# PLANNING COMMISSION AGENDA

## CITY OF NEWPORT BEACH
## COUNCIL CHAMBERS - 3300 NEWPORT BOULEVARD
## Thursday, June 23, 2011
## Regular Meeting – 6:30 p.m.

**EARL MCDANIEL**
**Chairperson**

**CHARLES UNSWORTH**
**Vice Chairperson**

**FRED AMERI**

**BARRY EATON**

**ROBERT HAWKINS**

**BRADLEY HILLGREN**

**MICHAEL TOERGE**

**Planning Commissioners are citizens of Newport Beach who volunteer to serve on the Planning Commission. They were appointed by the City Council by majority vote for 4-year terms. At the table in front are City staff members who are here to advise the Commission during the meeting. They are:**

**KIMBERLY BRANDT, Community Development Director**

**JAMES CAMPBELL, Principal Planner**

**GREGG RAMIREZ, Senior Planner**

**MARLENE BURNS, Administrative Assistant**

**LEONIE MULVIHILL, Assistant City Attorney**

**TONY BRINE, City Traffic Engineer**

**JAIME MURILLO, Associate Planner**

## NOTICE TO THE PUBLIC

Regular meetings of the Planning Commission are held on the Thursdays preceding second and fourth Tuesdays of each month at 6:30 p.m. Staff reports or other written documentation have been prepared for each item of business listed on the agenda. If you have any questions or require copies of any of the staff reports or other documentation, please contact the Community Development Department, Planning Division staff at (949) 644-3200. The agendas, minutes and staff reports are also available on the City's web site at: http://www.newportbeachca.gov.

This committee is subject to the Ralph M. Brown Act. Among other things, the Brown Act requires that the Commission's agenda be posted at least 72 hours in advance of each meeting and that the public be allowed to comment on agenda items before the Commission and items not on the agenda but are within the subject matter jurisdiction of the Commission. The Commission may limit public comments to a reasonable amount of time, generally either three (3) or five (5) minutes per person.

It is the intention of the City of Newport Beach to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee or a participant at this meeting, you will need special assistance beyond what is normally provided, the City of Newport Beach will attempt to accommodate you in every reasonable manner. Please contact Leilani Brown, City Clerk, at least 72 hours prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible (949-644-3005 or lbrown@newportbeachca.gov).

If in the future, you wish to challenge in court any of the matters on this agenda for which a public hearing is to be conducted, you may be limited to raising only those issues, which you (or someone else) raised orally at the public hearing or in written correspondence received by the City at or before the hearing.

**APPEAL PERIOD:** Use Permit, Variance, Site Plan Review, and Modification Permit applications do not become effective until 14 days following the date of approval, during which time an appeal may be filed with the City Clerk in accordance with the provisions of the Newport Beach Municipal Code. Tentative Tract Map, Tentative Parcel Map, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of approval, during which time an appeal may be filed with the City Clerk in accordance with the provisions of the Newport Beach Municipal Code. General Plan and Zoning Amendments are automatically forwarded to the City Council for final action.

**NEWPORT BEACH PLANNING COMMISSION AGENDA**
**Council Chambers – 3300 Newport Boulevard**
**Thursday, June 23, 2011**
**REGULAR MEETING**
**6:30 p.m.**

**A. CALL TO ORDER**

**B. PLEDGE OF ALLEGIANCE**

**C. ROLL CALL**

**D. RECOGNITION OF CHAIRPERSON EARL MCDANIEL AND COMMISSIONER BARRY EATON FOR THEIR DEDICATION AND YEARS OF SERVICE ON THE PLANNING COMMISSION.**

**E. PUBLIC COMMENTS**

*Public comments are invited on non-agenda items generally considered to be within the subject matter jurisdiction of the Planning Commission. Speakers must limit comments to 3 minutes. Before speaking, please state your name for the record and print your name on the tablet provided at the podium.*

**F. REQUEST FOR CONTINUANCES**

**G. CONSENT ITEMS**

**ITEM NO. 1** Minutes of June 9, 2011

**ACTION:** Approve and file.

**H. PUBLIC HEARING ITEMS**

**ALL TESTIMONY GIVEN BEFORE THE PLANNING COMMISSION IS RECORDED. SPEAKERS MUST LIMIT REMARKS TO THREE MINUTES ON ALL ITEMS**. (Red light signifies when three minutes are up; yellow light signifies that the speaker has one minute left for summation.) Please print only your name on the pad that is provided at the podium.

Any writings or documents provided to a majority of the Planning Commission regarding any item on this agenda will be made available for public inspection in the Community Development Department, Planning Division located at 3300 Newport Boulevard, during normal business hours.

ITEM NO. 2 Mariner's Pointe - (PA2010-114)
100 – 300 West Coast Highway

- General Plan Amendment No. GP2010-009
- Code Amendment No. CA2010-009
- Site Development Review No. SR2010-001
- Conditional Use Permit No. UP2010-024
- Variance No. VA 2010-004
- Parcel Map No. NP2010-008
- Traffic Study No. TS2011-001

**SUMMARY:** The applicant is seeking a General Plan Amendment (GPA) to accommodate the development of a 23,015-square-foot, two-story commercial building and a three-story parking structure. The following applications are requested or required in order to implement the project as proposed:

1. An amendment to the Land Use Element of the General Plan to increase the allowable floor area for the project site from 16,518 square feet (0.5 FAR) to a maximum development limit of 23,015 square feet (approx. 0.7 FAR);

2. An amendment to the Zoning Map of the Zoning Code to increase the allowable floor area limitation for the project site from 0.3/0.5 FAR to a maximum development limit of 23,015 square feet (approx. 0.7 FAR);

3. A site development review to allow the construction of a 23,015-square-foot, two-story building and a three-story parking structure that will exceed the 31-foot base height limit with a maximum height of 40 feet;

4. A conditional use permit to allow for the construction of a parking structure adjacent to a residential zoning district, to modify the off-street parking requirements, allow for the use of off-site parking, and to establish a parking management plan for the site;

5. A variance to allow the commercial building and parking structure to encroach five feet into the five-foot rear yard setback;

6. A parcel map to consolidate six lots into one parcel; and

7. A traffic study pursuant to the City's Traffic Phasing Ordinance.

**CEQA COMPLIANCE:** A Mitigated Negative Declaration has been prepared by the City of Newport Beach in connection with the application noted above. The Mitigated Negative Declaration states that, the subject development will not result in a significant effect on the environment. It is the present intention of the City to accept the Mitigated Negative Declaration and supporting documents.

**ACTION:**

1) Conduct public hearing; and

2) Adopt Resolution No. ____ recommending that the City Council:

   a. Adopt the Mitigated Negative Declaration, including the Mitigation Monitoring and Reporting Program; and

   b. Find that, based on the weight of the evidence in the administrative record, including Traffic Study No. TS2011-001, that the Project complies with the Traffic Phasing Ordinance; and

   c. Approve General Plan Amendment No. GP2010-009, Code Amendment No. CA2010-009, Site Development Review No. SR2010-001, Conditional Use Permit No. 2010-024, Variance No. 2010-004, and Parcel Map No. 2010-008, subject to findings and conditions

## I. NEW BUSINESS

## J. STAFF AND COMMISSIONER ITEMS

**ITEM NO. 6** Community Development Director's report.

**ITEM NO. 7** Announcements on matters that Commission members would like placed on a future agenda for discussion, action, or report.

**ITEM NO. 8** Request for excused absences.

**ADJOURNMENT**

**NEWPORT BEACH PLANNING COMMISSION MINUTES**
**Council Chambers – 3300 Newport Boulevard**
**Thursday, June 9, 2011**
**REGULAR MEETING**
**4:00 p.m.**

**A. CALL TO ORDER -** The meeting was called to order at 4:00 p.m.

**B. PLEDGE OF ALLEGIANCE –** Led by Commissioner Eaton

**C. ROLL CALL**

| | |
|---|---|
| PRESENT: | Ameri (arrived late), Eaton, Hawkins, McDaniel, Toerge (arrived late), and Unsworth |
| ABSENT (EXCUSED): | Hillgren |
| Staff Present: | Kimberly Brandt, Community Development Director, James Campbell, Principal Planner, Gregg Ramirez, Senior Planner, Leonie Mulvihill, Assistant City Attorney, David Keely, Senior Civil Engineer, Fern Nueno, Assistant Planner, Erin Steffen, Planning Technician, and Marlene Burns, Administrative Assistant |

**D. PUBLIC COMMENTS** – None.

**E. REQUEST FOR CONTINUANCES**

**ITEM NO. 2** Pemstein Residence Minor Use Permit and Variance (PA2010-173)
2430 Holiday Road

Staff reported that the applicant requested that this item be continued to July 7, 2011.

Chair McDaniel opened the public hearing. Noting no individuals present to provide testimony, the Chair Chair McDaniel closed the public hearing.

**Motion** made by Commissioner Toerge and seconded by Commissioner Unsworth, and carried (5 – 0) to continue this item to July 7, 2011.

| | |
|---|---|
| AYES: | Eaton, Hawkins, McDaniel, Toerge, and Unsworth |
| NOES: | None. |
| ABSENT: | Ameri (arrived late), Hillgren |
| ABSTAIN: | None. |

**ITEM NO. 4** Newport Beach Country Club – Golf Realty Fund (PA2005-140)
1600 & 1602 E. Coast Highway

Staff recommended that this item be continued to August 4, 2011, due to the change in the Planning Commission membership.

Chair McDaniel opened the public hearing. Noting no individuals present to provide testimony, the Chair Chair McDaniel closed the public hearing.

**Motion** made by Commissioner Toerge and seconded by Commissioner Hawkins, and carried (5 – 0) to continue this item to August 4, 2011.

AYES: Eaton, Hawkins, McDaniel, Toerge, and Unsworth
NOES: None.
ABSENT: Ameri (arrived late) and Hillgren
ABSTAIN: None.

**ITEM NO. 5** Newport Beach Country Club – International Bay Clubs, Inc. (PA2008-152)
1600 E. Coast Highway

Staff recommended that this item be continued to August 4, 2011, due to the change in the Planning Commission membership.

Chair McDaniel opened the public hearing. Noting no individuals present to provide testimony, the Chair Chair McDaniel closed the public hearing.

**Motion** made by Commissioner Toerge and seconded by Commissioner Hawkins and carried (5 – 0) to continue this item to August 4, 2011 at 4:00 p.m.

AYES: Eaton, Hawkins, McDaniel, Toerge, and Unsworth
NOES: None.
ABSENT: Ameri and Hillgren
ABSTAIN: None.

## F. CONSENT ITEMS

**ITEM NO. 1** Minutes of May 19, 2011

A motion was made by Commissioner Hawkins, seconded by Commission Unsworth and carried (5 – 0) to approve the minutes as corrected.

AYES: Hawkins, McDaniel, Toerge, and Unsworth
NOES: None.
ABSENT: Hillgren, Ameri
ABSTAIN: Eaton

## G. PUBLIC HEARING ITEMS

**ITEM NO. 3** Dry Dock Restaurant (PA2011-005)
2601 West Coast Highway

Staff report was provided by Assistant Planner Fern Nueno.

The applicant requests approval of a conditional use permit for a food service restaurant with late hours, live entertainment, alcohol sales, outdoor dining, and delivery. The application also includes a request for a parking management plan to address off-site parking, valet, and an adjustment to the off-street parking requirements. The proposed hours of operation for dining and delivery are 11:00 a.m. to 2:00 a.m., Monday through Friday, and 9:00 a.m. to 2:00 a.m. on Saturday and Sunday with the outdoor dining patio closing at 1:30 a.m. daily.

In response to Commission questions, Assistant Planner Nueno and Staff approximated the occupancy limit at 162 with the outdoor dining expansion, stated that the Zoning Code does not require the Commission to review the occupancy limit when looking at parking, clarified that the applicant proposes some interior changes to the kitchen area as well as an expansion to the outdoor dining patio, mentioned

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that the Resolution has a one (1) year review period after which the Commission can reanalyze the parking agreement, addressed questions regarding the parking management plan, on-site and off-site parking requirements and valet operations, referred to the Municipal Code Standards regarding noise control requirements and live entertainment operations (Conditions 53 and 10 respectively), clarified Condition 21 regarding the proposed 10-foot wide irrevocable pedestrian easement along the bay front, stated that Condition 19 prohibits all delivery trucks from loading/unloading on West Coast Highway and explained the statute and regulations of the operator's license for activities held at the restaurant after 11:00 p.m.

Dennis O'Neil, representing Jeff Reuter and G.E.P Enterprise Group (the applicant), spoke regarding compliance with the outdoor dining patio requirements, the types of live entertainment expected in the restaurant, alcohol sales, delivery truck parking, the parking management plan and parking requirements establishing one (1) parking space for every forty (40) square feet of net public area (Municipal Code Section 20.40.060), valet parking and the twenty (20) off-site parking spaces. He stated that the applicant agrees with the findings supporting the project approval, proposed that Condition 3 include the hours of operations between 9:00 a.m. and 2:00 a.m. on Saturday and Sunday and requested that the outdoor dining patio be closed no later than 1:30 a.m. instead of 12 a.m. He addressed concerns regarding the long term availability of the off-site parking facility, approximated nine (9) employees per shift, mentioned compliance with the City's noise standards stating that the windows shall remain closed at all times and stated that they are in agreement with the one (1) year review.

Discussion ensued between the Commissioners, Staff and the applicant regarding the conditions of the one (1) year review.

Chair McDaniel opened the public hearing.

Bob Baker, resident, referenced a letter he submitted asking the Commissioners to postpone their decision at tonight's meeting allowing for sufficient time to gather and present real evidence including noise decibel readings, stated his opposition to the granting of the Conditional Use Permit and expressed his concerns regarding alcohol sales, the parking management plan and the potential noise impact on adjacent homes.

Julie Auckerman, resident, expressed her concerns regarding the ten (10) boat spaces, the danger of potential accidents caused by drunk and disorderly patrons travelling by boat, noise pollution, the impacts of a potential easement built over the bay and requested the Commissioners not to approve the late night operation of a bar.

Commissioner Hawkins excused himself from the meeting at 5:49 p.m. to attend a funeral. He requested that the meeting be adjourned in memory of Susan Trager.

Eric Auckerman, resident, expressed his concern about boats passing through Lido Bay specifically regarding noise impacts after 11:00 p.m., in-coming and out-going boat traffic, drunk and disorderly patrons travelling by boat and response by Harbor Patrol.

Rose Barrantes, Commercial Property Manager, expressed her concerns regarding parking in the off-site parking lot and its effect on other businesses, valet operations and its impact on traffic and made recommendations regarding public parking.

Sheila Baker, resident, asked whether the windows would be dual or triple glazed (inoperable), raised concern regarding the outdoor dining patio, noise, alcohol sales, late-night deliveries and loud live entertainment.

Chair McDaniel closed the public hearing.

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Dennis O'Neil, representing the applicant, responded by clarifying that the live entertainment would only occur during the hours of 2:00 p.m. to 7:00 p.m. on Saturday and Sunday, stated that the outdoor dining patio faces Pacific Coast Highway, addressed noise concerns, mentioned the required Police Department's operator's license and noted the applicants' efforts to mitigate every concern that had been raised.

Discussion ensued between the Commissioners, Staff and the applicant regarding valet parking and hours of operation, permanent closure of the windows facing the bay, boat slip regulations, pedestrian walkway easement, compliance with Conditions 10 and 53 regarding noise control and discussed the cost of annual parking permits.

A motion was made by Commissioner Toerge and seconded by Commissioner Ameri to adopt the resolution approving Conditional Use Permit No. UP2011-001 with modifications to the following conditions; Condition 3 allow for the opening of the restaurant at 9:00 a.m. on Saturday and Sunday, Condition 4 require the outdoor dining patio to close no later than 1:30 a.m., Condition 7 clarify that the outdoor dining patio should be limited to 429 square feet, and the addition of the following conditions; Condition 65 that prohibits the renting of parking slips on a permanent basis so that they are always available for customer use, Condition 66 requiring that all employees obtain an annual parking permit and park offsite, and Condition 67 requiring upcoming parking agreement be presented to the Planning Commission at the annual review at which time another review could be requested by the Commission.

