

RESOLUTION NO. 2018-038

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA ANA APPROVING APPEAL NO. 2017-05 AND REVERSING THE PLANNING COMMISSION'S DENIAL OF SITE PLAN REVIEW NO. 2016-03, VARIANCE NO. 2017-05 FOR A REDUCTION IN PARKING, AND VARIANCE 2017-06 FOR THE INCREASED SIDE YARD SETBACK, AS CONDITIONED, FOR THE DEVELOPMENT OF THE PROPERTY LOCATED AT 200 NORTH CABRILLO PARK DRIVE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SANTA ANA AS FOLLOWS:

Section 1. The City Council of the City of Santa Ana hereby finds, determines and declares as follows:

A. Robert Bisno with Cabrillo Community Partners, LLC (hereinafter referred to as "Applicant") is requesting approval of Site Plan Review No. 2016-03, and Variance No. 2017-05 and Variance No. 2017-06, to allow the construction of a seven-story mixed-use development with up to 260 units at 200 North Cabrillo Park Drive.

B. On December 11, 2017, the Planning Commission of the City of Santa Ana held a duly noticed public hearing and at that time considered all testimony, written and oral, and adopted a resolution denying Site Plan Review No. 2016-03 and Variance Nos. 2017-05 and 2017-06.

C. The Planning Commission's decision to deny Site Plan Review No. 2016-03 and Variance Nos. 2017-05 and 2017-06 was appealed to the City Council by the Applicant on December 20, 2017, contending that the project is appropriate at this location (Appeal No. 2017-05). Santa Ana Municipal Code (SAMC) section 41-645 allows any interested party, individual or group to file an appeal.

D. Appeal No. 2017-05 came before the City Council of the City of Santa Ana for a duly noticed public hearing on April 3, 2018, to consider all testimony, written and oral. The project was continued to April 17, 2018, to provide adjacent property owners additional time to address circulation concerns.

E. The City Council of the City of Santa Ana has considered the information, disagrees with the Planning Commission decision, and determines that the following findings, which must be established in order to grant this Site Plan Review pursuant to SAMC Section 41-595.5 and Metro East Mixed-Use Overlay Zone (MEMU) Sections 8.1 and 8.2 have been established for Site Plan Review No. 2016-03 to allow construction of the proposed project.

1. That the proposed development plan is consistent with and will further the objectives outlined in Section 1.2 for the MEMU overlay district.

The proposed development project will be compatible with Section 1.2 (Objectives) of the Metro East Overlay zone. The proposed project will contain up to 260 residential units (including four live/work units) and approximately 6,600 sq. ft. of commercial uses. The project design incorporates an active streetscape that integrates the private development with the public realm. The project meets several General Plan goals and policies, including Land Use Element Goal 1 (promote a balance of land uses to address basic community needs), Goal 2 (promote land uses which enhance the City's economic and fiscal viability), and Housing Element Policy HE-2.3 (encourage the construction of rental housing for Santa Ana's residents and workforce, including a commitment to very low, low, and moderate income residents and moderate income Santa Ana workers) and Policy HE-2.5 (require excellence in architectural design through the use of materials and colors, building treatments, landscaping, open space, parking, and environmentally sensitive ("green") building and design practices).

2. That the proposed development plan is consistent with the development standards specified in Section 4 of the MEMU overlay district.

The project complies with the majority of development standards enumerated in the MEMU regulating plan, with the exception of required parking and side yard setback, which are analyzed through the variances.

3. That the proposed development plan is designed to be compatible with adjacent development in terms of similarity of scale, height, and site configuration and otherwise achieves the objectives of the Design Principles specified in Section 5 of the MEMU overlay district.

The proposed development consists of a seven-level project surrounded by several existing mid and high-rise buildings and has been designed to complement these developments. It supports the vision of the MEMU plan with the construction of a high-density mixed-use development in close proximity to similar residential uses and supportive commercial uses. The project incorporates a variety of architectural materials, massing and ground floor uses that are compatible with the MEMU plan. It encourages a reduction in parking to reduce construction cost and emissions and to foster alternative

modes of transportation such as bicycling, walking, and transit.

4. That the land use, site design, and operational considerations in the proposed development plan have been planned in a manner that will result in a compatible and harmonious operation as specified in Section 7 of the MEMU overlay district.

