CITY OF NEWPORT BEACH PLANNING COMMISSION MINUTES
Council Chambers – 100 Civic Center Drive
Thursday, May 9, 2013
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 Brown

III. ROLL CALL

PRESENT: Ameri, Brown, Hillgren, Toerge, and Tucker

ABSENT (EXCUSED): Kramer (arrived 7:36 p.m.) and Myers

Staff Present: Brenda Wisneski, Deputy Community Development Director; Leonie Mulvihill, Assistant City Attorney; Marlene Burns, Administrative Assistant; and Patrick Alford, Planning Manager

IV. PUBLIC COMMENTS

Chair Toerge invited those interested in addressing the Commission to do so at this time.

Jim Mosher commented on the Housing Element considered at the last Planning Commission meeting, noting that the Commission found several problems with the document and that Commissioner Tucker's motion at the time was to approve it, subject to everyone sending in written comments to staff to incorporate into the presentation to Council. He noted that references to the Government Code related to "Greenlight" restrictions are out of date and the language needs to be clarified. He reported that although the Commission found no substantive problems with the document, there were a number of details that needed correction/clarification.

There being no others wishing to address the Commission, Chair Toerge closed the Public Comments portion of the meeting.

V. REQUEST FOR CONTINUANCES - None

VI. CONSENT ITEMS

ITEM NO. 1 MINUTES OF APRIL 18, 2013

Chair Toerge noted that Mr. Mosher submitted written suggestions for changes to the minutes as well as Commissioner Tucker.

Interested parties were invited to address the Planning Commission on this item.

Jim Mosher noted additional corrections to the minutes. He stressed the importance of speaking clearly and ensuring that the microphone is on and suggested retaining speaker cards for the correct spelling of speakers' names and the timing marks within the minutes.

Motion made by Commissioner Tucker and seconded by Commissioner Brown and carried (5 – 2), to approve the minutes of April 18, 2013, as corrected.

AYES: Ameri, Brown, Hillgren, Toerge, and Tucker
NOES: None
ABSTENTIONS: None
ABSENT (EXCUSED): Kramer and Myers

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VII. OTHER BUSINESS

ITEM NO. 2 RESIDENTIAL LOT MERGER CODE AMENDMENT - (PA2012-102)
Site Location: City of Newport Beach

Planning Manager Patrick Alford provided a presentation addressing previous consideration by the Commission and Council, as well as direction by Council to return the item to the Planning Commission for further consideration. He reported that lot mergers decrease side setback areas and potentially increase the allowed floor area. He noted the number of lot merger applications submitted per year and addressed previous locations, types of lot mergers, clarification of "substandard" lots, nonconforming lots, the need to maintain the character of the community, the potential for unintended consequences, and increasing buildable square footage because of losing side setbacks. He presented examples of different lot mergers and floor area analyses based on typical lot sizes and buildable areas.

Mr. Alford presented a review of current standards and reported that General Plan policies do not necessarily apply to lot mergers, but rather, to residential development in general. He addressed related General Plan policies and applicable Zoning Code provisions as well as design criteria.

Mr. Alford addressed minimum and maximum lot sizes, ensuring that lots are consistent with surrounding areas and potential approaches in considering lot mergers. He presented options for the Commission to consider including applying standards to specific areas or city-wide.

Discussion followed regarding avoiding efforts to restrict lot mergers, the need to define "excessively large lots" as well as compatibility with surrounding developments, the possibility of exempting substandard lots, and establishing an incremental process up to a limit.

Chair Toerge suggested broadening the subjective language regarding the definition of excessively large lots and surrounding neighborhoods. He stated that there could potentially be a large lot merger that would be detrimental to a smaller adjacent lot.

Commissioner Tucker commented on eliminating setbacks resulting in larger floor and buildable areas, a previous lot merger action, considering scale and the need to define the surrounding pattern of development and excessively large lots. He indicated that it might be preferable to have the ambiguity that exists currently in order to maintain flexibility and stated that he is unsure as to whether there is an issue other than consideration of total floor area.

Chair Toerge indicated he does not think there is a need to re-write the ordinance, addressed the need to understand the Code and questioned if there is a way to add weight to the impacts to adjacent properties versus the entire neighborhood.

Discussion followed regarding Council being the policy-making body and challenges with ascertaining Council's position.

