

**PLANNING COMMISSION RESOLUTION NO. 16-3552**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF IRVINE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT (FILE NO. 00670179-PCPU) FOR THE DEVELOPMENT OF 243 ATTACHED AND DETACHED RESIDENTIAL CONDOMINIUM UNITS WITHIN VESTING TENTATIVE TRACT MAP 17996, INCLUDING ADMINISTRATIVE RELIEF FROM WALL HEIGHT STANDARDS AND VISITOR PARKING SPACES; LOCATED WITHIN DISTRICT 3 OF PLANNING AREA 40 (CYPRESS VILLAGE); FILED BY IRVINE COMPANY COMMUNITY DEVELOPMENT**

**WHEREAS, an application for Conditional Use Permit 00670179-PCPU has been filed by Stantec, on behalf of Irvine Company Community Development, for the development of 243 detached and attached condominium residential units within Vesting Tentative Tract Map 17996; and**

**WHEREAS, the project site is located within District 3 of Planning Area 40 (Cypress Village), also referred to as Planning Area East East, and is generally bounded by State Route 133 (SR-133) to the west, Marine Way to the south, Ridge Valley to the east, and Pinehurst to the north; and**

**WHEREAS, Conditional Use Permit 00670179-PCPU has a General Plan land use designation of Multi-Use and a Zoning Designation of 3.1H Multi-Use; and**

**WHEREAS, an Alternative Setback Standard pursuant to Zoning Ordinance Section 9-40-7(P) is requested to allow a reduced front yard setback from the sidewalk or back of curb, where a minimum of 10 feet is required, and 9 feet is proposed; and**

**WHEREAS, Administrative Relief pursuant to Zoning Ordinance Section 2-2-11 is requested to allow an increased maximum wall height of 8 feet for the community walls and internal private walls for individual units, and to allow visitor parking spaces for three units to be located more than 250 feet away; and**

**WHEREAS, the subject Conditional Use Permit conforms with the City of Irvine General Plan, Zoning Ordinance for Planning Area 40 with the exception of the requested Alternative Setback Standard and Administrative Relief requests from the maximum wall height standards and maximum distance between units and visitor parking spaces; and**

**WHEREAS, the Conditional Use Permit is considered a "project" under regulations of the State of California Environmental Quality Act; and**

**WHEREAS, a Program Environmental Impact Report (SCH No. 2000071014) was prepared for the Planning Area 12/40 General Plan Amendment and Zone Change and certified by the City of Irvine City Council as adequate; and**

WHEREAS, the Planning Commission of the City of Irvine considered information presented by the applicant, the Community Development Department, and other interested parties at a public hearing held on November 17, 2016.

NOW, THEREFORE, the Planning Commission of the City of Irvine DOES HEREBY RESOLVE as follows:

**SECTION 1.** Pursuant to Sections 15162 and 15168 of the State CEQA Guidelines, this project is covered by a previously certified Program Environmental Impact Report (EIR) for the Planning Area 12/40 General Plan Amendment and Zone Change, which serves as a Program EIR for the proposed project (SCH No. 200071014). The effects of the project were examined in the Program EIR and all feasible mitigation measures and alternatives developed in the Program EIR are incorporated into this project, and no new mitigation measures are required. The EIR is, therefore, determined to be adequate to serve as the environmental document for this project and satisfies all requirements of CEQA.

**SECTION 2.** Mitigation measures identified in the Program EIR have been incorporated into the project, or have been previously applied. These measures mitigate any potential significant environmental effects.

**SECTION 3.** Pursuant to Fish and Game Code Section 711.4, all required Fish and Game filing fees have been paid subsequent to certification of the Program EIR for the Planning Area 12/40 General Plan Amendment and Zone Change.

**SECTION 4.** The findings required by State law regarding justification of Citywide, village-wide and project specific development fees for public facilities as a result of this project approval have been met as follows:

- A. Citywide fees for public facilities are collected in conjunction with the issuance of building permits for development projects and consist of the following:
  - 1. Foothill Transportation Corridor Area of Benefit Charges.
  - 2. Development surcharge fees to recover wear and tear costs from construction site traffic.
  - 3. A systems development charge will only be collected for development in Planning Area 40 per the Annexation and Development Agreement.
- B. Resolutions have been adopted by the Irvine City Council which establish the connection between the development projects and the public improvements based on the following nexus:
  - 1. The area of benefit charges for the Foothill Transportation Corridor are based on the assumption that future state and federal revenues are projected to be

inadequate to construct said transportation corridors in a timely manner; and that future development should pay a share of the cost of implementing new transportation corridors to ensure that the transportation system will be adequate to serve said development and that this share of the corridor costs should be proportional to the traffic generated by the development.

