

The Zoning Administrator noted a few corrections to be made in the resolution and then took action to approve Parcel Map No. NP2013-016.

Action: Approved

ITEM NO. 3 Annual Review of Fletcher Jones Motorcars Development Agreement (PA2009-052)
3300 Jamboree Road Council District 3

Fern Nueno, Associate Planner, provided a brief project description stating that the Fletcher Jones Development Agreement ("DA") was approved in 1995, the obligations under the DA, and the Municipal Code requirement to periodically review development agreements to determine if the applicant has complied with the terms of the agreement. Ms. Nueno stated that during the 2009 review, the City Council found that all of the conditions of the DA had been met and in the previous two reviews, the City Council found Fletcher Jones Motorcars to be in good faith compliance with the DA. Ms. Nueno stated the staff recommendation and introduced the applicant, Carol McDermott, representing Fletcher Jones Motorcars.

Zoning Administrator Alford opened the public hearing.

Carol McDermott stated that the applicant and the City have had a good partnership over the years and that Fletcher Jones has done its best to meet all requirements and has worked with their neighbors to resolve any issues.

One member of the public, Jim Mosher, spoke regarding the timing of the reviews required within the DA and state law. Mr. Mosher had two questions regarding complaints and annual fees for the encroachment permit for the use of Bayview Way.

Ms. Nueno stated that no official complaints were received since the last review. The applicant stated that they are informed when any issues arise and work to resolve them.

Ms. Nueno stated that an encroachment permit was approved and paid for initially and there is no annual fee associated with the permit. The applicant paid for the extension of the street and other associated costs.

Zoning Administrator Alford asked if the street agreement was part of the DA or a standalone encroachment permit. The applicant stated that the items were separate. Mr. Alford expressed that the encroachment permit is not subject to the issue at hand and encouraged Mr. Mosher to discuss this with staff in a separate forum. Ms. Nueno clarified that the encroachment agreement is not part of the DA, but the extension of Bayview Way was addressed within the DA and the applicant is in compliance.

There were no other public comments and the public hearing was closed.

The Zoning Administrator took the recommended action.

Action: The Zoning Administrator found the review categorically exempt from CEQA pursuant to Class 21, found that the applicant has demonstrated good faith compliance with the terms of the Development Agreement, and received and filed the Annual Report.

ITEM NO. 4 Annual Review of Development Agreement for Newport Harbor Lutheran Church
(PA2009-137)
798 Dover Drive Council District 3

Fern Nueno, Associate Planner, provided a brief project description stating that the Newport Harbor Lutheran Church Development Agreement ("DA") was approved in 1997, all terms and conditions of the Development Agreement have been implemented or met with the exception of the church expansion, the church is approximately 14,000 square feet and the remaining entitlement is approximately 26,000 square

feet. Ms. Nueno further stated that at the last review in 2012, the City Council found the applicant to be in good faith compliance with the DA and since the last DA review, construction of three temporary classrooms totaling 2,880 square feet has been completed. The church is deciding whether they want to use the remaining entitlement to develop permanent facilities.

In response to a question from Zoning Administrator Alford, Ms. Nueno stated that the building permit for the temporary structures were finalized so any remaining issues have been resolved.

Zoning Administrator Alford opened the public hearing.

One member of the public, Jim Mosher, provided comments regarding signage and temporary banners, plant growth over the bench, the new tower constructed to house telecommunication equipment, and questioned where and how the remaining entitlement could be built.

Mr. Alford asked for clarification on how Mr. Mosher's questions related to the terms of the DA and whether this would change staff's conclusion and recommended action. Mr. Mosher restated his question regarding the development of the site.

Ms. Nueno stated that the DA established the development limit, but the development standards are addressed in a separate review document and process.

Mr. Alford stated and Ms. Nueno confirmed that the remaining questions are not directly related to the DA review and could be addressed with staff in a separate forum. In response to a question from Zoning Administrator Alford, Ms. Nueno confirmed that the items brought up in public comments do not change staff's recommended action.

There were no other public comments and the public hearing was closed.

The Zoning Administrator took the recommended action.

Action: The Zoning Administrator found the review categorically exempt from CEQA pursuant to Class 21, found that the applicant has demonstrated good faith compliance with the terms of the Development Agreement, and received and filed the Annual Report.