Commissioner Brown felt that the issue comes down to the view and not as much as the size of a house adding that the Commission does not have the purview to enforce private views and wondered if a problem is not being sought for a solution. He addressed the frequency of the issue and agreed with the need to maintain flexibility by not having a lot of regulation and by assessing applications on a one-by-one basis.

Vice Chair Hillgren stated that the overarching goals and policies drive the matter and addressed protections for the applicants and their development rights, neighboring properties and the neighborhood. He commented on varying opinions and stated the need for clear definition such as the nature of the community the City is trying to protect. He stressed the need to establish a relative norm within each defined area (neighborhood, community, etc.) and determine its nature before planning criteria can be set.

Chair Toerge felt that issue of setback and how it might grow and expand has not been addressed satisfactorily; commented on varying setbacks, depending on lot sizes and stated that is the direction he

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would like to see the Commission give to staff. He suggested trying to clear the ambiguity and giving consideration to giving more weight to closer-in properties or defining the pattern of development. Chair Toerge did not believe that radical changes will be made to the ordinance that will render it a problem to any areas in the City. He recommended limiting the floor-area-ratio, increasing setbacks on a scale-basis up to five (5) feet and clearing the ambiguity.

Commissioner Ameri agreed with the Chair's direction regarding the setback and noted its importance. He commented on the difficulty of defining a community and felt that it is not needed.

Vice Chair Hillgren felt that there is a rhythm to a pattern of development and addressed cases where more than two lots are being merged and neighboring properties are being affected.

Chair Toerge agreed that it may be another issue that could be addressed. He encouraged staff to try to generate language to develop a better solution.

Commissioner Tucker reported on a conversation with Council Member Selich and his opinion regarding setbacks and allowing the applicant to decide on the configuration.

Chair Toerge commented on the possibility of a hybrid concept regarding setbacks.

Commissioner Ameri stated that he has never designed a subdivision with a sixty-foot lot and three-foot setbacks. He expressed concerns that the discussion will get into too much detail and commented on the need to leave it to the market in terms of a demand for certain configurations and cautioned against over-regulating.

Commissioner Brown reiterated the importance of maintaining flexibility.

Interested parties were invited to address the Planning Commission on this matter.

Jim Mosher commented on how the issue was returned to the Planning Commission. He stated that additional details can complicate things, addressed different types of lots in the City and felt that some ambiguity may be good.

There being no others wishing to address the Planning Commission, Chair Toerge closed public comments for this item.

Commissioner Kramer arrived at this juncture (7:36 p.m.).

Deputy Community Development Director Brenda Wisneski clarified direction relative to substandard lots and reported that the matter will return to the Planning Commission at its first meeting in June.

Discussion followed regarding scale, street-facing elevations, protecting property owners' development rights, considering four-sided architecture and impacts on adjacent properties, suggesting alternatives for Council to consider while providing further direction, dealing with mergers of three (3) or more lots and corner lots.

Ensuing discussion pertained to clarifying direction to staff including setting setback requirements as a percentage of the lot width, defining terms as discussed above, exempting substandard lots and considering instances of mergers of three (3) or more lots.

VIII. STAFF AND COMMISSIONER ITEMS

ITEM NO. 3 MOTION FOR RECONSIDERATION - None

ITEM NO. 4 COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

Deputy Community Development Director Wisneski reported that the City and the Planning Commission received two (2) awards from the American Planning Association. The Outstanding Planning Award was

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presented for the Newport Banning Ranch Project and the other was for the community engagement for the Neighborhood Revitalization Program.

Assistant City Attorney Leonie Mulvihill provided an update on the ruling by the Orange County Court on the CEQA challenge to the Ocean Boulevard lot merger and noted that the Court agreed with the City and especially noted how thoroughly the Planning Commission, City Council, and staff considered the issues.

ITEM NO. 5 ANNOUNCEMENTS ON MATTERS THAT THE PLANNING COMMISSION MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR REPORT

ITEM NO. 6 REQUESTS FOR EXCUSED ABSENCES

Vice Chair Hillgren, Commissioner Brown, and Commissioner Kramer noted that they will be absent the first Planning Commission meeting in June.

Chair Toerge noted that the Planning Commission meeting of May 23, 2013, will be canceled.

IX. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 8:01 p.m.

The agenda for the Regular Meeting was posted on May 3, 2013, at 10:30 a.m., on the City Hall Bulletin Board located in the entrance of the Council Chambers at 100 Civic Center Drive.

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Michael Toerge, Chairman

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Fred Ameri, Secretary

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