2. The impact of construction vehicles using City streets causes wear and tear which significantly reduces the life of the surface of City streets beyond normally expected use and the cost of impacted wear and tear on City streets should be borne by the development projects which create the impact. The wearing surface on City streets is reduced by fifty percent by commercial/industrial construction traffic which causes significant increases on City maintenance costs.
  3. The implementation of a systems development charge for development in Planning Area 40 provides a predictable and equitable funding source for capital improvements by requiring development projects to "buy into" the pre-existing City infrastructure so that the impact of new growth on existing improvements will be borne equitably by new development.
- C. All of the City-wide fees identified in this section are based on this project's proportional share of the cost of the improvement as identified in the appropriate City Council resolution.
- D. The following nexus between the project specific public facilities and the development project have been identified:
1. The purposes of the fees have been identified.
  2. There is a reasonable relationship between the need for public facilities and the type of development for which the fee is imposed.
  3. There is a reasonable relationship between the amount of the fees and the costs of the public facilities attributable to the development on which the fee is based.

**SECTION 5.** That the findings required to be made by the Planning Commission for the approval of a conditional use permit, as set forth by Section 2-9-7 of the City of Irvine Zoning Ordinance have been made as follows:

- A. The proposed location of the conditional use is in accord with the objectives of Chapter 1-1 of the Zoning Ordinance and the purpose of the zoning district in which the site is located.

The project site is located in the 3.1H Multi-Use zoning district. Planning Area 40 permits residential units in the 3.1H zone as a substitution for the multi-use intensity on the basis of equivalent traffic generation. The project proposes an overall density of 7.65 dwelling units per acre and is subject to the 2.3N Medium

Density Residential development standards. The project complies with all applicable development standards with the exception of the requested Alternative Setback Standard and Administrative Relief requests. Findings for these requests are addressed in Sections 6 and 7. Furthermore, because the Zoning Ordinance does not establish a parking rate for senior housing uses, a parking study was prepared to evaluate parking demand of a similar senior housing development. The proposed project provides visitor parking at a rate higher than the observed demand at the similar development. The applicant proposes to apply City parking standards for attached condominiums to the project to satisfy residential parking requirements. Therefore, the project is consistent with the purpose and objectives of the Zoning Ordinance.

- B. The proposed conditional use will not be detrimental to the public health, safety or welfare, or be materially injurious to properties or improvements in the vicinity.

The proposed conditional use is a senior housing residential development. The project consists of 243 attached and detached condominium units for homebuyers over the age of 55. A traffic study was prepared to analyze the potential traffic impacts, and it found that the proposed design of the on-site streets and site access intersections are adequate to accommodate the proposed project traffic demand. Furthermore, all improvements will be constructed in accordance with City Standards and under City inspection. Therefore, the project will not be detrimental to the public health, safety, or welfare, or be materially injurious to properties or improvements in the vicinity.

- C. The proposed conditional use is compatible with existing uses and future uses to the extent those uses are known, and will comply with each of the applicable provisions of the Zoning Ordinance, except for approved variances and/or administrative relief per chapters 2-2 and 2-37.

The project is surrounded by residential uses to the north and east, the Orange County Great Park to the east, vacant land to the south, and the SR-133 toll road to the west. The proposed project fills a need for housing that meets the changing lifestyles of older adults that are still independent and active, yet desire floor plans (i.e., single-story units) and recreational amenities targeted towards an older demographic. Therefore, the project is compatible with surrounding uses and will comply with the applicable provisions of the Zoning Ordinance.

- D. If the proposed conditional use permit affects land located within the coastal zone, the proposed conditional use will comply with the provisions of the land use plan of the certified local coastal program.

The project is not located within the coastal zone; therefore, this finding does not apply.

- E. Based upon information available at the time of approval, adequate utilities, access roads, drainage and other necessary facilities exist or will be provided to serve the proposed use.

Utilities, roads, drainage, emergency access, and other necessary facilities will be constructed as part of the residential development.

**SECTION 6.** The criteria to be considered by the Planning Commission for approval of Alternative Setbacks Standards as set forth in Section 9-40-7(P) of the City of Irvine Zoning Ordinance have been made as follows:

1. *General character:* Relationship in scale, bulk, coverage and density with surrounding land uses.

The proposed development is compatible with existing and proposed residential development in the vicinity. At an overall net density of 7.65 dwelling units per acre, the proposed development is comparable to the densities of other multi-use projects approved for Planning Area 40 East East and surrounding planning areas. The project is similar in scale, bulk, coverage, and density to surrounding residential land uses.

2. *Quality of life:* Whether the proposed alternative will result in an adverse impact on existing neighborhoods.