Assistant Planner Nueno clarified that Conditions 3 and 4 should be combined and tied to the operator's license and that Condition 7 should include the statement of 429 square feet or 25%, whichever is less.

Discussion ensued between the Commissioners, Staff and the applicant regarding on-site and off-site parking, valet operations, potential modifications of the parking agreement, the annual review and clarifications were made for Conditions 2, 10, and 53.

Commissioner Toerge added to his motion a statement to be included in Condition 2 giving the Commission the opportunity to ask for additional annual reviews if necessary at the one (1) year review as well as removing Fact 3 from the Resolution and including it in the Facts in Support of Finding (B3). Commissioner Ameri seconded the additions.

Dennis O'Neil, representing the applicant, stated that he agreed with the changes made to the Conditional Use Permit.

**Motion** made by Commissioner Toerge and seconded by Commissioner Ameri, and carried 4 – 1 (Unsworth – NO) to Adopt a resolution approving Conditional Use Permit No. UP2011-001 with the following condition modifications; a statement to be included in Condition 2 giving the Commission the opportunity to ask for additional annual reviews if necessary at the one (1) year review, combine Condition 3 which allows for the opening of the restaurant at 9:00 a.m. on Saturday and Sunday and Condition 4 which requires the outdoor dining patio to close no later than 1:30 a.m. and tie both to the operator's license, Condition 7 clarify that the outdoor dining patio should be limited to 429 square feet or 25% whichever is less, the addition of Condition 65 that prohibits the renting of parking slips on a permanent basis so that they are always available for customer use, the addition of Condition 66 requiring that all employees obtain an annual parking permit and park offsite, the addition of Condition 67 requiring the upcoming parking agreement be presented to the Planning Commission at the annual review at which time another review could be requested by the Commission, and removing Fact 3 from the Resolution and including it in the Facts in Support of Finding (B3).

AYES: Ameri, Eaton, Toerge, McDaniel
NOES: Unsworth

ABSENT (EXCUSED): Hawkins (left meeting early), Hillgren
ABSTAIN: None

**H. NEW BUSINESS – None.**

**I. STAFF AND COMMISSIONER ITEMS**

**ITEM NO. 6** Planning Commission reports.

The Malarkey's Irish Pub applicant withdrew his application.

**ITEM NO. 7** Announcements on matters that Commission members would like placed on a future agenda for discussion, action, or report. – None.

**ITEM NO. 8** Request for excused absences. - None.

**ADJOURNMENT - The** Planning Commission adjourned at 6:36 p.m. to 6:30 p.m. on June 23, 2011.

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**CITY OF NEWPORT BEACH**
**PLANNING COMMISSION STAFF REPORT**
June 23, 2011
Agenda Item 2

**SUBJECT:** Mariner's Pointe - (PA2010-114)
100 – 300 West Coast Highway
- General Plan Amendment No. GP2010-009
- Code Amendment No. CA2010-009
- Site Development Review No. SR2010-001
- Conditional Use Permit No. UP2010-024
- Variance No. VA 2010-004
- Parcel Map No. NP2010-008
- Traffic Study No. TS2011-001

**APPLICANT:** VBAS Corporation

**PLANNER:** Jaime Murillo, Associate Planner
(949) 644-3209, jmurillo@newportbeachca.gov

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## PROJECT SUMMARY

The applicant is seeking a General Plan Amendment (GPA) to accommodate the development of a 23,015-square-foot, two-story commercial building and a three-story parking structure. The following applications are requested or required in order to implement the project as proposed:

1. An amendment to the Land Use Element of the General Plan to increase the allowable floor area for the project site from 16,518 square feet (0.5 FAR) to a maximum development limit of 23,015 square feet (approx. 0.7 FAR);

2. An amendment to the Zoning Map of the Zoning Code to increase the allowable floor area limitation for the project site from 0.3/0.5 FAR to a maximum development limit of 23,015 square feet (approx. 0.7 FAR);

3. A site development review to allow the construction of a 23,015-square-foot, two-story building and a three-story parking structure that will exceed the 31-foot base height limit with a maximum height of 40 feet;

4. A conditional use permit to allow for the construction of a parking structure adjacent to a residential zoning district, to modify the off-street parking requirements, allow for the use of off-site parking, and to establish a parking management plan for the site;

5. A variance to allow the commercial building and parking structure to encroach five feet into the five-foot rear yard setback;

6. A parcel map to consolidate six lots into one parcel; and

7. A traffic study pursuant to the City's Traffic Phasing Ordinance.

## RECOMMENDATION

1) Conduct a public hearing; and

2) Adopt Resolution No. ____ (Attachment No. PC1) recommending that the City Council:

    a. Adopt the Mitigated Negative Declaration, including the Mitigation Monitoring and Reporting Program; and

    b. Find that, based on the weight of the evidence in the administrative record, including Traffic Study No. TS2011-001, that the Project complies with the Traffic Phasing Ordinance; and

    c. Approve General Plan Amendment No. GP2010-009, Code Amendment No. CA2010-009, Site Development Review No. SR2010-001, Conditional Use Permit No. 2010-024, Variance No. 2010-004, and Parcel Map No. 2010-008, subject to findings and conditions.

## INTRODUCTION

### Project Setting

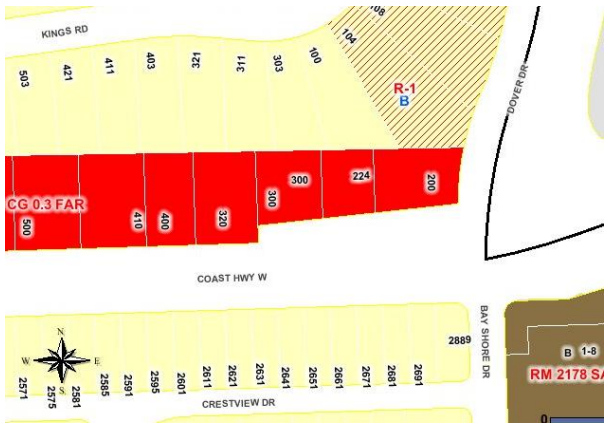
The 0.76-acre (33,036-square-foot) project site is located at the northwest corner of the intersection of West Coast Highway and Dover Drive. The property consists of six legal lots and is currently developed with two vacant buildings totaling 5,447 square feet (0.16 FAR combined). The property is currently fenced and is in a state of disrepair. The project site is narrow and elongated in an east-west orientation. The topography of the site is relatively flat, with the exception of the hillside located along the northern boundary of the site that ranges from approximately 40-50 feet in height. The hillside is heavily vegetated with ornamental trees, shrubs and groundcover.

The single-unit residential neighborhood of Cliff Haven is located north of the project site along the hillside above and the single-unit residential neighborhood of Bayshores is located to the south across West Coast Highway. To the southwest is the Anchorage Apartments, a multi-unit residential development and marina. To the east is Lower Castaways, recently donated to the City and currently used for construction staging. To the west are several commercial retail buildings.

## VICINITY MAP

## Enlarged View of Site

**SURROUNDING LAND USES**

| GENERAL PLAN | ZONING |
|---|---|
| |  |





| LOCATION | GENERAL PLAN | ZONING | CURRENT USE |
|---|---|---|---|
| **ON-SITE** | General Commercial (CG) | Commercial General (CG) | Vacant commercial buildings |
| **NORTH** | Single Unit Residential Detached (RS-D) | Single Unit Residential (R1) | Single-unit residential dwellings |
| **SOUTH** | RS-D | R1 | Single-unit residential dwellings |
| **EAST** | Recreational and Marine Commercial (CM) | Castaways Marina Planned Community (PC-37) | Construction staging |
| **WEST** | CG | CG | Commercial retail buildings |

The project also includes the use of 20 parking spaces within an off-site parking lot located at 601 Dover Drive for the use of employee parking in the evenings. The off-site parking lot is developed with a 12,000-square-foot medical office building and provides a total of 68 parking spaces. Single-unit residential dwellings are located to the north, west, and south. Castaways Park is located to the east, above the Lower Castaways construction staging lot.

Project Description

The applicant is proposing to demolish the existing buildings on-site, merge the lots into one parcel (Attachment No. PC2- Parcel Map), and construct a 23,015-square-foot commercial building and a three-level, 50,274-square-foot parking structure (Attachment No. PC3). Details of the project components are as follows:

*Commercial Building*

The proposed commercial building will be located on the eastern portion of the site and would be two levels; the first level would consist of 11,794 square feet of gross floor

area and the second level would consist of 11,221 square feet. The exact tenant mix is unknown at this time; however, it is anticipated that two large restaurants will serve as anchor tenants, with the remaining square footage to be used for retail and medical office uses. Potential tenants, in addition to the restaurants, may include a jewelry store, clothing stores, spa, and plastic surgeon's office. For the purpose of preparing the environmental, traffic, and parking analysis, the following land use mix was used:

| **Proposed Land Use Mix** | |
|---|---|
| **Land Use** | **Gross Floor Area** |
| Restaurants | 10,493 sf |
| Retail | 9,522 sf |
| Medical Office | 3,000 sf |
| **Total** | **23,015 sf** |

The building has been designed with varying roof heights. The majority of the building is 32 feet 4 inches to the top of the parapet, with the exception of two tower elements and a mechanical equipment enclosure. The octagonal tower element at the southeasterly corner of the property serves as the building's primary architectural element and measures 38 feet in height to the top of the cupola. An architectural finial is proposed on the top of the cupola, resulting in a total height of 40 feet. The second tower element is located over the middle portion of the building and measures 37 feet 6 inches in height. All the roof top mechanical equipment of the building will be located along the rear of the building and enclosed within an equipment enclosure that would measure 35 feet in height.

A 700-square-foot outdoor dining patio and 14-foot-high screen wall is proposed to encroach into the public right-of-way adjacent to Dover Drive. The seating arrangement is undetermined at this time. The Public Works Department has indicated their support for an encroachment agreement for these improvements, pending Planning Commission and City Council review.

*Parking Structure*

A three-level parking structure is proposed on the western portion of the property, adjacent to the commercial building. A 755-square-foot commercial space is located on the first level of the structure, below the ramp, providing a storefront and retail presence. The third level of the parking structure is proposed to be partially covered with a solid roof measuring 35 feet in height. The roof is proposed to be setback 37 feet 5 inches from the front edge of the parking structure as viewed from West Coast Highway. The uncovered portion of the parking structure would measure 29 feet 4 inches in height to the top of the parapet, with the exception of two elevator/stairwell enclosures, an architectural tower element over the parking structure ramp, and a trellis feature. The primary elevator/stairwell enclosure measures 35 feet in height, and the secondary stairwell enclosure measures 33 feet 1 inch in height. The architectural tower element

over the ramp measures 37 feet in height and the trellis measures 33 feet in height. The parking structure will have two driveways accessible from West Coast Highway; the easterly driveway will allow for both ingress and egress and the westerly driveway will allow for egress only. A total of 136 parking spaces can be accommodated within the parking structure through a combination of standard, tandem, and valet-only parking stalls (see *Parking Strategy* section of report for additional details).

*Landscaping*

The West Coast Highway frontage and Dover Drive frontage will be improved with approximately 3,005 square feet of new landscaping that includes a variety of plant palettes and decorative hardscaping. In addition, a water feature of approximately 280 square feet in area would encompass the southeast corner of the project site. The water feature and a majority of the landscaping are proposed to be located within the public right-of-way and will require an encroachment permit and/or agreement from Caltrans and the City to implement. A three-foot-wide planter area is also proposed along the westerly side property line.

*Infrastructure Improvements*

Shoring and a retaining wall ranging from 2 feet to 14 feet in height are proposed to be along the northern property line. The retaining wall is an integral part of the parking structure and commercial building. The existing three power poles and overhead power lines that transverse the northern property line and that currently provide electricity to the site would be removed. The power lines are proposed to be undergrounded and re-routed to run around the eastern, southern, and western perimeter of the project site before reconnecting to the existing overhead lines west of the project site.

*Coast Highway Lane Drop Extension*

Between Dover Drive and the western property boundary, West Coast Highway abruptly narrows from three westbound through lanes to two lanes. The applicant is proposing to extend the third lane for approximately 30 feet to accommodate the egress from the westerly driveway. The portion of the lane extension that occurs on the subject property would be dedicated to the City. The applicant will be required to obtain an offer of dedication or an easement from the adjacent property owner for the small portion of the lane extension that occurs on the adjacent property. The property owner has indicated he would be willing to provide the easement. If the easement is not provided, the western driveway from the proposed parking structure will need to be reconfigured and/or the parking structure circulation may need to be redesigned. The applicant is also proposing to restripe and reconfigure the project frontage to create a designated "Bus Only" loading area between the two driveways to accommodate the existing bus stop.

Background

The subject property consists of six of the 17 lots that were originally proposed for the Bel Mare redevelopment project proposed in 2004 (100-600 West Coast Highway). In anticipation of project approval and demolition of the existing structures, the previous landowner vacated the eight detached retail/commercial structures. Entitlements to develop a 56,000-square-foot retail center was approved on January 19, 2006; however, due to difficulties obtaining approvals to install a new traffic signal from Caltrans and litigation with former prospective tenants, the previous landowner was unable to implement the approved project. The properties fell into disrepair and the City worked with the landowner to correct dangerous conditions and public nuisances, including graffiti, abandoned signs, overgrown landscaping, weeds, debris, broken windows, and harboring vagrants. One of the City Council's goals in 2010 was to abate the nuisances and improve these properties. The properties were eventually sold to two separate buyers in 2010. The applicant purchased the easterly six lots and submitted this application to redevelop the property. Another buyer purchased the westerly 11 lots and has rehabilitated and re-used the six existing buildings that occupy the abutting site to the west for retail and vehicle sales uses.

## DISCUSSION

General Plan

*General Plan Policies*

The project site is located within the Mariner's Mile commercial corridor. The Land Use Element of the General Plan designates the site General Commercial (CG) with a maximum allowable floor area to land area ratio (FAR) of 0.3 FAR (9,910 square feet). Where parcels are consolidated to accommodate larger commercial projects that provide sufficient parking, Land Use Element Policy LU 6.19.13 permits development intensity up to 0.5 FAR (16,518 square feet). The CG designation is intended to provide for a wide variety of commercial activities primarily oriented to serve citywide or regional needs. The proposed commercial building would be consistent with this designation and a parking strategy has been developed (see *Parking Strategy* section of report) to ensure the development will provide sufficient parking. With regard to the maximum 0.5 FAR limitation, the applicant is requesting to increase the maximum development limit to 23,015 square feet (approximately 0.7 FAR).

The General Plan includes several goals and policies related to development in the City and includes a goal (LU 6.19) to improve the Mariner's Mile corridor to reflect and take advantage of its location on the Newport Harbor waterfront, support and respect adjacent residential neighborhoods, and exhibit a quality image for travelers on Coast Highway. During the visioning process for the General Plan update, participants identified Mariner's Mile as a location that needs revitalization, therefore, Land Use Element Policy LU 6.19.6 requires projects to be consistent with the Mariner's Mile

Strategic Vision and Design Framework. This plan was prepared to help improve the visual character of the corridor with new landscaping and streetscape amenities, as well as improvements in private developments through standards for architecture, landscaping, and lighting. A complete consistency analysis of each of the applicable General Plan policies appears within the Draft Mitigated Negative Declaration on pages 87 through 99 and concludes that the project is consistent with each of the adopted goals and policies.

