

RESOLUTION NO. 2018-03

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MARINA APPROVING A USE PERMIT (UP 2008-02) FOR THE DEVELOPMENT OF A SEVEN (7) UNIT PLANNED UNIT DEVELOPMENT LOCATED AT 3110 SEACREST AVENUE (APNS: 032-202-001, -002, -003, -004, -005, -006, and -007).

WHEREAS, on December 13, 2005, the City's Subdivision Committee reviewed the preliminary map (TM 2005-7) for the division of one parcel into seven (7) separate legal lots to accommodate a seven (7) unit residential development project on the subject site, and determined that the preliminary map was complete and was accurate. After discussion, the Committee recommend that the City Council consider approving the tentative map to allow the creation of 7 separate legal lots, with associated easement areas, to allow development of the site; and

WHEREAS, on January 9, 2006, the City's Tree Committee considered a request from the applicant for a tree removal permit (TP 2006-6) to remove four (4) trees from the subject site. After discussion, the Committee recommend that the City Council consider approving the proposed tree removal to allow development of the site; and

WHEREAS, on February 1, 2006, the City's Site and Architectural Design Review Board (DRB) considered a request from the applicant for site review (DR 2005-7) for the development of a seven (7) unit planned unit development on the subject site. After discussion, the DRB recommended that the City's Planning Commission consider the project's design, including building design, landscaping and irrigation, to allow development of the site; and

WHEREAS, on February 9, 2006, the City's Planning Commission considered the applicant's request for a Use Permit (UP 2005-13) to allow the development of a seven (7) unit planned unit residential development on the subject site. After discussion, the Commission took action to recommend that the City Council consider approving the Use Permit to allow residential development of the site; and

WHEREAS, on March 7, 2006, the Marina City Council considered and approved the Combined Development Permit consisting of: 1) Site and Architectural Design Review (DR 2005-7) for a seven (7) unit planned unit residential development (Resolution No. 2006-47); 2) Use Permit (UP 2005-13) for a seven (7) unit planned unit residential development (Resolution No. 2006-46); and 3) Tentative Map (TM 2005-7) for a seven (7) unit planned unit residential development (Resolution No. 2006-45); and 4) Tree Removal Permit (TP 2006-6) to allow the removal of four trees from the project site (Resolution No. 2006-48) (**'EXHIBITS A.1, A.2, A.3, and A.4'**); and

WHEREAS, at the time of approval (March 7, 2006), the Tentative Map and Use Permit portions of the Combined Development Permit were each approved for a period of two years from City Council approval (expiration of March 7, 2008), unless the Planning Commission granted an extension not to exceed two (2) additional years, subject to application for an extension by the applicant; and

WHEREAS, on February 12, 2008, and prior to expiration of the Tentative Map, the applicant submitted a request for a two (2) year extension (**‘EXHIBIT B’**); and

WHEREAS, on March 13, 2008, the Marina Planning Commission considered the extension request and adopted Resolution 2008-11, extending the life of the Tentative Map (TM 2005-04) for an additional two (2) years (expiration of March 7, 2010); and

WHEREAS, on April 3, 2008, the Final Map was received and recorded by the Monterey County Recorder’s Office (Volume 24, Cities & Towns Page 17), officially dividing the previous single legal lot (Assessor Parcel Number 032-201-027) into seven (7) separate legal lots (Assessor Parcel Numbers 032-202-001, through -007) (**‘EXHIBIT C’**); and

WHEREAS, on October 8, 2014, an agent for the applicant, submitted a letter to the Community Development Department-Planning staff, requesting a site analysis, including a review of entitlements and building permits at 3110 Seacrest Avenue and requested information and/or directions on what was required to “complete the process for final project approval”; and

WHEREAS, on November 26, 2014, Community Development Department-Planning Staff issued a letter detailing the project/site entitlement history, and providing direction on the remaining steps to “complete the process” and required the submittal of: 1) A subdivision improvement agreement; and 2) A building permit application (following approval of the subdivision improvement agreement; and

WHEREAS, Pursuant to the direction provided, the applicant continued working with City Staff (Engineering) to develop and obtain City approval of a Subdivision Improvement Agreement and issuance of building permit.

WHEREAS, the applicant demonstrated his intent to complete the permitting process and develop the site, by diligently working towards gaining City approval of the required Subdivision Improvement Agreement.