An alternative front yard setback from the sidewalk or back of curb of 9 feet is requested for multiple lots. The Zoning Ordinance requires a minimum front yard setback of 10 feet from the sidewalk or back of curb. The requested setback is internal to the project site and will not create conditions that would impact the privacy or quality of life for future homeowners. Therefore, the proposed alternative will not have an adverse impact on existing neighborhoods.

3. *Suitability:* The physical suitability of the site for the proposed project.

The proposed development is situated on a site that has been prepared for residential development in terms of mass grading and provided with backbone infrastructure. The site is physically suitable for the proposed residential project and is generally flat and can accommodate the requested alternative setback standards. The alternative setback is internal in nature and in no case would this be used to deviate from setbacks established for village edges. Therefore, the proposed alternative setback standard will not affect the project's suitability.

4. *Limitations:* Such setbacks shall not be used to deviate from setbacks established for village edges.

The proposed alternative setback standard will not deviate from any established village edges as the setback is internal to the project site.

**SECTION 7.** The findings required for approval of Administrative Relief from wall and fence standards as set forth in Section 2-2-11 of the City of Irvine Zoning Ordinance have been made as follows:

- A. The proposed wall or fence materials and dimensions will meet the intent of the Zoning Ordinance to preserve public health, safety, and welfare.

The neighborhood block walls for individual units have been designed to a height of 7 feet at top of wall, and up to 8 feet at top of pilaster, where the Irvine Zoning Ordinance typically allows for a maximum wall height of six feet. The height of these walls has been increased to provide additional privacy and security between neighboring residential yards. An exterior noise analysis was prepared and concluded that a sound wall, ranging between 6 feet and 8 feet tall, along the west edge of the project is needed to mitigate noise impacts from the adjacent SR-133 toll road. The proposed height of the community sound walls would ensure that noise at ground level throughout the development would comply with City noise standards. Therefore, the proposed wall dimensions meet the intent of the Irvine Zoning Ordinance to preserve public health, safety and welfare.

- B. The proposed wall or fence materials and dimensions will enhance and harmonize with the existing landscape on-site, if applicable, the building, and/or use of the project site.

The increased height of the community and neighborhood block walls is designed to be in scale with the height of the residential development, which includes condominium units up to 32 feet in height. The community walls will utilize split-face concrete block on the exterior-facing side, and precision block on the interior side facing homeowner lots. The proposed wall materials will harmonize with the Spanish Heritage, Rancho Adobe, Santa Barbara, Monterey, and Formal Italianate architectural styles of the units. Therefore, the proposed wall materials and dimensions will enhance and harmonize with the proposed development.

- C. The request will not negatively impact the appearance of the project site or the surrounding properties.

The proposed wall height is designed to complement the architectural style of the project site, while providing enhancing privacy and noise attenuation for future homeowners. The increased wall height is a common feature in most of the recently approved and constructed residential developments in the city. Furthermore, the proposed walls are consistent with the scale and proportion of the proposed development, as well as existing neighborhoods in the surrounding area. Therefore, the request will not negatively impact the appearance of the project site or surrounding properties.

**SECTION 8.** That the Secretary to the Planning Commission shall enter the Resolution into the book or original Resolutions.

NOW, THEREFORE, based on the above findings, the Planning Commission of the City of Irvine DOES HEREBY APPROVE Conditional Use Permit 00670179-PCPU subject to all applicable Plans, Programs, and Policies (PPP), Project Design Features (PDF) and Mitigation Measures (MM) as identified in the Mitigation Monitoring and Reporting Program (MMRP) as set forth by the Program EIR for the Planning Area 12/40 General Plan Amendment and Zone Change (SCH No. 2000071014), and subject to the following conditions:

**PRIOR TO THE ISSUANCE OF BUILDING PERMITS**

**Condition 3.27**

**WALL HEIGHT**

Plans shall be revised pursuant to the Planning Commission’s determination regarding the height of the community sound walls.

**MISCELLANEOUS CONDITIONS**

**Standard Condition 6.1**

**DISCRETIONARY CASE CHARGES**

The applicant is responsible for paying all charges related to the processing of this discretionary case application within 30 days of the issuance of the final invoice or prior to the issuance of building permits for this project, whichever occurs first. Failure to pay all charges shall result in delays in the issuance of required permits or may result in the revocation of the approval of this application.

**Standard Condition 6.2**

**LEGAL ACTION – HOLD HARMLESS**

In accordance with the provisions of Section 5-5-114 of the Irvine Municipal Code and Government Code Section 66474.9, the applicant shall defend, indemnify, and hold harmless the City of Irvine and its agents, officers, and employees from and against any claim, action, or proceeding against the City agency or its agents, officers, or employees to attack, set aside, void, or annul an approval by the City, including, without limitation, an action by an advisory agency, appeal board, or legislative body concerning this discretionary approval. This defense and indemnification shall include the payment of all legal costs incurred on behalf of the City in connection with the application, and the defense of any claim, action or proceeding challenging the approval. The City will promptly notify the applicant of any claim, action, or proceeding and will cooperate fully in the defense.