*General Plan Amendment – Increased Intensity (FAR)*

In considering the proposed GPA to increase the development intensity of the project site, the Planning Commission should specifically consider the following Land Use Element policy:

> ***LU 3.2 Growth and Change***
>
> *Enhance existing neighborhoods, districts, and corridors, allowing for re-use and infill with uses that are complementary in type, form, scale, and character. Changes in use and/or density/intensity should be considered only in those areas that are economically underperforming, are necessary to accommodate Newport Beach's share of projected regional population growth, improve the relationship and reduce commuting distance between home and jobs, or enhance the values that distinguish Newport Beach as a special place to live for its residents. The scale of growth and new development shall be coordinated with the provision of adequate infrastructure and public services, including standards for acceptable traffic level of service.*

The applicant's primary objective is to construct two successful quality restaurants; however, the applicant asserts that it is financially infeasible to redevelop the properties at the currently permitted 0.5 FAR limit with a project that includes a high level of architectural detail and a parking structure needed to support the proposed restaurant uses. The construction of the third parking level would still be necessary even without the additional retail and office space due to the peak parking demands of restaurant uses during the evening hours. Therefore, in order to make the project feasible from a financial perspective, the applicant is requesting the additional intensity to offset the increased costs associated with the proposed architectural detail and construction of the parking structure. If this is the case, the proposed GPA for increased intensity could be considered consistent with LU 3.2 as follows:

- The General Plan recognizes the Mariner's Mile corridor as a location that needs revitalization.

- The increased intensity would provide an economic stimulus needed to accommodate the redevelopment of six lots into one commercial development.

- As stated in the General Plan, Newport Beach residents desire high quality development and have identified the Mariner's Mile corridor is an area that needs revitalization.

- Redevelopment of the subject property helps implement the goal of revitalizing the corridor and may encourage the redevelopment of other underperforming properties within the Mariner's Mile corridor. The projects high quality and distinct architectural features, such as the corner tower element and cupola, will serve as a focal point and anchor into the entry into the Mariner's Mile corridor. In addition, the project's landscaping and water feature within the public right-of-way will significantly improve the streetscape in the corridor.

- As described in more detail in the *Traffic Study* section of this report, a traffic impact analysis was prepared for the project and found that the addition of project-related traffic would not have a significant impact at any of the study intersections.

- The project site is served by existing infrastructure and public services. The proposed increase in intensity will not necessitate any expansion of existing infrastructure. The proposed lane drop extension on West Coast Highway will improve safety of westbound traffic, while improving access to the site. The removal of the three existing power poles and undergrounding of the power lines will provide a public benefit.

Notwithstanding the redevelopment benefits and improvements to the public right-of-way, the requested increase in intensity is of concern because the project maximizes the building envelope and requires several deviations from the development standards to accommodate the project. With the exception of the balconies and patio space along the front of the commercial building, minimal open space is provided on-site. A complex parking strategy is required to provide sufficient parking for the project and includes an adjustment to the parking requirements based on a shared parking analysis, use of a parking management plan that utilizes tandem and valet parking, and use of off-site parking for employees. Although designed to minimize visual and noise impacts to the resident's located on the hillside above, the bulk of the parking structure and commercial building remains in close proximity to the residents.

*General Plan Table Change*

As indicated above, the primary benefit of approving the proposed GPA would be the resulting redevelopment and consolidation of six lots into one unified development. Amendments to the General Plan are legislative, and as such, conditions of approval may not be imposed on the GPA requiring that the consolidation of the three parcels actually occur. Therefore, should this proposed GPA be approved, staff recommends that a new anomaly (Anomaly No. 79) be created within the Land Use Element that

limits the project site to a 0.3/0.5 FAR, but which includes provisions for a maximum development limit of 23,015 square feet, provided all six legal lots are consolidated into one parcel to provided unified site design. See Attachment No. PC4 for draft changes to Land Use Element.

*Charter Section 423 (Measure S)*

Charter Section 423 requires voter approval of any major General Plan amendment to the General Plan. A major General Plan amendment is one that increases allowed density or intensity by 40,000 square feet of non-residential floor area, or increases traffic by more than 100 peak hour vehicle trips, or increases residential dwelling units by 100 units. These thresholds apply to the total of increases resulting from the amendment itself, plus 80 percent of the increases resulting from prior amendments affecting the same neighborhood (defined as a Statistical Area as shown in the General Plan Land Use Element) and adopted within the preceding ten years.

The project site for which the General Plan amendment is proposed is located within Statistical Area H4 of the General Plan Land Use Element, and would result in an increase of 6,497 square feet of non-residential floor area. Based on the trip generation rates contained in the Council Policy A-18 (blended commercial rate), the proposed project is forecast to generate an additional 19 a.m. peak hour trips and 26 p.m. peak hour trips.

There has been one prior amendment approved within Statistical Area H4 since the adoption of the 2006 General Plan (GP2010-004), which was adopted on September 14, 2010. This prior amendment involved land use changes for the Holiday Express and the Balboa Bay Club from mixed-use designations to the Visitor-Serving Commercial designation and did not involve any changes in density or intensity. Table 1 below shows the floor area and peak hour trips analysis for the prior amendment and the proposed project:

**Table 1 - Charter Section 423**
**Area and Peak Hour Trip Calculation**

| | **Area** | **A.M. Peak Trips** | **P.M. Peak Trips** |
|---|---|---|---|
| Prior Amendment GP2010-004 | 0 sq.ft. (80%) | 0 a.m. trips (80%) | 0 a.m. trips (80%) |
| Proposed Amendment | 6,497 sq.ft. (100%) | 19.49 a.m. trips (100%) | 25.99 p.m. trips (100%) |
| **Total** | **6,497 sq.ft.** | **19.49 a.m. trips** | **25.99 p.m. trips** |

The proposed GPA does not create any new dwelling units and as indicated in the above table, the proposed General Plan amendment does not exceed the non-residential floor area threshold, and does not exceed the a.m. or p.m. peak hour vehicle trips threshold. Therefore, none of the three thresholds that require a vote pursuant to Charter Section 423 are exceeded. If the proposed General Plan amendment is

approved by City Council, the amendment will become a prior amendment and 80 percent of the increases will be tracked for ten years for any proposed future amendments.

Zoning & Site Design

*Zoning Compliance*

The project is located within the Commercial General (CG) zoning district. The intent of the CG zoning district is to provide for areas appropriate for a wide variety of commercial activities oriented primarily to serve City-wide or regional needs. Although the redevelopment of the project site as a commercial building with retail, office, and restaurant uses is consistent with the CG district, the development of the project requires a number of deviations from the developments standards. The following table provides a summary of the project's compliance with applicable development standards and deviations requested:

| **Table 2- Zoning Compliance** | | |
|---|---|---|
| **Development Standards** | **Required** | **Provided** |
| **Lot Size** | 5,000 square feet min. | 33,036 square feet (requires parcel map) |
| **Setbacks** | | |
| **Front** | 0 | 3 feet |
| **Side** | 0 | 3 feet |
| **Rear** | 5 feet min. | 0 feet (requires variance) |
| **Height** | 26 feet for flat roofs or parapet walls<br><br>31 feet for pitched roofs | 35 feet flat/parapet (requires site development review)<br><br>40 feet pitched roofs (requires site development review) |
| **Floor Area Ratio** | 0.5 FAR with lot consolidation (16,518 sq. ft.) | 23,013 sq. ft. (Approx. 0.7 FAR) (requires a GPA and Zoning Map Amendment) |
| **Parking** | 157 spaces total (estimate-see *Parking Requirements* section of report for detailed discussion) | 156 spaces total:<br><br>136 spaces on-site (requires a conditional use permit to modify parking requirements, allow for tandem and valet parking, and to allow parking structure adjacent to residential zoning district)<br><br>20 spaces off-site (requires a conditional use permit to allow off-site parking) |
| **Solid Waste and Recyclable Materials** | 48 sq. ft. refuse<br>48 sq. ft. recycling<br>96 sq. ft. total | 550 sq. ft. total<br>refuse and recycling combined) |

*Zoning Map Amendment*

Should the project be approved, staff recommends that a new anomaly (Anomaly No. 79) be created on the Zoning Map that limits the project site to a 0.3/0.5 FAR. The anomaly should also indicate that a maximum development limit of 23,015 square feet is allowed provided all six legal lots are consolidated into one parcel to provided unified site design. See Attachment No. PC5 for draft changes to Zoning Map.

*Site Development Review*

Pursuant to 20.52.080 of the Zoning Code, nonresidential construction of 20,000 square feet or more of gross floor area requires site development review by the Planning Commission. These findings and the facts in support of these findings are discussed below:

| **Table 3-Site Development Review Findings and Facts in Support of Findings** | |
|---|---|
| **Finding** | **Facts in Support of Finding** |
| *1) Allowed within the subject zoning district* | A commercial building with retail, office, and restaurant uses is a permitted use within the CG zoning district. The specific restaurants will be required to obtain separate minor or conditional use permits prior to occupying the building. |
| *2) In compliance with all of the following applicable criteria* | |
| *a) Compliance with this Section, the General Plan, this Zoning Code, any applicable specific plan, and other applicable criteria and policies related to the use or structure* | The proposed commercial building is consistent with the CG General Plan land use designation and CG zoning district. A GPA and Zoning Map Amendment are requested to allow the proposed increase in intensity. The applicant is also requesting a conditional use permit and variance to allow for a number of deviations from the zoning standards. These requests are being reviewed concurrently with the site development review. In addition, Land Use Element Policy LU 6.19.6 requires the implementation of landscape, signage, lighting, sidewalk, pedestrian crossing, and other amenities consistent with the Mariner's Mile Strategic Vision and Design Framework. Applicable to this project would be the landscape, lighting, and signage recommendations within the framework. Project signage has not yet been developed and will be submitted for a subsequent review. The project implements the landscaping requirements of the framework by providing the minimum four-foot-wide planter area with continuous hedge and palms plantings. With regard to lighting, the lighting has been designed to respect the views from above and to prevent any light spillage beyond the perimeter of the structure and to eliminate any sources of glare to the residents and motorists. The framework also includes architectural objectives that focus on responsible and sensitive design, with an emphasis on roofs and roof elements to respond to views from above. The proposed building has been designed with tiled tower elements and clean flat roofs with all mechanical equipment screened from view within an enclosure. The third level of the parking structure has been designed with a solid roof that screens the resident's view of vehicles and lighting. |
| *b) The efficient arrangement of* | • The commercial building is configured in such way to resemble a village of two-story buildings, with various roof heights, connected to parking |

| | |
|---|---|
| *structures on the site and the harmonious relationship of the structures to one another and to other adjacent developments; and whether the relationship is based on standards of good design* | on each of the two levels.<br>• Although the project is requesting an increase in height, the building will not block or obstruct any views of the bay or harbor from the residential homes located on the 40 to 50-foot high hillside above the project site.<br>• The roof of the commercial building has been designed to respect the views of the residences above and consists of a combination of flat and sloped roof lines. Roof-top mechanical equipment would be fully enclosed and would not be visible from the residences above. The enclosure will have louver vents directed away from the residential properties.<br>• The rear two-thirds of the parking structure would be enclosed and will screen the view of the parked vehicles and parking structure lighting from the residents located above the hillside. The parking structure roof will also provide an additional sound buffer to the residents above.<br>• The mechanical equipment enclosure has been located at the rear of the commercial building to minimize the bulk of the building as viewed from West Coast Highway. |
| *c) The compatibility in terms of bulk, scale, and aesthetic treatment of structures on the site and adjacent developments and public areas* | • The building and parking structure includes modulated building masses and rooflines and a variation of building materials and colors that would provide visual relief.<br>• To break up the bulk and massing of the parking structure as viewed from West Coast Highway, a 755-square-foot commercial space has been located on the first level of the structure, below the ramp, providing a storefront and retail presence in front the of the structure. A tower element will extend this storefront along the face of the structure.<br>• The inclusion of architectural elements such as balconies, tower features, awnings, trellises, ornamental windows and railings, and the variation in building elevations and protrusions would also enhance the visual quality of the buildings and street frontage.<br>• The project's architectural style, with the use of stone, tile and glass materials, blends in color and form with some development within Mariner's Mile, will provide a high standard of quality for future neighboring development, and complies with the Mariner's Mile Strategic Vision and Design Framework.<br>• The tower and cupola feature, the tallest portion of the building, is located at the southeasterly corner of the site, away from the nearest residential and commercial uses. To minimize the bulk of the parking structure as viewed from West Coast Highway, the parking structure roof has been setback 37 feet 5 inches from the front edge of the structure. The resulting height of the parking structure along the front façade is 29 feet 4 inches providing a transition to the commercial properties to the west.<br>• The west elevation of the building has been designed as a flat wall with no openings due to its proximity to the side property line and in anticipation that the commercial site to the west may be redeveloped in the future; however, until such time, the west elevation will be visible from motorist traveling south of West Coast Highway. To soften the appearance of this elevation and break up the mass of the parking structure, the applicant is proposing to install three large green screens separated by columnar evergreen trees. Architectural detailing has also been added in the form of boarders around the green screens and columns.<br>• The rear elevation of the building and parking structure has also been |

| | |
|---|---|
| | designed as a flat wall with no openings due to its placement on the rear property line and will range in height from approximately 20 feet to 35 feet from existing grade. However, the homes located on the hillside above are located a minimum of 60 feet away and approximately 40-50 feet above the project's pad elevation with views oriented predominately over the project site towards the bay and harbor, and therefore, will not be significantly impacted by the height and bulk of the structures. |
| *d) The adequacy, efficiency, and safety of pedestrian and vehicular access, including drive aisles, driveways, and parking and loading spaces* | • The project would eliminate one existing driveway access off Dover Drive and would consolidate four existing driveways along West Coast Highway into two driveways. Therefore, the project minimizes the number of driveways along West Cost Highway, thereby reducing potential conflicts and increasing vehicular safety. The lane drop extension of Coast Highway will also enhance the safety of the highway, while providing safe access from the site, as determined by the City Traffic Engineer.<br>• The project proves adequate sight distance at each driveway, as determined by the City Traffic Engineer.<br>• The proposed parking structure has been designed to accommodate and provide safe access for emergency, delivery, and refuse collections vehicles, as determined by the City Traffic Engineer.<br>• The project would include enhanced pedestrian walkways that provide access between the various uses and areas within the project site, and to the surrounding public sidewalks and uses.<br>• The existing bus stop along the project frontage would be relocated and a new designated "Bus Only" area would be created between the two driveways.<br>• See *Parking Strategy* and *Conditional Use Permit Findings* section for detailed discussion on adequacy of parking. |
| *e) The adequacy and efficiency of landscaping and open space areas and the use of water efficient plant and irrigation materials* | • The project includes the enhanced use of landscaping, including a variation of ornamental groundcover, vines, shrubs, and trees, to help soften and buffer the massing of the parking structure and commercial building from the surrounding areas and roadways; however, the applicant is proposing a 700-square-foot outdoor dining patio within the public right-of-way along Dover Drive. Staff believes the proposed project can further benefit from additional landscaping along the Dover Drive frontage and has included a condition prohibiting the installation of the patio within right-of-way and requiring additional landscaping consistent with the proposed plant palette.<br>• A new water feature would encompass the southeast corner of the project site.<br>• The landscape plan includes the requirements of the Mariner's Mile Design Framework, but also incorporates non-invasive and water conserving plant types.<br>• The project is subject to the City's Water Efficient Landscape Ordinance (Chapter 14.17 of NBMC). |
| *f) The protection of significant views from public right(s)-of-way and compliance with Section 20.30.100 (Public View Protection).* | The portion of West Coast Highway, on which the project is located, is not a designated coastal view road and is not considered a public view corridor requiring public view protection. |

| | |
|---|---|
| *3) Not detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed development.* | • The project has been conditioned to ensure that potential conflicts with surrounding land uses are minimized to the extent possible to maintain a healthy environment for both businesses and residents.<br>• The project's refuse area is located within the first level of the parking garage and will not result in odor impacts to residents above or noise associated with refuse collection.<br>• To minimize or eliminate odors associated with the restaurant uses impacting the residents above the site, the project has been conditioned to require the installation of Pollution Control Units with odor eliminators that take the exhaust from the hoods in the kitchens and filter it for particulates and odor.<br>• The project is subject to the City's Outdoor Lighting requirements contained with Section 20.30.070 of the Zoning Code.<br>• Illumination of the proposed tower and cupola feature has been conditioned to consist of soft accent lighting so as not to become a visual disturbance to the views of the adjacent residents.<br>• The proposed 750-square-foot outdoor dining area located within the public-right-of-away adjacent to Dover will be screened from view of the residents above the hillside and is not anticipated to result in a significant noise disturbance; however, until the specific operation of the restaurants are better known, staff is recommending that this outdoor patio not be approved at this time and that the public right-of-way remain landscaped. The outdoor patio request should be deferred until the review of the use permits for the future restaurant uses. |

*Height Increase*

The project site is located in the Nonresidential, Shoreline Height Limit Area where the height of structures are limited to 26 feet for flat roofs/parapet walls and to 31 feet for sloped roofs with a minimum 3:12 pitch. The height of a structure can be increased up to a maximum of 35 feet for flat roofs/parapet walls and up to 40 feet for sloped roofs, subject to the approval of a Site Development Review. Section 20.30.060.C.3 of the Zoning Code requires the Planning Commission to make certain findings in order to allow an increase in the height of a structure above the base height limit. These findings and the facts in support of these findings are discussed below

1. *The project applicant is providing additional project amenities beyond those that are otherwise required.*

The most significant amenity the project provides is the long desired redevelopment of this highly visible property that serves as a gateway into the Mariner's Mile corridor. This property is constrained due to its shallow depths and as such has proven difficult to redevelop and as fallen into disrepair. The building exhibits a high level of architectural detail and includes design features that enhance the aesthetics of the building and the area. The most prominent design feature of the building is the octagonal tower and cupola at the southeasterly corner of the site intended to serve as landmark feature and an anchor into the Mariner's Mile corridor area of the City. The parking structure has been designed to incorporate a variety of materials and features (i.e. stone treatment

and hanging vines) and includes vertical recessed openings and a storefront with a vertical tower element to break up the massing and monotony commonly associated with parking structures.

