 are illustrated in the Phase 1 plan set.
- C. *The MSDR application is consistent with the Design Guidelines of the PCDP.*

Fact in Support of Finding

- C1. The MSDR plans depict the ten framework principles identified in the Design Guidelines: (1) a distinct high-density, mixed-use residential village; (2) a legible internal roadway circulation with ample access to all portions of the site; (3) a sequence of spaces promoting clear way-finding; (4) incorporation of neighborhood-serving ground-level retail uses; (5) creation of neighborhood public park space as a principal focus for the village; (6) housing opportunities to serve the needs of residents; (7) pedestrian orientation with pedestrian-scaled streets and greenbelts that break up large blocks and provide connectivity; (8) on-street parking; (9) architectural massing that provides variety and interest with spatial definition along internal streets and pedestrian scale elements; and (10) establishment of a landscape character that unifies and enhances streets, paseos, and other components of the public realm.
- C2. The proposed prototypical architectural building elevations identify a distinct multi-family residential village with residential stoops, balconies, and retail storefronts. Sheets A1-A8 of the Phase 1 plan set demonstrate the architectural design/theme for the entire project that will guide the preparation of Phase 2 plans to ensure consistent designs between the phases. A variety of colors, materials and architectural character are also shown on the building elevation plans. The Jamboree Road frontage contains building height variations and major and minor massing breaks in accordance with Section 3.3.3 of the Design Guidelines. The provided massing breaks avoid continuous uninterrupted building planes and provide shade and shadow.
- C3. The Phase 1 and Phase 2 street improvement and landscape plans are consistent with pedestrian connectivity and circulation goals and connect residential buildings with the on-site retail, parks, and off-site adjacencies.
- C4. The landscaping unifies and enhances the project design, and incorporates plants that adhere to the City's low water use standards consistent with the City's drought tolerant/water efficient landscape ordinance.
- C5. The MSDR plans depict a distinct, high-density, mixed-use village that incorporates various styles, materials, colors, and heights providing Architectural interest

expressing a high quality environment consistent with the Design Guidelines of the PCDP. Massing breaks avoid uninterrupted building planes and highlight the efficient arrangement of the on-site structures and their relationship to adjacent developments.

- C6. Section 2.2.1 of the Design Guidelines identifies Master Site Improvements including site preparation, backbone storm drainage, sanitary sewer systems, reclaimed water distribution systems, street improvements, fencing and walls, park improvements, landscape improvements, streetlight and lighting improvements, dry utilities and master community signage. As stated above, the MSDR application identifies project specific details and certain Master Site Improvements, including preliminary grading plans, preliminary street improvements plans, fencing and wall details, and landscape improvement plans.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

- A. The Planning Commission of the City of Newport Beach hereby approves Master Site Development Review No. SD2013-002, subject to the conditions set forth in Exhibit B, which is attached hereto and incorporated by reference.
- B. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 5th DAY OF SEPTEMBER, 2013.

AYES: Ameri, Brown, Hillgren, Kramer, Myers, and Tucker

NOES: None

ABSTAIN: None

ABSENT: None

RECUSAL: Lawler

BY: 
Bradley Hillgren, Chairman

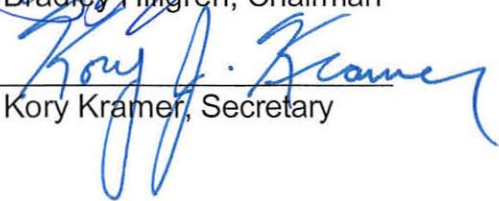
BY: 
Kory Kramer, Secretary

EXHIBIT A
LEGAL DESCRIPTION

Being a subdivision of Lots 1 and 2 of Tract No. 7953, in the City of Newport Beach, County of Orange, State of California, as shown on a map recorded in Book 310, Pages 7 to 11 inclusive, of Miscellaneous Maps, recorded of said County.

EXHIBIT B
CONDITIONS OF APPROVAL

MASTER SITE DEVELOPMENT REVIEW NO. SD2013-002

Planning Division Conditions

1. The expiration date of Master Site Development Review No. SD2013-002 shall be consistent with the term of Development Agreement No. DA2012-003 (the "Development Agreement").
2. Any substantial modification to the approved Master Site Development Review plans, as determined by the Community Development Director, shall require an amendment to this Master Site Development Review application or the processing of a new application.
3. The final design of two (2), one-acre neighborhood public parks shall be consistent with Master Site Development Review No. SD2013-002 and subject to the review and approval of the City of Newport Beach Parks Beach and Recreation Commission.
4. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the property owner or the leasing agent.
5. To the fullest extent permitted by law, the applicant shall indemnify, defend and hold harmless the City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to the City's approval of the Uptown Newport project including, but not limited to, the approval of the Master Site Development Review No. SD2013-002. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand, from time to time, any amount owed to the City pursuant to the indemnification requirements prescribed in this condition. The provisions herein shall not apply to the extent such damage, liability or claim is caused by the willful misconduct or sole active negligence of the City or the City's officers, officials, agents, employees, or representatives.

Fire Department Conditions

6. Emergency access roads shall be 26 feet wide within 30 feet of a fire hydrant (both sides of hydrant) with no vehicle parking allowed in the 30 feet.
7. Fire hydrant locations shall be determined based on the spacing and fire flow requirements.
8. A separate fire flow plan shall be required for each future building structure.
9. Fire lane marking and fire sign heights shall be provided as per Newport Beach Guideline C.02.

Public Works Conditions

10. Prior to commencement of demolition and grading of Phases 1 and 2 of the project, the applicant shall submit a construction management and delivery plan for each phase separately to be reviewed and approved by the Public Works Department. The plan shall include discussion of the overall project phasing; parking arrangements for the site during construction; anticipated haul routes and construction mitigation. Upon approval of the plan, the applicant shall be responsible for implementing and complying with the stipulations set forth in the approved plan.
11. Traffic control and truck route plans for Phases 1 and 2 shall be reviewed and approved by the Public Works Department before their implementation. Large construction vehicles shall not be permitted to travel narrow streets as determined by the Public Works Department. Disruption caused by construction work along roadways and by movement of construction vehicles shall be minimized by proper use of traffic control equipment and flagman.
12. All improvements shall comply with the City's sight distance requirement per City Standard 100-L.
13. All traffic related signage shall be a minimum of 7 feet in height, measured from the bottom of sign.
14. All handicap parking stalls and loading zones shall be per current ADA requirements. Path of travel shall be shown on plan and minimum of 48 inches clearance per ADA. Ramps required at tops of loading zones. All handicap stalls shall be located at the ends of aisle, not in the center, of angled parking.