In the event a legal challenge to the discretionary approval is successful, and an award of attorney fees is made to the challenger, the applicant shall be responsible to pay the full amount of such an award.

**Standard Condition 6.4**

**PRIVACY GATES – VEHICLE STACKING**

If the Director of Public Works determines that the operation of the residential privacy gates approved with this application is negatively affecting the flow of traffic on an adjacent public roadway, the property owner or homeowners association may be required to submit a plan to the Director of Community Development that identifies specific measures to resolve these problems. The plan shall be submitted within 30 days of notification by the Public Works Department and shall be reviewed and approved by the Director of Community Development in consultation with the Director of Public Works. The property owner or homeowners association shall be required, at its sole expense, to implement any modifications required by the plan within 30 days of written notice from the Director of Community Development to implement such measures, or in such time frame as directed by the Director of Community Development in consultation with the Director of Public Works.

**Standard Condition 6.8**

**CC&Rs – PARKING IN GARAGE**

The project applicant or subsequent home builder shall include language in the recorded Covenants, Conditions and Restrictions (CC&Rs) for this project that requires the residents of the project to make their required garage parking spaces available for the parking of automobiles at all times. The CC&Rs shall include language that grants the Homeowners Association the right to inspect private garages to ensure residents' compliance with this requirement. The CC&Rs shall also include language that requires the HOA to enforce the above CC&Rs when requested by the Director of Community Development.

**Standard Condition 6.9**

**HOMEOWNER ASSOCIATIONS – STREET SWEEPING**

The project applicant or subsequent home builder shall include language in the recorded Covenants, Conditions, and Restrictions (CC&Rs) for this project that requires the homeowners association (HOA) to cooperate with the City regarding the City's sweeping of public streets within and/or adjacent to the project. The HOA shall inform residents of when the City sweeps the public streets and request residents and their guests not to park on these streets during street sweeping hours. Information from the HOA regarding street sweeping times shall be provided to residents on at least a quarterly basis in newsletters, billing statements, web sites, and/or other communication methods. If requested by the City, the HOA shall increase the frequency of the information.

**Condition 6.19**

**COMPLIANCE WITH ASSOCIATED APPROVALS**

Development of this project shall also comply with all applicable conditions of approval for Vesting Tentative Tract Map 17996 (00662606-PTT) and Park Plan 00662863-PPP as set forth in Planning Commission Resolutions 16-3551 and 16-3553, respectively.



**Condition 6.20**

**~ APPLICABILITY OF EIR**

**This approval is subject to all applicable Plans, Programs, and Policies (PPP), Project Design Features (PDF) and Mitigation Measures (MM) as identified in the Mitigation Monitoring and Reporting Program (MMRP) for the Program EIR prepared for the Planning Area 12/40 General Plan Amendment and Zone Change (SCH No. 2000071014).**

**Condition 6.21**

**LANDSCAPE SCREENING FOR WALLS**

**Screening trees, shrubs, and ground cover shall be planted along all community walls visible from Marine Way. At maturity, the screening trees shall be a minimum height equal to the height of the adjoining wall segment and shall be planted a maximum distance of 15 feet apart. If subsequent to the project approval the Director of Community Development ("Director") determines that the landscaping does not sufficiently screen the community walls visible from Marine Way, the Homeowners Association (HOA) may be required to submit a plan to the Director to enhance the landscape screening, including, but not limited to, replacing or planting additional trees, shrubs, and/or ground cover. The plan shall be submitted within 30 days of notification by the City and shall be reviewed and approved by the Director. The HOA shall be required, at its sole expense, to implement the landscape enhancement plan within 45 days of written notice from the Director, or in such time frame as directed by the Director.**

**PASSED AND ADOPTED by the Planning Commission of the City of Irvine at a regular meeting held on the 17<sup>th</sup> day of November, 2016, by the following vote:**

**AYES:** 4 COMMISSIONERS:: Bartlett, Duong, Smith Kuo  
**NOES:** 1 COMMISSIONER: Gaido  
**ABSENT:** 0 COMMISSIONERS:  
**ABSTAIN** 0 COMMISSIONERS:

Unless an appeal is filed prior to the expiration of the fifteen-day appeal period at 5 p.m. on Friday, December 2, 2016, this approval shall become effective on December 3, 2016.

  
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CHAIR OF THE PLANNING  
COMMISSION FOR THE CITY OF IRVINE

  
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SECRETARY OF THE PLANNING  
COMMISSION FOR THE CITY OF IRVINE