The project includes enhanced landscaping of the public right-of-way along the West Coast Highway and Dover Drive. In addition to the continuous hedge and palm trees requirement of the Mariner's Mile Strategic Vision and Design Framework, the landscaping plan incorporates additional ornamental groundcover, vines, shrubs, and trees, to help soften and buffer the massing of the parking structure and commercial building and enhance the streetscape of Mainer's Mile. To further improve the streetscape and improve the entrance into the corridor, the applicant is proposing the installation of 280-square–foot water feature that would encompass the southeast corner of the project site. Water effects are proposed to include a knife-edge water weir falling towards the street at the center, boarded by low walls at each end of the feature. The water feature will also include plant material and a combination or eroded, colored concrete and natural stone.

The design and height of the building benefits the residential properties above and to the north by providing noise attenuation from roadway noise generated from vehicles on West Coast Highway and Dover Drive. As illustrated in Figure 14 of the Draft Mitigated Negative Declaration (Attachment No. PC9), a net decrease in roadway noise of up to 9 dBA CNEL is expected as a result of the noise attenuation effect of the new structures.

An additional amenity proposed by the applicant is to remove the three existing power poles and overhead power lines located across the rear property line on the adjacent residential lots. At minimum, City policy requires the applicant to underground their utilities from the nearest power pole, allowing the power poles to remain in place. In this case, the applicant is proposing to completely remove the power poles and underground the power lines around the eastern, southern, and western perimeter of the project site. An easement to Southern California Edison for the power lines will also be provided along the westerly property line.

Another amenity includes the elimination of the existing driveway access off Dover Drive and the consolidation of the existing four driveways along West Coast Highway into two main access driveways. Therefore, the project minimizes the number of driveways along West Cost Highway, ensuring that the desired traffic flow along this major road is maintained and ensuring that the continuity of the street-facing building elevations would not be interrupted. The extension of the lane drop on West Coast Highway also serves to enhance the safety of the highway by extending the length of the merge lane, which providing safe access from the site.

2. *The architectural design of the project provides visual interest through the use of light and shadow, recessed planes, vertical elements, and varied roof planes;*

The goal of the architectural design is to simulate the appearance of a small Mediterranean village of two-story commercial buildings, resulting in modulated building masses and rooflines. The project consists mainly of flat roofs with heights between 29 feet 4 inches and 32 feet 4 inches. Several vertical elements have been included in the design such as the tower features and elevator/stairwell enclosures which range in height from 35 feet to 40 feet. The main elevator and stairwell enclosure has been integrated into the building façade as a prominent architectural feature and creates a transition between the commercial and parking structure components of the project. To break up the bulk and massing of the parking structure as viewed from West Coast Highway, a 755-square-foot commercial space has been located on the first level of the structure, below the ramp, providing a storefront and retail presence in front the of the structure. A tower element extends this storefront vertically along the face of the structure.

The storefronts on both the upper and lower level will be setback from the edge of the balcony along the street elevation, creating light and shadow effects. Light and shadow will also be created through the extensive use of awnings and recessed openings. The massing of the parking structure is also minimized through the use of vertical opening openings along the street frontage.

3. *The increased height will not result in undesirable or abrupt scale changes or relationships being created between the proposed structure(s) and existing adjacent developments or public spaces. Where appropriate, the proposed structure(s) provide a gradual transition to taller or shorter structures on abutting properties; and*

The tower and cupola feature, the tallest portion of the building, is located at the southeasterly corner of the site, away from the nearest residential and commercial uses. The height of the project transitions in height from east to west, minimizing the change in scale to the adjacent commercial priorities to the west. With the exception of the tower elements and mechanical equipment enclosure, the height of the commercial building is 32 feet 4 inches. To minimize the visual height and bulk of the parking structure as viewed in perspective from West Coast Highway, the parking structure roof has been setback 37 feet 5 inches from the front edge of the structure. The resulting height of the parking structure along the front façade is 29 feet 4 inches providing a transition to the commercial properties to the west as viewed from the highway. Although the adjacent commercial property is currently with one-story commercial buildings, the site has the potential to be redeveloped at heights of 31 feet without discretionary approvals.

The homes on the residential lots to the north are situated at the top of the hillside that ranges in height from 40-50 feet above the project's pad elevation. The homes are also located a minimum of 60 feet back from the rear property line. These vertical and horizontal separations between the proposed commercial building and the homes at the top of the slope minimize the impact of the proposed structure heights to the adjacent residences.

4. *The structure will have no more floor area than could have been achieved without the approval of the height increase.*

The requested increase in floor area does not drive the need for the increased height. The need for the third level of the parking structure is primarily driven by the need to provide parking for the two restaurants that will serve of anchor tenants to the development. If the project is designed with only the two restaurants at the currently permitted 0.5 FAR, the third level of parking would still be needed to accommodate the 100 parking spaces anticipated for the restaurant uses. The height of the parking structure could be reduced from 35 feet to 29 feet 4 inches if the roof was removed; however, the roof provides a benefit to the residents located above the hillside as it shields parking structure lighting and glare, and buffers some vehicle noise.

With regard to the height of the commercial building, the need for height is driven by the need to provide desirable 12-foot-high ceilings for the retail tenants ensuring that these commercial building will remain marketable to tenants. According to the applicant, in order to provide 12-foot-high clear ceilings and accommodate space for mechanical systems and fire sprinklers, a total plate height between 14 feet 6 inches and 17 feet 6 inches is required. Plate heights within the project utilize a minimum 14-foot-8-inch dimension. It's also important to note that a majority of the commercial building will maintain a maximum height of 32 feet 4 inches, with the exception for the tower elements, designed to enhance the architecture of the building, and elevator/stairwell enclosures and mechanical equipment enclosure.

*Parking Requirements*

Since the final land use mix is unknown at this time, the final parking requirements for the proposed project cannot be determined. However, based on the Zoning Code parking requirements of the assumed land use mix, approximately 157 parking spaces would be required based on the following formulas:

| Table 4 - Assumed Parking Requirements | | | | | |
|---|---|---|---|---|---|
| **Land Use** | **Gross Square Feet (gsf)[1]** | **Leasable Restaurant Area** | **Net Public Area (NPA)[2]** | **Parking Ratio** | **Required Parking** |
| **Restaurant** | 9,522 | 8,280 sf | 4,968 sf[3] | 1 per 50 sf of NPA | 100 |
| **Retail** | 10,493 | n/a | n/a | 1 per 250 gsf | 42 |
| **Medical Office** | 3,000 | n/a | n/a | 1 per 200 gsf | 15 |
| **Total** | **23,015** | | | | **157** |

An assumption was made with regard to the restaurant parking requirements given that the specific design (i.e., seating type, arrangement, bar area) and operational characteristics (i.e. live entertainment, dancing) are not known at this time. Additionally, since parking requirements for restaurants are based on NPA and not gross floor area, a conservative assumption of 60 percent of leasable area was used to determine expected NPA. Pursuant to Section 20.40.060 of the Zoning Code, Food Service uses (restaurants) are required to provide off-street parking within a range of one space for each 30 to 50 square feet of NPA, depending on the physical design, operational characteristics, and location of the establishment. It is the applicant's intent for these restaurants to be occupied by fine dining establishments, with very low turnover. Other fine dining restaurants located within Mariner's Mile and Corona del Mar are typically required to provide parking at the lower ratio of 1 space per 50 square feet of NPA; therefore, the same ratio was used for the project analysis. The physical design and operational characteristics that would lead to higher parking ratios include uses with higher occupant loads, such as bars or restaurants with large bar areas, the operation of live entertainment and/or dancing, or restaurants with higher turnover rates, such as a family restaurants or diners.

Section 20.40.040 of the Zoning Code includes a provision that excludes a portion of outdoor dining area (equal to 25 percent of the interior NPA) from the required parking calculations. Based on the assumed total interior net public area of 4,968 square feet, 1,242 square feet of outdoor dining would be excluded from the parking calculations (4,968 x 0.25 =1,242 sf). As shown on the plans, the total outdoor dining area proposed is 1,230 square feet.

It should be noted that each of the proposed restaurants will be required to apply for a minor or conditional use permit, at which time the final parking requirements can be calculated based on the specific design and operational characteristics.

[1] Gross square feet includes enclosed corridor behind each of the suites
[2] **Area, Net Public.** The total area used to serve customers, including customer sales and display areas, customer seating areas, service counters, and service queue and waiting areas, but excluding restrooms and offices, kitchens, storage and utility areas, and similar areas used by the employees of the establishment.
[3] Estimated as 60-percent of leasable restaurant area

*Parking Strategy*

The parking strategy for the project is complex and includes a request to adjust the parking requirements based on a shared parking analysis, use of a parking management plan that utilizes tandem and valet parking, and use of off-site parking for employees. Pursuant to Sections 20.40.110.B.2 and 20.40.100 of the Zoning Code, a conditional use permit is required for each of these requests. Pursuant to Section 20.40.070.B.3 of the Zoning Code, a conditional use permit is also required to allow the construction of a parking structure adjacent to a residential zoning district. The following sections of the report describe each of the parking related requests in detail. The *Conditional Use Permit Findings* section of the report summarizes whether the findings can be supported for each of these requests.

*Adjustment to Off-Street Parking Requirements*

Based on the parking requirements discussed above, a total of 157 parking spaces are anticipated to be required. Section 20.40.10.B.2 of the Zoning Code allows required off-street parking to be reduced with the approval of a conditional use permit where two or more distinct uses on the same site have distinct and differing peak parking demands. A shared parking analysis has been prepared by LSA Associates, Inc., (Attachment No. PC6) that indicates that because of the different hours of operation of the assumed mix of tenants, not all of the uses within the project will require their full allotment of parking spaces at the same time. The analysis indicates that the total parking required has two separate peaks: 1) one peak during the early afternoon with a total demand for 131 parking spaces at 1:00 p.m.; and 2) a second peak in the early evening with a total demand of 145 parking spaces at 6:00 p.m. The analysis concludes that the parking demand in excess of the 136 spaces provided on site does not manifest until 6:00 p.m. (145 spaces). Please see *Conditional Use Permit Findings* section below for a discussion of the required findings for approval.

*Parking Management Plan*

In order to maximize the number of parking spaces that can be accommodated within the on-site parking structure, the applicant is proposing a total of 136 parking stalls consisting of 80 standard stalls, 42 tandem stalls, and 14 valet-only specific aisle and corner stalls. A parking management plan will be required to be implemented to ensure the parking structure adequately functions. Sunset Parking Services has prepared a parking management plan entitled "Daily Operational Plan" (Attachment No. PC7) that illustrates and explains in detail how the parking structure will be managed. In general, the plan indicates the following:

- Employee Parking- A total of 46 spaces will be reserved as employee parking on the third level. Tandem stalls on the third level will be assigned to the same

tenant. Additional employee parking needed before 5:00 p.m. will be accommodated by valet. After 5:00 p.m., 20 additional employee parking spaces may also be provided in the off-site parking lot located at 601 Dover Drive.

- Customer Parking- Between the hours of 7:00 a.m. and 10:00 a.m., a total of 32 customer parking spaces will be provided on the first level as self-parking. Between the hours of 10:00 a.m. and 5:00 p.m., a total of 32 parking spaces will be provided on the first level as self-parking and an additional 58 spaces will be provided on the first, second, and third level through valet operations. Between 5:00 p.m. and close, or when the need arises due to actual parking demand, all guest parking will be managed through valet operations to accommodate the queuing of vehicles within the first level.

The parking management plan has been reviewed and approved by the City's Traffic Engineer. Although tandem parking for employees and valet parking within a parking structure is not ideal, given the design constraints with providing parking in compliance with City standards on such a shallow lot, staff believes the proposed parking management plan is a reasonable solution. The approval of a parking management plan requires the approval of a conditional use permit. Please see *Conditional Use Permit Findings* section below for a discussion of the required findings for approval.

*Off-Site Parking*

To address the nine space parking deficit that is anticipated to occur after 6:00 p.m., the applicant is prepared to enter into an off-site parking agreement to provide 20 employee parking spaces. The off-site parking would be provided at the medical office parking lot located at 601 Dover Drive (see Vicinity Map). Pursuant to Section 20.40.100 of the Municipal Code, approval of a conditional use permit is required for a parking facility that is not located on the same site it is intended to serve. In addition to the standard conditional use permit findings discussed *Conditional Use Permit Findings* section of this report, the Planning Commission must also make each of the following findings:

1. *The parking facility is located within a convenient distance to the use it is intended to serve;*

2. *On-street parking is not being counted towards meeting parking requirements:*

3. *Use of the parking facility will not create undue traffic hazards or impacts in the surrounding area; and*

4. *The parking facility will be permanently available, marked, and maintained for the use it is intended to serve.*

The parking lot is located approximately 1,050 feet (walking distance) north of the project site at the corner of Dover Drive and Cliff Drive. The lot would be used solely by

employees of the project and not by customers. The *Manual on Uniform Traffic Control Devices* (MUTCD) suggests four feet per second as a normal walking speed; therefore, it would take an employee approximately 4 minutes and 22.5 seconds to walk from the off-site lot. This is considered a convenient distance for employee parking.

The use of the parking lot will not create an undue traffic hazard as the proposed project and subject off-site parking lot are both located on the westerly side of Dover Drive. This allows employees to walk on the sidewalk and only needing to cross the signalized crosswalk at Cliff Drive. As indicated in the shared parking analysis, it is only anticipated that only 9 of 20 parking spaces will actually be needed. The sidewalk leading to the off-site parking lot is bordered by a hillside with residential uses located along the top of slope. Residences are also located behind the medical office site to the west; however, the residences are located at the top of a hillside and buffered from the parking area by the medical office building. Since the off-site parking will be used by employees only, typical noise disturbances associated with restaurant patrons loitering in parking lots is not expected.