WHEREAS, on February 7, 2017, the Marina City Council considered and adopted a Resolution approving a Public Improvement Agreement (PIA) between the City of Marina and Ben Schulman (applicant) for site improvements [curb, gutter, sidewalk, pavement, storm drains, sanitary sewers, utilities (water, electric, gas, telephone, and cable television), street lights, traffic signs, painted curb, traffic striped, pavement markings, irrigation, landscaping, permanent pavement, and other improvements necessary) along the frontage of Seacrest Avenue and Carmel Avenue and the existing driveway at the Carmel Avenue driveway access (Resolution No. 2017-11), including requiring the applicant to secure two separate bonds totaling \$107,830.00, to ensure work is adequately and timely completed; and

WHEREAS, on March 22, 2018, Community Development Department-Planning Staff, met with the applicant to provide an update on the status of the development, during which time the applicant was informed that after review of the file and supporting materials, the initial Use Permit (UP 2005-13) had in fact expired, effective March 7, 2010, and a new Use Permit application would need to be processed to legally development the project site; and

WHEREAS, in response, the applicant submitted a letter from previous CDD staff (mentioned above) demonstrating that the “next steps” did not include securing approval of a new Use Permit, and stated that an extensive amount of money and time had been invested between 2010 and 2018, and expressed that his actions were based on “good faith reliance” of direction from and information provided by Staff in 2014; and

WHEREAS, on March 23, 2018, the applicant submitted the required forms, fees, and materials for a new Use Permit (UP 2018-2), and the new application mimics the plans and design of the prior entitlement, and the intent of the new permit is to restore the legally required discretionary permits needed to continue development the previously residential development, and the Use Permit is in keeping with the prior review and entitlements issued by the City of Marina Subdivision Committee, Tree Committee, Site and Architectural Design Review Committee, Planning Commission, and City Council; and

WHEREAS, the Planning Commission of the City of Marina conducted a duly noticed public hearing on the Use Permit (UP 2018-02) for the proposed development, considered all public testimony, written and oral, presented at the public hearing, received and considered the written information and recommendation of the staff report for the April 12, 2018 meeting related to the proposed development; and

WHEREAS, the Planning Commission finds that the proposed use and development are in the public interest, conform with General Plan residential density policies and the development standards of the Commercial Multiple-Family Residential (CR) Zoning District, and the City of Marina Design Guidelines and Standards; and

WHEREAS, the proposed project is categorically exempt in accordance with Section 15332. In-Fill Development Projects of the California Environmental Quality Act (CEQA) Statutes and Guidelines.

NOW, THEREFORE BE IT RESOLVED by the Planning Commission of the City of Marina that it hereby approves the Use Permit (UP 2018-02) subject to the following required findings and conditions of approval.

Findings

1. That the establishment, maintenance and operation of the use and buildings applied for will not be detrimental to health, safety, peace, morals comfort and general welfare of persons residing or working in the neighborhood of the proposed use, in that the site has been adequately designed for safe and secure residential use. The site provides adequate off-street parking and adequate and separate provisions for vehicular and pedestrian access. The project will serve as a buffer between commercial land uses and adjacent residential land uses in the vicinity of the site. The density proposed is compatible with the surrounding residential densities, and the proximity of employment and shopping opportunities may in fact increase the desirability of living conditions in that location.
2. That the establishment, maintenance and operation of the use and buildings applied for will not be detrimental or injurious to property and improvements in the neighborhood or to the

general welfare of the City, in that landscaping and building design and off-site improvements will improve and add value to the surrounding neighborhood. The use is compatible with the zoning and General Plan designation of the site and the surrounding land uses.

Conditions of Approval

1. That the use permit shall be null and void unless it is implemented within two years of approval by the Planning Commission. The Planning Commission may grant an extension not exceeding two (2) additional years upon application for extension by the applicant, at least thirty (30) days before permit expiration.
2. That the applicant shall agree as a condition of approval of this project to defend, at its sole expense, indemnify and hold harmless from any liability the City and reimburse the City for any expenses incurred resulting from, or in connection with, the approval of the project, including any appeal, claim, suit or legal proceeding. The City may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve the applicant of its obligations under this condition.
3. Prior to issuance of a building permit, the applicant shall submit Final design of the monument sign to the Director of Community Development-Planning for consideration and approval.
4. Prior to issuance of a building permit, the applicant shall submit an exterior lighting plan, to the Director of Community Development-Planning for consideration and approval.

PASSED AND ADOPTED by the Planning Commission of the City of Marina at a regular meeting duly held on the 12th day of April 2018, by the following vote:

AYES, COMMISSIONERS: Urrutia, Burnett, Bielsker, Biala, Mann

NOES, COMMISSIONERS: None

ABSENT, COMMISSIONERS: Berkley

ABSTAIN, COMMISSIONERS: None

David Burnett, Chairman

ATTEST:

David J. R. Mack, AICP, Senior Planner
Community Development Department