No significant negative impacts from noise, air quality, aesthetics, or traffic are expected except for temporary impacts arising during construction of the project. The site's design is intended to activate its frontage on Cabrillo Park Drive with the provision of publicly accessible open space, small-scale commercial uses, and a variety of seating and recreational amenities.

- F. The City Council of the City of Santa Ana determines that the following findings, which must be established in order to grant Variance Nos. 2017-05 and 2017-06 for reduction in parking and increased side yard setback, respectively, have been established as required by SAMC Section 41-638:

1. That because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance is found to deprive the subject property of privileges not otherwise at variance with the intent and purpose of the provisions of this Chapter.

The proposed project is located in an area surrounded by office buildings, parking structures, and a freeway, which restrict the site from compliance with the side yard setback to the south property line and parking requirements. The site is surrounded by high-rise offices and parking structures that have ample parking with divergent peak hour demands from the residential component of the proposed project. Adjacent commercial sites are built out to minimum setbacks and abut a freeway, which limits the amount of developable area for habitable space, parking, and open space for future residents and visitors. Additionally, the site necessitates adequate emergency access to the rear of the property to serve the proposed development. In order to properly address life safety issues, the building massing which takes into account the parking garage and setbacks must be reduced to accommodate a larger setback for a fire lane and adequate ladder angles.

2. That the granting of the variances is necessary for the preservation and enjoyment of one (1) or more substantial property rights.

The granting of the parking and setback variances will preserve the property owner's ability to develop a vacant lot with uses consistent with the MEMU overlay plan and to provide adequate emergency access to serve the project. The development will revitalize the currently undeveloped parcel and activate the area with additional housing and commercial uses to support the active-urban subzone of the MEMU overlay plan. Future housing and active retail uses will benefit the neighborhood and promote the ability to live, work, shop, and play all within a short walk of each other.

3. That the granting of the variances will not be detrimental to the public welfare or injurious to surrounding property.

The granting of the parking and setback variances will not be detrimental to the public or surrounding properties. As demonstrated in the parking analysis for the project, the site will have sufficient parking to accommodate the peak demand for the future residential and commercial uses. The parking study also demonstrates that residential uses have divergent peak demand hours than surrounding commercial and office uses, therefore no significant impacts to traffic or parking are anticipated. Furthermore, the 30-foot setback in lieu of a maximum 10-foot setback is necessary to accommodate emergency access and will serve a dual design purpose as open space for the residents. The variances will allow for the development of an undeveloped vacant site consistent with the MEMU overlay plan.

4. That the granting of the variances will not adversely affect the General Plan of the city.

The project will not adversely affect the General Plan, but rather support its goals. The proposed project is consistent with Land Use Element Goal 1 (promote a balance of land uses to address basic community needs) and Goal 2 (promote land uses which enhance the City's economic and fiscal viability) by providing a high-intensity mixed-use residential and commercial development consistent with the vision of the area and surrounding land use designations. The variances allow for the development of the project in a mid to high-rise built environment and will provide housing in close proximity to support nearby commercial uses.

Section 2. In accordance with the California Environmental Quality Act (CEQA), the recommendation is exempt from further review pursuant to Section 15332 (Class 32 "In-Fill Development Projects").

The Class 32 exemption applies to projects characterized as infill development meeting the following conditions: 1. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulation; 2. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; 3. The project site has no value as habitat for endangered, rare or threatened species; 4. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and 5. The site can be adequately served by all required utilities and public services.

The project is consistent with the City's General Plan and the MEMU regulating plan. The project meets several General Plan goals and policies, including Land Use Element Goal 1 (promote a balance of land uses to address basic community needs) and Goal 2 (promote land uses which enhance the City's economic and fiscal viability), and Housing Element Policy HE-2.3 (encourage the construction of rental housing for Santa Ana's residents and workforce, including a commitment to very low, low, and moderate income residents and workforce in the City) and Policy HE-2.5 (require excellence in architectural design through the use of materials and colors, building treatments, landscaping, open space, parking, and environmentally sensitive ("green") building and design practices).

The project site and type of development proposed are already addressed in the previously approved environmental impact report (EIR) for the MEMU overlay district (EIR No. 2006-01). However, a Class 32 exemption is required for the project because the original EIR did not require a greenhouse gas study. The Applicant submitted a greenhouse gas study to indicate that the project will not negatively impact greenhouse gas reduction goals. In addition, a health risk assessment (HRA) was prepared to identify any impacts from developing a residential community adjacent to a freeway. The HRA recommends that the project incorporate certain window design features on freeway-facing elevations for all units adjacent to the I-5 freeway, and that the project install air filtration systems throughout.