The off-site parking spaces will be made available for the use of employees of the project after 5:00 p.m. on a daily basis, once the medical office tenants are closed for business. The owner's of the medical office building, 601 Dover LLC, are subject to a ground-lease that expires in 11 years and have indicated they are agreeable to entering into an agreement allowing the use of up to 20 parking spaces. If the ground lease is not renewed and the applicant loses the ability to provide parking on the lot, the applicant will be required to notify the Community Development Director who will establish a reasonable time for substitute parking to be provided or reduce the size of the tenant spaces or change the tenant mix (i.e. less restaurant or medical floor area) in proportion to the parking spaces lost.

*Conditional Use Permit Findings –Parking Structure, Parking Adjustments, Parking Management Plan, and Off-Site Parking*

Pursuant to Sections 20.40.070.B.3, 20.40.110.B.2, and 20.40.100 of the Zoning Code, a conditional use permit is required to allow for the construction of a parking structure adjacent to a residential zoning district, to modify the off-street parking requirements and to establish a parking management plan, and to allow for the use of off-site parking. Pursuant to Section 20.52.020.F of the Zoning Code, the Planning Commission must make the following findings in order to approve a conditional use permit:

1. *The use is consistent with the General Plan and any applicable specific plan;*

2. *The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code;*

3. *The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity;*

4. *The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities; and*

5. *Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

As previously stated, the commercial building and related uses are consistent with CG General Plan land use designation and CG zoning district. The parking structure is considered an accessory use that supports of the commercial uses. Parking structures and the use of valet are commonly associated with restaurant development and compatible with the other commercial uses located in Mariner's Mile; however, due to its close proximity to the residential uses to the north, the design and operation of the parking structure has the potential to impact the adjacent residences.

The parking structure is proposed to be located at the base of the hillside adjacent to a residential district, where the neighboring residential properties are located along the top of the hillside approximately 40-50 feet above the project's pad elevation. The height of the covered portion of the parking structure is 35 feet at the rear of the property directly adjacent to the residential district. The residential dwellings will remain approximately 22 feet higher in elevation than the surface of the third level parking deck (25 feet 10 inches) and 12 feet 6 inches higher in elevation than the top of the parking structure roof. The closest residential dwelling is located approximately 60 feet from the rear property line. These vertical and horizontal separations between the proposed commercial building and the homes provide adequate distance so that the mass and bulk of the parking structure should not negatively impact residents.

Parking structures have the potential to generate noise, such as car-alarms, car horns, car audio systems, people talking, vehicle pass-bys, and engine idling, which have the potential to disturb the adjacent residences. These individual noise sources last for short durations and their occurrences are infrequent; however, they can annoy neighbors. A noise analysis was prepared by The Planning Center as part of the MND to analyze the potential noise impacts associated with the previously proposed uncovered parking structure to the adjacent residents using sound modeling. The analysis concludes that the noise generated from vehicles and service trucks within the first and second level of the structure will be attenuated given that those levels are enclosed. With regard the uncovered third level, the analysis indicates that during the daytime, traffic noise from West Coast Highway and Dover Drive would be audible over the noise generated from the third level. In the evening, noise generated from the third level would be less than the City's 45 dBL Leq exterior noise standard at the residences. In addition, the third level of the parking structure will be reserved for employee and valet parking only, avoiding potential noise disturbances that may be

associated with patrons loitering in the parking area after hours. Although noise from the third level of the parking structure is not anticipated to violate the Community Noise Ordinance standards, the applicant has since proposed to partially enclose and cover the rear two-thirds of the parking structure. This roof will have the effect of further attenuating noise generated from vehicles on the third level of the parking structure.

Illumination of the third parking level is necessary for safety; however, it also has the potential to negatively impact the residents above if not properly designed and controlled. As currently designed, the rear two-thirds of the upper parking level will be covered and will shield illumination of the parking structure from view of the resident's above. To illuminate the uncovered portion of the parking structure, light fixtures would be recessed into the southerly and westerly walls with very low light output and shields to eliminate glare from views above. In addition, the project has been conditioned to require a nighttime light inspection to confirm there are no light and glare impacts.

With regard to the modification of the off-street parking requirements, the LSA Shared Parking Analysis indicated that not all uses within the project will require their full allotment of parking spaces at the same time, therefore, the adjustment in parking requirements is justified. When demand for parking within the structure exists, the applicant's parking management plan should ensure that employees and patrons are able to park on-site. The parking management plan has been reviewed and approved by the City's Traffic Engineer. The Traffic Engineer and Fire Department have reviewed the parking lot design and have determined that the parking lot design will function safely and will not prevent emergency vehicle access. Although tandem parking for employees and valet parking within a parking structure is not ideal, given the design constraints with providing parking in compliance with City standards on a shallow lot, the proposed parking management plan is a reasonable solution.

With regard to the off-site parking, the location of the off-site parking is convenient for the use of employee parking. It is not anticipated that the use of the off-site parking lot would create an undue traffic hazard or result in noise disturbances to the adjacent residences.

*Variance -Rear Setback Encroachment*

The proposed project encroaches five feet into the rear five-foot-setback adjacent to the residential lots to the north. Pursuant to Section 20.52.090 of the Zoning Code, the Planning Commission must make the following findings in order to approve a variance:

1. *There are special or unique circumstances or conditions applicable to the subject property (e.g., location, shape, size, surroundings, topography, or other physical features) that do not apply generally to other properties in the vicinity under an identical zoning classification;*

2. *Strict compliance with Zoning Code requirements would deprive the subject property of privileges enjoyed by other properties in the vicinity and under an identical zoning classification;*

3. *Granting of the Variance is necessary for the preservation and enjoyment of substantial property rights of the applicant;*

4. *Granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district;*

5. *Granting of the Variance will not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood; and*

6. *Granting of the Variance will not be in conflict with the intent and purpose of this Section, this Zoning Code, the General Plan, or any applicable specific plan.*

The subject property is wide (approx. 340 feet) and shallow (approx. 90 feet avg.) Although many of the lots along the inland side of the Mariner's Mile corridor consist of shallow lots, this property in particular is especially shallow given the acquisition of the property frontage in 1979 to accommodate the Bay Bridge realignment project. The realignment reduced the property depth approximately 27 feet on the westerly end and 47 feet on the easterly end of the property. In comparison to the adjacent properties to the west, the subject property is approximately 25 feet shallower. The 60 lots on the inland side of West Coast Highway and located between the intersection of Dover Drive and the westerly boundary the Balboa Bay Club are the shallowest commercial lots within Marine's Mile corridor area. Of these 60 lots, only four lots have lot depths less than 100 feet (96.47 at its shallowest end). Over half of these lots consist of lot depths greater than 140 feet. The average lot depth of these 60 lots is approximately 120 feet.

The reduced lot depths do not accommodate an optimal commercial center site configuration. To design an optimal commercial building, the commercial square footage has been consolidated on the eastern portion of the site as a two-level design in order to accommodate the required on-site parking on the western portion of the site where the lot depth is greater. To accommodate the project (even if developed at a 0.5 FAR with two levels of parking) encroachment into the rear five-foot setback would be necessary to comply with City standards for minimum drive aisles, parking stall dimensions, turning radiuses, and sight distance requirements. If the proposed parking structure and commercial building were located on the other 54 inland lots within this portion of Mariner's Mile, it could be accommodated without the need to encroach, and therefore, does not constitute the granting of a special privilege inconsistent with the limitations upon other properties in the Mariner's Mile corridor.

Typically, commercially zoned properties are not required to maintain rear setbacks, except when located adjacent to residentially zoned properties. The intent is to provide

separation for light, air, and open space adjacent to these residential properties. In this case, four residential lots abut the project's rear property line; however, the houses are located on the hillside approximately 40-50 feet above the project's pad elevation. The closest residential dwelling is located approximately 60 feet from the rear property line. These vertical and horizontal separations between the proposed commercial building and the homes provide adequate buffer equivalent to or superior to a five-foot rear setback; therefore, the five-foot encroachment should not prove detrimental to the abutting residences, nor result in a condition where the commercial development will endanger or create a hazard to those persons residing in the houses above. The development includes cutting into the toe of the slope; however, the preliminary geotechnical report indicates that construction of the retaining wall is feasible, subject to the recommendations within the report and in compliance with Building and Grading Codes, and will not undermine the stability of the hillside. In addition, the hillside is heavily landscaped and the applicant has agreed to work with adjacent residential property owners to further landscape the slope to provide increased landscaped screening of the rear of the project.

*Parcel Map – Lot Consolidation*

The property consists of six legal lots, which the applicant is proposing to consolidate into one unified site. Pursuant to Section 19.12.060 of the Municipal Code, the merger of five or more lots requires the approval of a parcel map. The approval of the parcel map is straightforward in the case and staff believes the facts clearly exist to approve a parcel map. These required findings and facts in support of these findings are included in the attached draft resolution.

The subject site is located at the intersection of West Coast Highway and Dover Drive and serves as the gateway into the Mariner's Mile commercial corridor of the City. Given its location, this site is ideal for the development of a commercial building and the subject parcel map allows for the consolidation of six shallow lots into one unified site large enough to accommodate a viable commercial development.

The Public Works Department has reviewed the proposed tentative map and believes it is consistent with the Newport Beach Subdivision Code (Title 19) and applicable requirements of the Subdivision Map Act. The proposed project accommodates the future widening of Coast Highway and all utility lines will be undergrounded.

The design of the development will not conflict with any easements acquired by the public at large for access through or use of property within the proposed development as there are no public easements that are located on the property. An easement through the site will be retained by the City for sewer and utilities purposes.

*Traffic Study- Traffic Phasing Ordinance*

Municipal Code Chapter 15.40 (Traffic Phasing Ordinance, or TPO) requires that a traffic study be prepared and findings be made before building permits may be approved if a proposed project will generate in excess of 300 average daily trips (ADT). For the purposes of preparing the traffic analysis for this project, the 23,015-square-foot commercial building was assumed to include 12,722 square feet of quality restaurant, 7,293 square feet of specialty retail, and 3,000 square feet of medical office. Combined, this land use mix is forecast to generate 1,292 additional trips per day, including 16 additional a.m. peak hour trips and 70 p.m. peak hour trips. It should be noted that this land use mix yields a higher project trip generation than the actual currently proposed land use mix of 9,522 square feet of restaurant, 10,493 square feet of retail, and 3,000 square feet of medical office and, therefore, the traffic analysis prepared for this project is considered to be a conservative as it over-estimates average daily trips by 93 trips.

Pursuant to Section 15.04.030.A, the Planning Commission must make the following findings in order to approve the project:

1. *That a traffic study for the project has been prepared in compliance with this chapter and Appendix A;*

2. *That, based on the weight of the evidence in the administrative record, including the traffic study, one of the findings for approval in subsection (B) can be made:*

   *15.40.030.B.1 Construction of the project will be completed within 60 months of project approval; and*

   *15.40.030.B.1(a) The project will neither cause nor make an unsatisfactory level of traffic service at any impacted intersection.*

3. *That the project proponent has agreed to make or fund the improvements, or make the contributions, that are necessary to make the findings for approval and to comply with all conditions of approval.*

A traffic study, entitled "Mariner's Pointe Traffic Impact Analysis dated February 17, 2011" was prepared by RBF Consulting under the supervision of the City Traffic Engineer pursuant to the TPO and its implementing guidelines (Attachment NO. PC8).

A total of 12 primary intersections in the City were evaluated. The traffic study indicates that the project will increase traffic on six of the 12 study intersections by one percent (1%) or more during peak hour periods one year after the completion of the project and, therefore, these six intersections required further Intersection Capacity Utilization (ICU) analysis. Utilizing the ICU analysis specified by the TPO, the traffic study determined that the six primary intersections identified will continue to operate at satisfactory levels of service as defined by the Traffic Phasing Ordinance, and no mitigation is required.

Since implementation of the proposed project will neither cause nor make worse an unsatisfactory level of traffic service at any impacted primary intersection within the City, no improvements or mitigation are necessary. Therefore, staff recommends that the Planning Commission find that the traffic study has been prepared in compliance with the TPO.

Environmental Review

A Mitigated Negative Declaration (MND) has been prepared by The Planning Center, in accordance with the implementing guidelines of the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and City Council Policy K-3. The MND is attached as Attachment No. PC9 and was routed to the Planning Commission in advance of this staff report to allow additional time to review the report. A copy of the MND was also made available on the City's website, at each Newport Beach Public Library, and at the Community Development Department at City Hall.

The MND does not identify any component of the project that would result in a "potentially significant impact" on the environment per CEQA guidelines. However, the document does identify components of the project that would result in effects that are "less than significant with mitigation incorporated" as a result of construction of the project with regard to the following five environmental categories: Biological Resources, Cultural Resources, Geology and Soils, Noise, and Transportation and Traffic. The document recommends the adoption of 11 mitigation measures to mitigate the effects to a point where no significant effects would occur. These mitigation measures are identified in the Mitigation Monitoring and Reporting Program, which is attached as Exhibit A of Attachment No. PC1.

The MND was made available for public review for a 30-day comment period from April 11, 2011, to May 11, 2011. Staff has received three comment letters from agencies, one comment letter from the California Cultural Resource Preservation Alliance, and five comment letters from residents who live in the Cliff Haven neighborhood above the project site. Letters from the residents generally state concern with the size of the project, private view impacts, potential odors, noise from the parking structure and outdoor patios, potential lighting impacts, and traffic impacts. Although not required pursuant to CEQA, written responses have been prepared for each of the comment letters. The comment letters and responses have been attached as Attachment No. PC10.

Summary

The proposed project implements the City's goal of abating the dilapidated improvements on the constrained property, and will redevelop and improve the property with a new commercial building that exhibits a high level of architectural detail and amenities. The project will also serve as a prominent entry feature into the Mariner's Mile corridor of the City. With that said, the project is designed at a 0.7 FAR and would maximize the building envelope and would require several deviations from development

standards in order to accommodate the project. The parking strategy for the project is less than ideal and requires an adjustment to the parking standards based on shared parking, the use of tandem and valet parking for the parking structure, and off-site parking to function. Given the constraints of the property, the parking strategy remains a reasonable solution.

The project has been designed to maintain clean roofs with all mechanical equipment screened from view within an equipment enclosure to minimize potential impacts to the resident's above. The third level of the parking deck has been designed within a roof enclosure that would screen the resident's view of vehicles, parking structure lighting, and would provide additional noise buffering. Also, the two smaller outdoor dining patios for the restaurants have been designed to be covered and screened from view from the residents, minimizing noise and visual disturbances. At this time, staff is not recommending approval of the larger 750-square-foot outdoor patio within the right-of-way, but rather is recommending that the outdoor patio request be deferred until the review of the use permit for the future restaurant use.

The increase in intensity, proposed land use mix, and required parking has resulted in a larger, bulkier development and has not allowed the applicant to provide increased open space to offset the increase in height. However, the project has been designed to a high quality architectural standard and incorporates a number of amenities beyond what would normally be required. Primarily the project had been designed with modulated building masses and roof lines to provide visual relief, vertical modulation in the form of tower elements with sloping roofs, and the addition of design elements such as balconies, tower features, awnings, trellises, ornamental windows and railings, that enhance the visual quality of the buildings and street frontage. To break up the appearance and massing of the parking structure, the design includes a variety of materials, the use of recessed openings, and incorporates a storefront with a vertical tower element. Enhanced landscaping within the public-right-of-way is proposed and would incorporate a water feature that would improve the streetscape and entrance into the corridor. In addition to the highway noise attenuation that the building will provide for the resident's above, the resident's will also benefit from the removal of the three existing power poles and overhead lines located along the rear of the property on the residential lots.

Alternatives

Should the Planning Commission conclude that the project as proposed would not be compatible with the surrounding uses and/or that any increased intensity request is inappropriate, the project should be denied, or modified to address the issues of concern. If a redesigned project is the Commission's conclusion, staff recommends a continuance to allow the applicant time to revise their plans accordingly.