ITEM NO. 5 Koll Center Ground Signs Modification Permit No. MD2013-004 (PA2013-047)
4000, 4040, 4100, 4110, 4400, 4500, 4590 MacArthur Boulevard; 4200, 4220, 4320, 4340, 4343, 4350, 4440, 4490 Von Karman Avenue; 4900, 4910, 5000 Birch Street
Council District 3

Jason Van Patten, Planning Technician, provided a brief project description stating that the project amended previously approved Modification Permit No. MD2006-026, which permitted an increase in sign height associated with 11 ground signs in the Koll Center Planned Community.

He stated that the applicant was requesting to further increase the height of three previously approved signs, and construct two new signs along the MacArthur Boulevard street frontage. Mr. Van Patten indicated sign heights were proposed at 8 feet and clarified that the staff report incorrectly listed a sign height of 8 feet 9 inches. He stated that an increase in sign height was necessary given pedestrian, bicycle, and utility easements along the MacArthur Boulevard, Jamboree Road, and Birch Street frontages that required signs to be set back further from the right-of-way. He added that an increase in sign height would provide enhanced visibility to traffic which typically travels at high rates of speed along the street frontages.

Applicant Adam Burrows of JB3D, on behalf of the property owner, stated that he had reviewed the draft resolution and the required conditions.

the Code citation typographical error. The Zoning Administrator then moved to approve the revised Draft Resolution approving Modification No. MD2013-011.

Action: Approved

D. PUBLIC COMMENTS ON NON-AGENDA ITEMS

None.

ADJOURNMENT

The hearing was adjourned at 4:19 p.m.

The agenda for the Zoning Administrator Hearing was posted on August 23, 2013, at 2:25 p.m. in the Chambers binder and 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 August 23, 2013, at 2:15 p.m.

Patrick J. Alford
Zoning Administrator

DRAFT

Sept. 12, 2013, Zoning Administrator Agenda Comments

Comments submitted by: Jim Mosher (jimmosher@yahoo.com), 2210 Private Road, Newport Beach 92660 (949-548-6229)

Suggested corrections to passages in *italics* are shown in ~~strikeout~~ underline format.

Item C: Minutes of August 29, 2013

Page 4, Item No. 6, paragraph 2: The staff report identified the applicant as “*Architectural Design & Signs*.” I am guessing “*Applicant Milton*” was representing “**AD**/S Companies” rather than “**AC**/S Companies,” so I would suggest changing “D” to “C”. I would also guess “*Applicant Milton*” might have been the “Milton Solomon” listed as a founding partner on the company history page at http://www.ad-s.com/site/history_ds.html .

~~**Item 1. Mitchell Residence Condominium Conversion (PA2013-126)**~~

Regarding the Draft Resolution (Attachment ZA 1):

1. Section 2. (California Environmental Quality Act Determination): There is a section of the Class 1 CEQA exemption which seems more appropriate to the conversion of an existing structure, namely CEQA Guidelines Section 15301(k): “*Division of existing multiple family or single-family residences into common-interest ownership and subdivision of existing commercial or industrial buildings, where no physical changes occur which are not otherwise exempt.*”
2. Section 3:
 - a. Line 3: “... *the following ~~finding is~~ findings are set forth.*”
 - b. Page 5, Facts in Support of Finding C-1: see CEQA note, above, for more appropriate fact.
 - c. Page 7, Finding K:
 - i. Per the California Supreme Court Case of *Pacific Palisades Bowl Mobile Estates, LLC v_ City of Los Angeles*, [55 Cal.4th 783](#) (2012), any action in the Coastal Zone implicating the Subdivision Map Act is “development” as defined in the Coastal Act.
 - ii. In the absence of a certified Local Coastal Program, the City lacks the authority to determine the consistency of that development with the Coastal Act.
3. Section 4: the draft resolution appears to set an effective date for the “*Condominium Conversion action,*” but by implication not for the Parcel Map action. Is something missing?
4. Exhibit “A” (Conditions of Approval):
 - a. Condition 4 refers to “*construction*” but the staff report and resolution suggest the proposed action requires no construction, since the units are already built to “*condominium standards*” (page 4, Fact A-1).