Section 3. The Applicant agrees to indemnify, hold harmless, and defend the City of Santa Ana, its officials, officers, agents, and employees, from any and all liability, claims, actions or proceedings that may be brought arising out of its approval of this project, and any approvals associated with the project, including, without limitation, any environmental review or approval, except to the extent caused by the sole negligence of the City of Santa Ana.

Section 4. The City Council of the City of Santa Ana, after conducting the public hearing, hereby approves Appeal No. 2017-05, and approves Site Plan Review No. 2016-03, Variance No. 2017-05, and Variance No. 2017-06, as conditioned in Exhibit A attached hereto and incorporated as though fully set forth herein. This decision is based upon the evidence submitted at the above said hearing, which includes, but is not limited to: the public testimony at such hearing, written and oral, all of which are incorporated herein by this reference.

ADOPTED this 5th day of June, 2018 by the following vote:


Miguel A. Pulido
Mayor

APPROVED AS TO FORM:
Sonia R. Carvalho, City Attorney

By: 
Lisa Storck
Assistant City Attorney

AYES:	Councilmembers	<u>Benavides, Pulido, Sarmineto, Solorio,</u> <u>Tinajero, Villegas (6)</u>
NOES:	Councilmembers	<u>None (0)</u>
ABSTAIN:	Councilmembers	<u>None (0)</u>
NOT PRESENT:	Councilmembers	<u>Martinez (1)</u>

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, MARIA D. HUIZAR, Clerk of the Council, do hereby attest to and certify the attached Resolution No. 2018-038 to be the original resolution adopted by the City Council of the City of Santa Ana on June 5, 2018.

Date: 6/12/2018

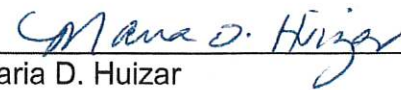

Maria D. Huizar
Clerk of the Council
City of Santa Ana

EXHIBIT A

Conditions for Approval for Site Plan Review No. 2016-03, Variance No. 2017-05, and Variance No. 2017-06

Site Plan Review No. 2016-03, Variance No. 2017-05, and Variance No. 2017-06 are approved subject to compliance, to the reasonable satisfaction of the Planning Manager, with applicable sections of the Santa Ana Municipal Code, the California Administrative Code, the California Building Standards Code, and all other applicable regulations. In addition, it shall meet the following conditions of approval:

The Applicant must comply with each and every condition listed below prior to exercising the rights conferred by this site plan review and variances.

The Applicant must remain in compliance with all conditions listed below throughout the life of the development project. Failure to comply with each and every condition may result in the revocation of the site plan review and variances.

A. Planning Division

1. All proposed site improvements must conform to the Site Plan Review approval of DP No. 2016-38.
2. Any amendment to this site plan review, including modifications to approved materials, finishes, architecture, site plan, landscaping, unit count, mix, and square footages must be submitted to the Planning Division for review. At that time, staff will determine if administrative relief is available or if the site plan review must be amended.
3. The project shall comply with all mitigation measures as required by the Metro East Mixed-Use Overlay Zone.
4. A residential property manager shall be on-site at all times that the project is occupied.
5. All new utilities and mechanical equipment such as backflow devices, Edison transformers, and double check detector assembly devices shall not be located within front yard setbacks and must be screened from view from public and courtyard areas.
6. All parking for the project, including visitor parking spaces, shall be made available free of charge.
7. The interior of the parking structure shall be painted white.