## PUBLIC NOTICE

Notice of this hearing was published in the Daily Pilot, mailed to property owners within 300 feet of the property (excluding roads and waterways) and posted at the site a minimum of 10 days in advance of this hearing consistent with the Municipal Code. The environmental assessment process has also been noticed consistent with the California Environmental Quality Act. The Notice of Intent (NOI) to adopt the MND was mailed to property owners within 300 feet of the property (excluding roads and waterways), posted at the site and at City Hall, and e-mailed to all parties that have signed up to receive notification of the preparation of environmental documents in the City. Finally, the item appeared upon the agenda for this meeting, which was posted at City Hall and on the city website.

Prepared by:

Jaime Murillo, Associate Planner

Submitted by:

James W. Campbell, Principal Planner

## ATTACHMENTS

PC 1 Draft Resolution with Findings, Conditions, and Mitigation Monitoring and Reporting Program
PC 2 Parcel Map
PC 3 Project Plans
PC 4 Land Use Element Changes
PC 5 Zoning Map Changes
PC 6 Shared Parking Analysis
PC 7 Parking Management Plan
PC 8 Traffic Study
PC 9 Draft Mitigated Negative Declaration (distributed separately due to bulk)
PC 10 Comments and Responses

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# Attachment No. PC 1

Draft Resolution with Findings,
Conditions, and Mitigation Monitoring and
Reporting Program

**RESOLUTION NO. ____**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH RECOMMENDING ADOPTION OF A MITIGATED NEGATIVE DECLARATION, FINDING TRAFFIC STUDY NO. TS2011-001 IN COMPLIANCE WITH THE TRAFFIC PHASING ORDINANCE, APPROVAL OF GENERAL PLAN AMENDMENT NO. GP2010-009, CODE AMENDMENT NO. CA2010-009, SITE DEVELOPMENT REVIEW NO. SR2010-001, CONDITIONAL USE PERMIT NO. 2010-024, VARIANCE NO. 2010-004, AND PARCEL MAP NO. 2010-008, FOR A COMMERCIAL DEVELOPMENT PROJECT LOCATED AT 100-300 WEST COAST HIGHWAY (PA2010-114)**

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by VBAS Corporation, with respect to properties located at 100-300 West Coast Highway, and legally described as Lots 1, 2, 3 ,4, 5, and 6 of Tract No. 1210 requesting approval of a General Plan Amendment (GPA) to accommodate the development of a 23,015-square-foot, two-story commercial building and a three-story parking structure The following applications are requested or required in order to implement the project as proposed:

    a. An amendment to the Land Use Element of the General Plan to increase the allowable floor area for the project site from 16,518 square feet (0.5 FAR) to a maximum development limit of 23,015 square feet (approx. 0.7 FAR);

    b. An amendment to the Zoning Map of the Zoning Code to increase the allowable floor area limitation for the project site from 0.3/0.5 FAR to a maximum development limit of 23,015 square feet (approx. 0.7 FAR);

    c. A site development review to allow the construction of a 23,015-square-foot, two-story building and a three-story parking structure that will exceed the 31-foot base height limit with a maximum height of 40 feet;

    d. A conditional use permit to allow for the construction of a parking structure adjacent to a residential zoning district, to modify the off-street parking requirements, allow for the use of off-site parking, and to establish a parking management plan for the site;

    e. A variance to allow the commercial building and parking structure to encroach five feet into the five-foot rear yard setback;

    f. A parcel map to consolidate six lots into one parcel; and

g. A traffic study pursuant to the City's Traffic Phasing Ordinance.

2. The subject property is located within the Commercial General (CG) Zoning District and the General Plan Land Use Element category is Commercial General (CG).

3. The subject property is not located within the coastal zone.

4. A public hearing was held by the Planning Commission on June 23, 2011, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. An Initial Study and Mitigated Negative Declaration have been prepared in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and City Council Policy K-3.

2. The draft Mitigated Negative Declaration was circulated for a 30-day comment period beginning on April 11, 2011 and ending on May 11, 2011. The contents of the environmental document and comments on the document were considered by the Planning Commission in its review of the proposed project.

3. On the basis of the entire environmental review record, the proposed project, with mitigation measures, will have a less than significant impact upon the environment and there are no known substantial adverse affects on human beings that would be caused. Additionally, there are no long-term environmental goals that would be compromised by the project, nor cumulative impacts anticipated in connection with the project. The mitigation measures identified and incorporated in the Mitigation Monitoring and Reporting Program are feasible and will reduce the potential environmental impacts to a less than significant level.

4. The Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program attached as Exhibit A is hereby adopted. The document and all material, which constitute the record upon which this decision was based, are on file with the Planning Department, City Hall, 3300 Newport Boulevard, Newport Beach, California.

5. The Planning Commission finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial challenge, and bear the responsibility for any costs, attorneys' fees, and damages which may be awarded to a successful challenger.

SECTION 3. REQUIRED FINDINGS.

1. The project site is located within the Mariner's Mile commercial corridor. The Land Use Element of the General Plan designates the site General Commercial (CG), which is intended to provide for a wide variety of commercial activities primarily oriented to serve citywide or regional needs. The proposed commercial building would be consistent with this designation.

2. General Plan Policy LU 3.2 encourages the enhancement of existing neighborhoods, districts, and corridors, by allowing for re-use and infill with uses that are complementary in type, form, scale, and character. The policy states that changes in use and/or density/intensity should be considered only in those areas that are economically underperforming, are necessary to accommodate Newport Beach's share of projected regional population growth, improve the relationship and reduce commuting distance between home and jobs, or enhance the values that distinguish Newport Beach as a special place to live for its residents. The scale of growth and new development shall be coordinated with the provision of adequate infrastructure and public services, including standards for acceptable traffic level of service.

   The proposed GPA for increased intensity is consistent with General Plan Policy LU 3.2 as follows:

   a. The General Plan recognizes the Mariner's Mile corridor as a location that needs revitalization.

   b. The increased intensity would provide an economic stimulus needed to accommodate the redevelopment of six lots into one commercial development.

   c. As stated in the General Plan, Newport Beach residents desire high quality development and have identified the Mariner's Mile corridor is an area that needs revitalization.

   d. Redevelopment of the subject property helps implement the goal of revitalizing the corridor and may encourage the redevelopment of other underperforming properties within the Mariner's Mile corridor. The projects high quality and distinct architectural features, such as the corner tower element and cupola, will serve as a focal point and anchor into the entry into the Mariner's Mile corridor. In addition, the project's landscaping and water feature within the public right-of-way will significantly improve the streetscape in the corridor.

   e. The traffic impact analysis that was prepared for the project found that the addition of project-related traffic would not have a significant impact at any of the study intersections.

   f. The project site is served by existing infrastructure and public services. The proposed increase in intensity will not necessitate any expansion of existing infrastructure. The proposed lane drop extension on West Coast Highway will

improve safety of westbound traffic, while improving access to the site. The removal of the three existing power poles and undergrounding of the power lines will provide a public benefit.

3. Charter Section 423 requires that all proposed General Plan Amendments be reviewed to determine if the square footage (for non-residential projects), peak hour vehicle trip, or dwelling units thresholds would be exceeded as the means to determine whether a vote by the electorate would be required to approve the General Plan Amendment. Pursuant to Council Policy A-18, voter approval is not required as the proposed General Plan Amendment represents a cumulative increase (including prior amendments) of 6,497 square feet and an increase of 19.49 a.m. and 25.99 p.m. peak hour trips. Therefore, the project and prior amendments do not cumulatively exceed Charter Section 423 thresholds as to require a vote of the electorate

4. Municipal Code Chapter 15.40 (Traffic Phasing Ordinance, or TPO) requires that a traffic study be prepared and findings be made before building permits may be approved if a proposed project will generate in excess of 300 average daily trips (ADT). For the purposes of preparing the traffic analysis for this project, the 23,015-square-foot commercial building was assumed to include 12,722 square feet of quality restaurant, 7,293 square feet of specialty retail, and 3,000 square feet of medical office. Combined, this land use mix is forecast to generate 1,292 additional trips per day, including 16 additional a.m. peak hour trips and 70 p.m. peak hour trips. This land use mix yields a higher project trip generation than the actual currently proposed land use mix of 9,522 square feet of restaurant, 10,493 square feet of retail, and 3,000 square feet of medical office and, therefore, the traffic analysis prepared for this project is considered to be a conservative as it over-estimates average daily trips by 93 trips. Pursuant to Section 15.04.030.A, the project shall not be approved unless certain findings can be made. The following findings and facts in support of such findings are set forth:

<u>Finding</u>:

*A. That a traffic study for the project has been prepared in compliance with this chapter and Appendix A.*

<u>Facts in Support of Finding</u>:

A-1. A traffic study, entitled “Mariner’s Pointe Traffic Impact Analysis dated February 17, 2011” was prepared by RBF Consulting under the supervision of the City Traffic Engineer pursuant to the TPO and its implementing guidelines. A total of 12 primary intersections in the City were evaluated.

<u>Finding</u>:

*B. That based on the eight of the evidence in the administrative record, including the traffic study, one of the findings for approval in subsection (B) can be made:*

*15.40.030.B.1 Construction of the project will be completed within 60 months of project approval; and*

*15.40.030.B.1(a) The project will neither cause nor make an unsatisfactory level of traffic service at any impacted intersection.*

Facts in Support of Finding:

B-1. Construction of the project is anticipated to be completed in 2012. If the project is not completed within sixty (60) months of this approval, preparation of a new traffic study will be required.

B-2. The traffic study indicates that the project will increase traffic on six of the 12 study intersections by one percent (1%) or more during peak hour periods one year after the completion of the project and, therefore, these six intersections require further Intersection Capacity Utilization (ICU) analysis.

B-3. Utilizing the ICU analysis specified by the TPO, the traffic study determined that the six primary intersections identified will continue to operate at satisfactory levels of service as defined by the Traffic Phasing Ordinance, and no mitigation is required.

B-4. Based on the weight of the evidence in the administrative record, including the traffic study, the implementation of the proposed project will neither cause nor make worse an unsatisfactory level of traffic service at any impacted primary intersection within the City of Newport Beach.

Finding:

*C. That the project proponent has agreed to make or fund the improvements, or make the contributions, that are necessary to make the findings for approval and to comply with all conditions of approval.*

Facts in Support of Finding:

C-1. Since implementation of the proposed project will neither cause nor make worse an unsatisfactory level of traffic service at any impacted primary intersection within the City of Newport Beach, no improvements or mitigation are necessary.

5. The project consists of 23,015 square feet of commercial floor area and requires site development review. In accordance with Section 20.52.080 of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

*A. Allowed within the subject zoning district.*

Facts in Support of Finding:

A-1. A commercial building with retail, office, and restaurant uses is a permitted use within the CG zoning district. The specific restaurants will be required to obtain separate minor or conditional use permits prior to occupying the building.

Finding:

*B. Compliance with this Section [20.52.080], the General Plan, this Zoning Code, any applicable specific plan, and other applicable criteria and policies related to the use or structure.*

Facts in Support of Finding:

B-1. The proposed commercial building is consistent with the CG General Plan land use designation and CG zoning district. A General Plan Amendment and Zoning Map Amendment are requested to allow the proposed increase in intensity.

B-2. As required by the Zoning Code, a conditional use permit and variance has been requested to allow for the off-street parking modifications and the encroachment into the rear setback.

B-3. Land Use Element Policy LU 6.19.6 requires the implementation of landscape, signage, lighting, sidewalk, pedestrian crossing, and other amenities consistent with the Mariner's Mile Strategic Vision and Design Framework. Applicable to this project would be the landscape, lighting, and signage recommendations within the framework. Project signage has not yet been developed and will be submitted for a subsequent review. The project implements the landscaping requirements of the framework by providing the minimum four-foot-wide planter area with continuous hedge and palms plantings. With regard to lighting, the lighting has been designed to respect the views from above and to prevent any light spillage beyond the perimeter of the structure and to eliminate any sources of glare to the residents and motorists. The framework also includes architectural objectives that focus on responsible and sensitive design, with an emphasis on roofs and roof elements to respond to views from above. The proposed building has been designed with tiled tower elements and clean flat roofs with all mechanical equipment screened from view within an enclosure. The third level of the parking structure has been designed with a solid roof that screens the resident's view of vehicles and lighting.

Finding:

*C. The efficient arrangement of structures on the site and the harmonious relationship of the structures to one another and to other adjacent developments; and whether the relationship is based on standards of good design.*

Facts in Support of Finding:

C-1. The commercial building is configured in such way to resemble a village of two-story buildings, with various roof heights, connected to parking on each of the two levels.

C-2. Although the project is requesting an increase in height, the building will not block or obstruct any views of the bay or harbor from the residential homes located on the 40 to 50-foot high hillside above the project site.

C-3. The roof of the commercial building has been designed to respect the views of the residences above and consists of a combination of flat and sloped roof lines. Roof-top mechanical equipment would be fully enclosed within an equipment enclosure and would not be visible from the residences above. The enclosure will have louver vents directed away from the residential properties.

C-4. The rear two-thirds of the parking structure would be enclosed and will screen the view of the parked vehicles and parking structure lighting from the residents located above the hillside. The parking structure roof will also provide an additional sound buffer to the residents above.

C-5. The mechanical equipment enclosure has been located at the rear of the commercial building to minimize the bulk of the building as viewed from West Coast Highway.

Finding:

*D. The compatibility in terms of bulk, scale, and aesthetic treatment of structures on the site and adjacent developments and public areas.*

Facts in Support of Finding:

D-1. The building and parking structure includes modulated building masses and rooflines and a variation of building materials and colors that would provide visual relief.

D-2. To break up the bulk and massing of the parking structure as viewed from West Coast Highway, a 755-square-foot commercial space has been located on the 1st level of the structure, below the ramp, providing a storefront and retail

presence in front the of the structure. A tower element will extend this storefront along the face of the structure.

D-3. The inclusion of architectural elements such as balconies, tower features, awnings, trellises, ornamental windows and railings, and the variation in building elevations and protrusions would also enhance the visual quality of the buildings and street frontage.

D-4. The project's architectural style, with the use of stone, tile and glass materials, blends in color and form with some development within Mariner's Mile, will provide a high standard of quality for future neighboring development, and complies with the Mariner's Mile Strategic Vision and Design Framework.

D-5. The tower and cupola feature, the tallest portion of the building, is located at the southeasterly corner of the site, away from the nearest residential and commercial uses. To minimize the bulk of the parking structure as viewed from West Coast Highway, the parking structure roof has been setback 37 feet 5 inches from the front edge of the structure. The resulting height of the parking structure along the front façade is 29 feet 4 inches providing a transition to the commercial properties to the west.

D-6. The west elevation of the building has been designed as a flat wall with no openings due to its proximity to the side property line and in anticipation that the commercial site to the west may be redeveloped in the future; however, until such time, the west elevation will be visible from motorist traveling south of West Coast Highway. To soften the appearance of this elevation and break up the mass of the parking structure, three large green screens would be installed and separated by columnar evergreen trees. Architectural detailing has also been added in the form of boarders around the green screens and columns.

D-7. The rear elevation of the building and parking structure has also been designed as a flat wall with no openings due to its placement on the rear property line and will range in height from approximately 20 feet to 35 feet from existing grade. However, the homes located on the hillside above are located a minimum of 60 feet away and approximately 40-50 feet above the project's pad elevation with views oriented predominately over the project site towards the bay and harbor, and therefore, will not be significantly impacted by the height and bulk of the structures.

Finding:

*E. The adequacy, efficiency, and safety of pedestrian and vehicular access, including drive aisles, driveways, and parking and loading spaces.*

Facts in Support of Finding:

E-1. The project would eliminate one existing driveway access off Dover Drive and would consolidate four existing driveways along West Coast Highway into two driveways. Therefore, the project minimizes the number of driveways along West Cost Highway, thereby reducing potential conflicts and increasing vehicular safety. The lane drop extension of Coast Highway will also enhance the safety of the highway, while providing safe access from the site, as determined by the City Traffic Engineer.

E-2. The project proves adequate sight distance at each driveway, as determined by the City Traffic.

E-3. The proposed parking structure has been designed to accommodate and provide safe access for emergency, delivery, and refuse collections vehicles, as determined by the City Traffic.

E-4. The project would include enhanced pedestrian walkways that provide access between the various uses and areas within the project site and to the surrounding public sidewalks and uses.

E-5. The existing bus stop along the project frontage would be relocated and a new designated "Bus Only" area would be created between the two driveways.

E-6. The parking strategy for the project includes an adjustment to the parking requirements based on a shared parking analysis, use of a parking management plan that utilizes tandem and valet parking, and use of off-site parking for employees.

*F. The adequacy and efficiency of landscaping and open space areas and the use of water efficient plant and irrigation materials.*

Facts in Support of Finding:

F-1. The project includes the enhanced use of landscaping, including a variation of ornamental groundcover, vines, shrubs, and trees, to help soften and buffer the massing of the parking structure and commercial building from the surrounding areas and roadways.

F-2. A new water feature design would encompass the southeast corner of the project site.

F-3. The landscape plan includes the requirements of the Mariner's Mile Strategic Vision and Design Framework, but also incorporates non-invasive and water conserving plant types.

F-4. The project is subject to the City's Water Efficient Landscape Ordinance (Chapter 14.17 of NBMC).

Finding:

G. *The protection of significant views from public right(s)-of-way and compliance with Section 20.30.100 (Public View Protection).*

Facts in Support of Finding:

G-1. The portion of West Coast Highway, on which the project is located, is not a designated coastal view road and is not considered a public view corridor requiring public view protection.

Finding:

H. *Not detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed development.*

Facts in Support of Finding:

H-1. The project has been conditioned to ensure that potential conflicts with surrounding land uses are minimized to the extent possible to maintain a healthy environment for both businesses and residents.

H-2. The project's refuse area is located within the first level of the parking garage and will not result in odor impacts to residents above or noise associated with refuse collection.

H-3. To minimize or eliminate odors associated with the restaurant uses impacting the residents above the site, the project has been conditioned to require the installation of Pollution Control Units with odor eliminators that take the exhaust from the hoods in the kitchens and filter it for particulates and odor.

H-4. Any illumination of the proposed tower and cupola feature has been conditioned to consist of soft accent lighting so as not to become a visual disturbance to the views of the adjacent residents.

H-5. The project is subject to the City's Outdoor Lighting requirements contained with Section 20.30.070 of the Zoning Code.

H-6. The proposed 750-square-foot outdoor dining area located within the public-right-of-away adjacent to Dover will be screened from view of the residents above the hillside and is not anticipated to result in a significant noise disturbance; however, until the specific operation of the restaurants are better known, the project has been conditioned prohibiting this outdoor patio and deferring review until the of the use permit applications for the future restaurant uses are submitted.

6. The project site is located in the Nonresidential, Shoreline Height Limit Area where the height of structures are limited to 26 feet for flat roofs/parapet walls and to 31 feet for sloped roofs with a minimum 3:12 pitch. The height of a structure can be increased up to a maximum of 35 feet for flat roofs/parapet walls and up to 40 feet for sloped roofs, subject to the approval of a Site Development Review. In accordance with Section 20.30.060.C.3 of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

*A. The project applicant is providing additional project amenities beyond those that are otherwise required.*

Facts in Support of Finding:

A-1. The most significant amenity the project provides is the long desired redevelopment of this highly visible property that serves as a gateway into the Mariner's Mile corridor. This property is constrained due to its shallow depths and as such has proven difficult to redevelop and as fallen into disrepair. The building exhibits a high level of architectural detail and includes design features that enhance the aesthetics of the building and the area. The most prominent design feature of the building is the octagonal tower and cupola at the southeasterly corner of the site intended to serve as a landmark feature and an anchor into the Mariner's Mile corridor area of the City. The parking structure has been designed to incorporate a variety of materials and features (i.e. stone treatment and hanging vines) and includes vertical recessed openings and a storefront with a vertical tower element to break up the massing and monotony commonly associated with parking structures.

A-2. The project includes enhanced landscaping of the public right-of-way along the West Coast Highway and Dover Drive. In addition to the continuous hedge and palm trees requirement of the Mariner's Mile Strategic Vision and Design Framework, the landscaping plan incorporates additional ornamental groundcover, vines, shrubs, and trees, to help soften and buffer the massing of the parking structure and commercial building and enhance the streetscape of Mainer's Mile. To further improve the streetscape and improve the entrance into the corridor, the applicant is proposing the installation of 280-square–foot water feature that would encompass the southeast corner of the project site. Water effects are proposed to include a knife-edge water weir falling towards the street at the center, boarded by low walls at each end of the feature. The water feature will also include plant material and a combination or eroded, colored concrete and natural stone.

A-3. The design and height of the building benefits the residential properties above and to the north by providing noise attenuation from the roadway noise generated from vehicles on West Coast Highway and Dover Drive. As illustrated in Figure 14 of the MND, a net decrease in roadway noise of up to 9

dBA CNEL is expected as a result of the noise attenuation effect of the new structures.

A-4. At minimum, City policy requires the applicant to underground their utilities from the nearest power pole, allowing the power poles to remain in place. In this case, the applicant is proposing to completely remove the power poles and underground the power lines around the eastern, southern, and western perimeter of the project site. An easement to Southern California Edison for the power lines will also be provided along the westerly property line.

A-5. Another amenity includes the elimination of the existing driveway access off Dover Drive and the consolidation of the existing four driveways along West Coast Highway into two main access driveways. Therefore, the project minimizes the number of driveways along West Cost Highway, ensuring that the desired traffic flow along this major road is maintained and ensuring that the continuity of the street-facing building elevations would not be interrupted. The extension of the lane drop on West Coast Highway also serves to enhance the safety of the highway by extending the length of the merge lane, which providing safe access from the site

Finding:

*B. The architectural design of the project provides visual interest through the use of light and shadow, recessed planes, vertical elements, and varied roof planes.*

Facts in Support of Finding:

B-1. The goal of the architectural design is to simulate the appearance of a small Mediterranean village of two-story commercial buildings, resulting in modulated building masses and rooflines. The project consists mainly of flat roofs with heights between 29 feet 4 inches and 32 feet 4 inches. Several vertical elements have been included in the design such as the tower features and elevator/stairwell enclosures which range in height from 35 feet to 40 feet. The main elevator and stairwell enclosure has been integrated into the building façade as a prominent architectural feature and creates a transition between the commercial and parking structure components of the project. To break up the bulk and massing of the parking structure as viewed from West Coast Highway, a 755-square-foot commercial space has been located on the first level of the structure, below the ramp, providing a storefront and retail presence in front the of the structure. A tower element extends this storefront vertically along the face of the structure.

B-2. The storefronts on both the upper and lower level will be setback from the edge of the balcony along the street elevation, creating light and shadow effects. Light and shadow will also be created through the extensive use of awnings and recessed openings. The massing of the parking structure is also minimized through the use of vertical opening openings along the street frontage.

Finding:

*C. The increased height will not result in undesirable or abrupt scale changes or relationships being created between the proposed structure(s) and existing adjacent developments or public spaces. Where appropriate, the proposed structure(s) provide a gradual transition to taller or shorter structures on abutting properties.*

Facts in Support of Finding:

C-1. The tower and cupola feature, the tallest portion of the building, is located at the southeasterly corner of the site, away from the nearest residential and commercial uses. The height of the project transitions in height from east to west, minimizing the change in scale to the adjacent commercial priorities to the west. With the exception of the tower elements and mechanical equipment enclosure, the height of the commercial building is 32 feet 4 inches. To minimize the visual height and bulk of the parking structure as viewed in perspective from West Coast Highway, the parking structure roof has been setback 37 feet 5 inches from the front edge of the structure. The resulting height of the parking structure along the front façade is 29 feet, 4 inches providing a transition to the commercial properties to the west as viewed from the highway. Although the adjacent commercial property is currently with one-story commercial buildings, the site has the potential to be redeveloped at heights of 31 feet without discretionary approvals.

C-2. The homes on the residential lots to the north are situated at the top of the hillside that ranges in height from 40-50 feet above the project's pad elevation. The homes are also located a minimum of 60 feet back from the rear property line. These vertical and horizontal separations between the proposed commercial building and the homes at the top of the slope minimize the impact of the proposed structure heights to the adjacent residences.

Finding:

*D. The structure will have no more floor area than could have been achieved without the approval of the height increase.*

Facts in Support of Finding:

D-1. The requested increase in floor area does not drive the need for the increased height. The need for the third level of the parking structure is primarily driven by the need to provide parking for the two restaurants that will serve of anchor tenants to the development.

D-2. Even if the project is designed with only the two restaurants at the currently permitted 0.5 FAR, the third level of parking would be needed to accommodate

the 100 parking spaces parking anticipated for the restaurant uses. The height of the parking structure could be reduced from 35 feet to 29 feet 4 inches if the roof was removed; however, the roof provides a benefit to the residents located above the hillside as it shields parking structure lighting and glare, and buffers vehicle noise.

D-3. With regard to the height of the commercial building, the need for height is driven by the need to provide desirable12-foot-high ceilings for the retail tenants ensuring that these commercial building will remain marketable to tenants. In order to provide 12-foot-high clear ceilings and accommodate space for mechanical systems and fire sprinklers, a total plate height between 14 feet 6 inches and 17 feet 6 inches is required. Plate heights within the project utilize a 14-foot-8-inch dimension. It's also important to note that a majority of the structure will maintain a maximum height of 29 feet 4 inches, with the exception for the tower elements, designed to enhance the architecture of the building, and elevator/stairwell enclosures and mechanical equipment enclosure.

7. To address the nine space parking deficit that is anticipated to occur after 6:00 p.m., the applicant is prepared to enter into an off-site parking agreement to provide employees of the project access to 20 parking spaces within the parking medical office parking lot located at 601 Dover Drive. Pursuant to Section 20.40.100 of the Municipal Code, approval of a conditional use permit is required for a parking facility that is not located on the same site it is intended to serve. In addition to the standard conditional use permit findings, additional findings pertaining to the off-site parking request must be made. In accordance with Section 20.40.100.B of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

*A. The parking facility is located within a convenient distance to the use it is intended to serve.*

Facts in Support of Finding:

A-1. The parking lot is located approximately 1,050 feet (walking distance) north of the project site at the corner of Dover Drive and Cliff Drive. The lot would be used solely by employees of the project and not by customers. The *Manual on Uniform Traffic Control Devices* (MUTCD) suggests four feet per second as a normal walking speed; therefore, it would take an employee approximately 4 minutes and 22.5 seconds to walk from the off-site lot. This is considered a convenient distance for employee parking.

Finding:

*B. On- street parking is not being counted towards meeting parking requirements.*

Facts in Support of Finding:

B-1. On-street parking spaces do not exist within close proximity of the project site and are not being used towards meeting the parking requirements of the project.

Finding:

*C. Use of the parking facility will not create undue traffic hazards or impacts in the surrounding area.*

Facts in Support of Finding:

C-1. The use of the parking lot will not create an undue traffic hazard as the proposed project and subject off-site parking lot are both located on the westerly side of Dover Drive. This allows employees to walk on the sidewalk and only needing to cross the signalized crosswalk at Cliff Drive. As indicated in the shared parking analysis, it is only anticipated that only 9 of 20 parking spaces will actually be needed.

C-2. The sidewalk leading to the off-site parking lot is bordered by a hillside with residential uses located along the top of slope. Residences are also located behind the medical office site to the west; however, the residences are located at the top of a hillside and buffered from the parking area by the medical office building.

C-3. Since the off-site parking will be used by employees only, typical noise disturbances associated with restaurant patrons loitering in parking lots is not expected.

Finding:

*D. The parking facility will be permanently available, marked, and maintained for the use it is intended to serve.*

Facts in Support of Finding:

D-1. The off-site parking spaces will be made available for the use of employees of the project after 5:00 p.m. on a daily basis, once the medical office tenants are closed for business.

D-2. The owner's of the medical office building, 601 Dover LLC, are subject to a ground-lease that expires in 11 years and have indicated they are agreeable to entering into an agreement allowing the use of up to 20 parking spaces.

D-3. If the parking spaces become unavailable in the future, the applicant will be required to notify the Community Development Director who will establish a

reasonable time for substitute parking to be provided or reduce the size of the tenant spaces or change the tenant mix (i.e. less restaurant or medical floor area) in proportion to the parking spaces lost.

8. Pursuant to Sections 20.40.070.B.3 and 20.40.110.B.2 of the Zoning Code, a conditional use permit is required to allow for the construction of a parking structure adjacent to a residential zoning district, to modify the off-street parking requirements and to establish a parking management plan. In accordance with Section 20.52.020.F of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

*A. The use is consistent with the General Plan and any applicable specific plan.*

Facts in Support of Finding:

A-1. The commercial building and related uses are consistent with CG General Plan land use designation. The parking structure is considered an accessory use that supports of the commercial uses. Parking structures and the use of valet are commonly associated with restaurant development and compatible with the other commercial uses located in Mariner's Mile.

Finding:

*B. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.*

Facts in Support of Finding:

B-1. The commercial building and related uses are consistent with CG zoning district. The parking structure is considered an accessory use that supports of the commercial uses. Parking structures located adjacent to residential districts requires review and approval of a conditional use permit to minimize impacts to the residential uses.

Finding:

*C. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.*

Facts in Support of Finding:

C-1. The parking structure is proposed to be located at the base of the hillside adjacent to a residential district, where the neighboring residential properties are located along the top of the hillside approximately 40-50 feet above the project's pad elevation. The height of the covered portion of the parking

structure is 35 feet at the rear of the property directly adjacent to the residential district. The residential dwellings will remain approximately 22 feet higher in elevation than the surface of the third level parking deck (25 feet, 10 inches) and 12 feet, 6 inches higher in elevation than the top of the parking structure roof. The closest residential dwelling is located approximately 60 feet from the rear property line. These vertical and horizontal separations between the proposed commercial building and the homes provide adequate distance so that the mass and bulk of the parking structure should not negatively impact residents.

Finding:

*D. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.*

Facts in Support of Finding:

D-1. With regard to the modification of the off-street parking requirements, the LSA Shared Parking Analysis indicated that not all uses within the project will require their full allotment of parking spaces at the same time, therefore, the adjustment in parking requirements is justified. When demand for parking within the structure is exists, the applicant's Parking Operational Plan should ensure that employees and patrons are able to park on-site.

D-2. The Parking Operational Plan has been reviewed and approved by the City's Traffic Engineer. Also the Traffic Engineer and Fire Department have reviewed the parking lot design and have determined that the parking lot design will function safely and will not prevent emergency vehicle access to the establishment. Given the design constraints with providing parking in compliance with City standards on such a shallow lot, the proposed parking management plan is a reasonable solution.

Finding:

*E. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding:

E-1. Parking structures have the potential to generate noise, such as car-alarms, car horns, car audio systems, people talking, vehicle pass-bys, and engine idling, which have the potential to disturb the adjacent residences. These individual noise sources last for short durations and their occurrences are infrequent;

however, they can annoy neighbors. A noise analysis was prepared by The Planning Center as part of the MND to analyze the potential noise impacts associated with the previously proposed uncovered parking structure to the adjacent residents using sound modeling. The analysis concludes that the noise generated from vehicles and service trucks within the first and second level of the structure will be attenuated given that those levels are enclosed. With regard the uncovered third level, the analysis indicates that during the daytime, traffic noise from West Coast Highway and Dover Drive would be audible over the noise generated from the third level. In the evening, noise generated from the third level would be less than the City's 45 dBL Leq exterior noise standard at the residences. In addition, the third level of the parking structure will be reserved for employee and valet parking only, avoiding potential noise disturbances that may be associated with patrons loitering in the parking area after hours. Although noise from the third level of the parking structure is not anticipated to violate the Community Noise Ordinance standards, the applicant has since proposed to partially enclose and cover the rear two-thirds of the parking structure. This roof will have the effect of further attenuating noise generated from vehicles on the third level of the parking structure.