8. A final detailed amenity plan must be reviewed and approved prior to issuance of any building permits. The plan shall include details on the hardscape design, lighting concepts and outdoor furniture for amenity, plaza, or courtyard areas as well as an installation plan. The exact specifications for these items are subject to the review and approval of the Planning Division.
9. After project occupancy, landscaping and hardscape materials must be maintained as shown on the approved landscape plans.
10. A Resident Storage Plan shall be provided for the project prior to occupancy. Storage shall be available at no cost to the residents.
11. Smart wiring, including cable television and high-speed cable for computers, shall be provided for each unit and within the project's common areas.
12. Prior to issuance of a grading permit, the following shall be completed:
 - a) Submit a construction schedule and staging plan to the Planning Division for review and approval. The plan shall include construction hours, staging areas, parking and site security/screening during project construction.
 - b) Block wall/fencing plans (including a site plan, section drawings, and elevations depicting the height and material of all retaining walls, walls, and fences) consistent with the grading plan shall be submitted to and be approved by the Planning Division.
13. Prior to occupancy of any units, the following shall be completed:
 - a) A Rental Housing Operational Plan must be submitted to the Planning Division for review and approval. At a minimum, the plan shall identify the location of employee and visitor parking, the location of the rental office, hours of operation for the rental office, and signage affiliated with the Rental Housing Operational Plan. In addition, the rental plan must clearly note that the parking and project amenities must be provided free of charge to the residents.
 - b) A Parking Management Plan shall be submitted to the Planning Division for review and approval. The plan shall include parking spaces with accompanying exhibits and provisions for the distribution and management of parking for residents, employees and guests.
14. As a result of the health risk assessment (HRA) and to reduce any adverse health effects associated with diesel-truck emissions associated with the project's proximity to the I-5 Freeway, Applicant must install non-operable windows on all windows facing the I-5 Freeway and install air filtration systems with filters meeting or exceeding the American Society of Heating, Refrigeration,

and Air Conditioning Engineers (ASHRAE) 52.5 Minimum Efficiency Reporting Value (MERV) of 14.

15. A Public Art Plan shall be submitted to the Planning Division for staff review and approval prior to the issuance of building permits. The public art shall be installed prior to issuance of a certificate of occupancy.

B. Police Department

1. The Applicant will be required to submit a security plan for the proposed project to the Police Department. The plan will be required to outline hours of operation for the parking structure (secured/open), a duress alarm system for the parking structure and an access control system for the perimeter of the building.
2. Parking structure and buildings: Each door within the structure and building leading into a stairwell, lobby, or storage area must be outfitted with a 100 square inch fire rated window. Convex mirrors minimum of 12 inch in diameter must be provided at each stairwell landing, in the storage rooms and at each corner along a walkway. The last flight of each stair must be fully enclosed at its base.
3. Elevators are to be equipped with minimum 12-inch shatterproof convex mirrors or are to have mirrored backing.
4. Parking structure first floor exits must be designed to allow emergency egress with no exterior hardware.
5. Building/unit addressing shall comply with emergency service standards of the City of Santa Ana.
6. Lobby doors must be equipped with a Police Department approved access control system.
7. Provide a minimum 100 square inch window in the trash room and storage room doors.
8. Parking Structure elevators must be equipped with an approved access control system.

C. Orange County Fire Authority

1. Prior to OCFA clearance of issuance of a building permit, the Applicant or responsible party shall submit plans and obtain approval of the following:
 - a) Fire master plan (service code PR145)
 - b) Architectural (service codes PR200-PR285)

- c) Architectural (service codes PR212-PR220, abbreviated review)
 - d) Tanks storing hazardous materials (service codes PR300-PR305)
 - e) Hazardous materials compliance and chemical classification (service codes PR315-PR328)
 - f) Battery (service code PR375), for any system containing an aggregate quantity of electrolyte in excess of 50 gallons .
 - g) Underground piping for private hydrants and fire sprinkler systems (service code PR470-PR475)
 - h) Fire sprinkler system (service code PR400-PR465)
2. Prior to concealing interior construction, the Applicant shall obtain approval of a fire alarm system (service code PR500-PR520).
3. Before commencement of construction, the Applicant or responsible party shall attend a pre-construction meeting with an OCFA inspector. Call OCFA Inspection Scheduling at 714-573-6150 at least five days in advance to schedule and pay for the pre-construction meeting.
4. After installation of required fire access roadways and hydrants, the Applicant shall receive clearance from the OCFA prior to bringing combustible building materials on-site. Call OCFA Inspection Scheduling at 714-573-6150 with the Service Request number of the approved fire master plan at least five days in advance to schedule the lumber drop inspection.
5. The Applicant or responsible party shall provide the OCFA inspector evidence of compliance with emergency responder digital radio system performance criteria prior to occupancy. Refer to OCFA Guideline E-03 or the local jurisdiction's emergency responder radio ordinance, as applicable, for requirements.