E-2. The rear two-thirds of the upper parking level will be covered and will shield illumination of the parking structure from view of the resident's above. To illuminate the uncovered portion of the parking structure, light fixtures would be recessed into the southerly and westerly walls with very low light output and shields to eliminate glare from views above. In addition, the project has been conditioned to require a nighttime light inspection to confirm there are no light and glare impacts.

E-3. The project has been conditioned to require a nighttime light inspection to confirm there are no light and glare impacts.

9. The proposed project encroaches five feet into the rear five-foot-setback adjacent to the residential lots to the north. In accordance with Section 20.52.090 of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

*A. There are special or unique circumstances or conditions applicable to the subject property (e.g., location, shape, size, surroundings, topography, or other physical features) that do not apply generally to other properties in the vicinity under an identical zoning classification.*

Facts in Support of Finding:

A-1. The subject property is wide (approx. 340 feet) and shallow (approx. 90 feet avg.). Although many of the lots along the inland side of the Mariner's Mile corridor consist of shallow lots, this property in particular is especially shallow

given the acquisition of the property frontage in 1979 to accommodate the Bay Bridge realignment project. The realignment reduced the property depth approximately 27 feet on the westerly end and 47 feet on the easterly end of the property.

A-2. The subject property is approximately 25 shallower than the adjacent properties to the west. The 60 lots on the inland side of West Coast Highway and located between the intersection of Dover Drive and the westerly boundary the Balboa Bay Club are the shallowest commercial lots within Marine's Mile corridor area. Of these 60 lots, only four lots have lot depths less than 100 feet (96.47 at its shallowest end). Over half of these lots consist of lot depths greater than 140 feet. The average lot depth of these 60 lots is approx. 120 feet.

Finding:

*B. Strict compliance with Zoning Code requirements would deprive the subject property of privileges enjoyed by other properties in the vicinity and under an identical zoning classification.*

Facts in Support of Finding:

B-1. The reduced lot depths do not accommodate an optimal commercial center site configuration. To design an optimal commercial building, the commercial square footage has been consolidated on the eastern portion of the site as a two-level design in order to accommodate the required on-site parking on the western portion of the site where the lot depth is greater. To accommodate the project (even if developed at a 0.5 FAR with two levels of parking) encroachment into the rear five-foot setback would be necessary to comply with City standards for minimum drive aisles, parking stall dimensions, turning radiuses, and sight distance requirements. The proposed parking structure and commercial building could be accommodated without the need to encroach on any of the other 54 inland lots previously mentioned within this portion of Mariner's Mile.

Finding:

*C. Granting of the Variance is necessary for the preservation and enjoyment of substantial property rights of the applicant.*

Facts in Support of Finding:

C-1. The reduced lot depths do not accommodate an optimal commercial center site configuration and in order to maintain a substantial property right of developing the site for commercial use, the elimination of the rear yard setback is required to allow for the development of a parking structure that complies with City standards for vehicular access and parking. The parking structure has been located on the western portion of the site where the lots depths are greater and the commercial building has been located on the eastern half of the site where

is the lot depth is narrowest (approx. 85 feet). Without the granting of the variance, the development of a commercial retail building with adequate on-site parking would not be feasible on this long and shallow site.

Finding:

*D. Granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district.*

Facts in Support of Finding:

D-1. Granting of the variance would not constitute a special privilege inconsistent with the limitations upon other properties in the Mariner's Mile corridor as it allows the applicant the ability to develop an optimal commercial center with adequate parking on-site as could be developed on adjacent lots with greater lots depths.

Finding:

*E. Granting of the Variance will not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood.*

Facts in Support of Finding:

E-1. Four residential lots abut the project's rear property line; however, these residential properties are located up the hillside approximately 40-50 feet above the project's pad elevation. In addition, the closest residential dwelling is located approximately 60 feet from the rear property line. These vertical and horizontal separations between the proposed commercial building and the homes provide adequate buffer equivalent to or superior to a five-foot rear setback.

E-2. The five-foot encroachment will not result in a condition where the commercial development will endanger or create a hazard to those persons residing in the dwellings above. In addition, the hillside is heavily landscaped and the applicant has agreed to work with adjacent residential property owners to further landscape the slope to provide increased landscaped screening of the rear of the project.

E-3. The development includes cutting into the toe of the slope; however, the preliminary geotechnical report indicates that the design and construction of the retaining wall is feasible, subject to the recommendations within the report and in compliance with Building and Grading Codes, and will not undermine the stability of the hillside.

Finding:

*F. Granting of the Variance will not be in conflict with the intent and purpose of this Section, this Zoning Code, the General Plan, or any applicable specific plan).*

Facts in Support of Finding:

F-1. Typically commercially zoned properties are not required to maintain rear setbacks, except when located adjacent to residentially zoned properties. The intent is to provide separation for light, air, and open space adjacent to these residential properties. In this case, four residential lots abut the project's rear property line; however, the houses are located on the hillside approximately 40-50 feet above the project's pad elevation. The closest residential dwelling is located approximately 60 feet from the rear property line. These vertical and horizontal separations between the proposed commercial building and the homes provide adequate buffer equivalent to or superior to a five-foot rear setback. Therefore, the five-foot encroachment will not deprive the adjacent residential properties form the adequate enjoyment of light, air, and open space.

10. The property consists of six legal lots, which the applicant is proposing to consolidate into one unified site. The merger of five or more lots requires the approval of a parcel map. In accordance with Section 19.12.060 of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

*A. That the proposed map and the design or improvements of the subdivision are consistent with the General Plan and any applicable specific plan, and with applicable provisions of the Subdivision Map Act and this Subdivision Code.*

Facts in Support of Finding:

A-1. The project is consistent with the CG General Plan designation of the site.

A-2. The Public Works Department has reviewed the proposed tentative map and believes it is consistent with the Newport Beach Subdivision Code (Title 19) and applicable requirements of the Subdivision Map Act.

A-3. The proposed project accommodates the potential future widening of Coast Highway and all utility lines will be undergrounded.

A-4. Conditions of approval have been included to ensure compliance with Title 19.

Finding:

*B. That the site is physically suitable for the type and density of development.*

Facts in Support of Finding:

B-1. The existing site is entirely developed and does not support any environmental resources.

B-2. Portions of the development require cuts into the slope on the northern portion of the site. The geologic investigation revealed that the portions of this slope which are not improved by the proposed development may be surficially unstable; however, mitigation measures have been incorporated, as recommended by the site-specific geotechnical investigation that will reduce impacts to a less than significant level.

B-3. The subject site is located at the intersection of West Coast Highway and Dover Drive and serves as the gateway into the Mariner's Mile commercial corridor of the City. Given its location, this site is ideal for the development of a commercial building.

B-4. The subject parcel map allows for the consolidation of six shallow lots into one unified site large enough to accommodate a viable commercial development.

Finding:

*C. That the design of the subdivision or the proposed improvements will not cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat. However, notwithstanding the foregoing, the decision-making body may nevertheless approve such a subdivision if an environmental impact report was prepared for the project and a finding was made pursuant to Section 21081 of the California Environmental Quality Act that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.*

Facts in Support of Finding:

C-1. A Mitigated Negative Declaration has been prepared and concludes that no significant environmental impacts will result with proposed development of the site in accordance with the proposed subdivision map.

Finding:

*D. That the design of the subdivision or the type of improvements is not likely to cause serious public health problems.*

Facts in Support of Finding:

D-1. The proposed Parcel Map is for the consolidations of six existing commercial lot into one commercial development site. All construction for the project will comply with all Building, Public Works, and Fire Codes, which are in place to

prevent serious public health problems. Public improvements will be required of the developer per Section 19.28.010 of the Municipal Code and Section 66411 of the Subdivision Map Act. All ordinances of the City and all Conditions of Approval will be complied with.

D-2. All mitigation measures will be implemented as outlined in the Mitigated Negative Declaration to ensure the protection of the public health.

D-3. No evidence is known to exist that would indicate that the planned subdivision pattern will generate any serious public health problems.

Finding:

*E. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the decision-making body may approve a map if it finds that alternate easements, for access or for use, will be provided and that these easements will be substantially equivalent to easements previously acquired by the public. This finding shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the City Council to determine that the public at large has acquired easements for access through or use of property within a subdivision.*

Facts in Support of Finding:

E-1. The design of the development will not conflict with any easements acquired by the public at large for access through or use of property within the proposed development as there are no public easements that are located on the property.

E-2. An easement through the site will be retained by the City to sewer and utilities purposes.

E-3. No other public easements for access through or use of the property have been retained for use by the public at large.

Finding:

*F. That, subject to the detailed provisions of Section 66474.4 of the Subdivision Map Act, if the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Williamson Act), the resulting parcels following a subdivision of the land would not be too small to sustain their agricultural use or the subdivision will result in residential development incidental to the commercial agricultural use of the land.*

Facts in Support of Finding:

F-1. The property is not subject to the Williamson Act since the subject property is not considered an agricultural preserve and is less than 100 acres.

Finding:

*G. That, in the case of a "land project" as defined in Section 11000.5 of the California Business and Professions Code: (a) there is an adopted specific plan for the area to be included within the land project; and (b) the decision-making body finds that the proposed land project is consistent with the specific plan for the area.*

Facts in Support of Finding:

G-1. The property is not a "land project" as defined in Section 11000.5 of the California Business and Professions Code.

G-2. The project is not located within a specific plan area.

Finding:

*H. That solar access and passive heating and cooling design requirements have been satisfied in accordance with Sections 66473.1 and 66475.3 of the Subdivision Map Act.*

Facts in Support of Finding:

G-1. The proposed Parcel Map and improvements are subject to Title 24 of the California Building Code that requires new construction to meet minimum heating and cooling efficiency standards depending on location and climate. The Newport Beach Building Department enforces Title 24 compliance through the plan check and inspection process.

Finding:

*I. That the subdivision is consistent with Section 66412.3 of the Subdivision Map Act and Section 65584 of the California Government Code regarding the City's share of the regional housing need and that it balances the housing needs of the region against the public service needs of the City's residents and available fiscal and environmental resources.*

Facts in Support of Finding:

I-1. The proposed Parcel Map is consistent with Section 66412.3 of the Subdivision Map Act and Section 65584 of the California Government Code regarding the City's share of the regional housing need. The project does involve the

elimination of residential units and therefore will not affect the City's ability to meet it share of housing needs.

I-2. Public services are available to serve the proposed development of the site and the Mitigated Negative Declaration prepared for the project indicates that the project's potential environmental impacts are expected to be less than significant.

Finding:

*J. That the discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the Regional Water Quality Control Board.*

Facts in Support of Finding:

J-1. Waste discharge into the existing sewer system will be consistent with the existing commercial use of the property and does not violate Regional Water Quality Control Board (RWQCB) requirements.

J-2. Sewer connections have been conditioned to be installed per City Standards, the applicable provisions of Chapter 14.24 (Sewer Connection, Permits), and the latest revision of the Uniform Plumbing Code.

Finding:

*K. For subdivisions lying partly or wholly within the Coastal Zone, that the subdivision conforms with the certified Local Coastal Program and, where applicable, with public access and recreation policies of Chapter Three of the Coastal Act.*

Facts in Support of Finding:

K-1. The subject property is not located in the Coastal Zone.

K-2. The subject property does not have access to any beaches, shoreline, coastal waters, tidelands, coastal parks or trails.

SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Planning Commission of the City of Newport Beach does hereby find, on the basis of the whole record, that there is no substantial evidence that the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects the Planning Commission's independent judgment and analysis. The Planning Commission hereby recommends that the City Council adopt Mitigated Negative

Declaration, including the Mitigation Monitoring and Reporting Program attached as Exhibit "A". The document and all material, which constitute the record upon which this decision was based, are on file with the Planning Department, City Hall, 3300 Newport Boulevard, Newport Beach, California.

2. The find that the Project complies with the Traffic Phasing Ordinance, based on the weight of the evidence in the administrative record, including Traffic Study No. TS2011-001.

3. The Planning Commission of the City of Newport Beach does hereby recommend that the City Council approve General Plan Amendment No. GP2010-009, Code Amendment No. CA2010-009, Site Development Review No. SR2010-001, Conditional Use Permit No. 2010-024, Variance No. 2010-004, and Parcel Map No. 2010-008, subject to the conditions set forth in Exhibit B.

4. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

**PASSED, APPROVED AND ADOPTED THIS 23RD DAY OF JUNE, 2011.**

AYES:

NOES:

BY:_____
Earl McDaniel, Chairman

BY:_____
Micheal Toerge, Secretary

# EXHIBIT "A"

## MARINER'S POINTE PROJECT
## MITIGATION MONITORING PROGRAM (SCH# 2011041038)
## CITY OF NEWPORT BEACH

| *Mitigation Measure* | *Phase of Implementation* | *Responsible Monitoring Party* | *Completion Date/Initials* |
|---|---|---|---|
| ***Biological Resources*** | | | |
| 1. The construction contractor shall comply with the Migratory Bird Treaty Act of 1918. The construction contractor shall do one of the following:<br>• Avoid grading activities during the nesting season, February 14 to September 1; or<br>• If grading activities are to be undertaken during the nesting season, a site survey for nesting birds shall be conducted by a qualified biologist prior to no more than three days prior to commencement of grading activities. If nesting birds are found in trees to be removed, removal shall be postponed until the fledglings have vacated the nest or the biologist has determined that the nest has failed. Furthermore, the biologist shall establish an appropriate buffer zone where construction activity may not occur until the fledglings have vacated the nest or the biologist has determined that the nest has failed. If nesting birds are detected in trees being preserved, the biologist shall establish an appropriate buffer zone where construction activity may not occur until the fledglings have vacated the nest or the biologist has determined that the nest has failed. | During construction | City of Newport Beach Community Development Department | |
| ***Cultural Resources*** | | | |
| 2. The project applicant shall have a qualified archaeologist conduct a Phase II archaeological investigation and a Phase III investigated if warranted by the Phase II study. The Phase II investigation, including trenching and analysis of any resources found, shall be completed before issuance of a grading permit by the City of Newport Beach. A Phase II archaeological testing program consists of a control subsurface investigation designed to extract a small sample of the subsurface deposits, but a sample large enough to draw a conclusion on the significance of the site (assuming the site is present). If intact features of an archaeological site, such as hearths, living surfaces, or middens, are discovered in the course of the Phase II investigation, then the project applicant shall have the archaeologist:<br>• Conduct a feasibility investigation to preserve in place, any significant archaeological resource that is discovered. Feasibility can be based on but not limited to whether the significant archaeological | Prior to issuance of grading permit | City of Newport Beach Community Development Department | |

| *Mitigation Measure* | *Phase of Implementation* | *Responsible Monitoring Party* | *Completion Date/Initials* |
|---|---|---|---|
| resource is beneath open space that can incorporate preservation in place. If preservation in place is feasible, such preservation shall be documented with the City's Planning Division, and no further mitigation is necessary;<br>• If preservation in place is not feasible, the applicant's archaeologist shall conduct a Phase III investigation prior to the issuance of a grading permit. A Phase III consists of extracting a larger sample of the site materials to document the function, age, and components of the site, allowing for interpretation and comparative analysis with respect to the larger area (e.g., occupation within the Newport Bay area). The City's Planning Division shall approve the report and related actions prior to grading permit issuance. | | | |
| 3. The Project Applicant shall have a qualified professional archaeologist onsite to monitor for any potential impacts to archaeological or historic resources throughout the duration of any ground disturbing activities. The professional archaeologist shall have the authority to halt any activities adversely impacting potentially significant cultural resources until the resources can be formally evaluated. The archaeologist must have knowledge of both prehistoric and historical archaeology. Additionally, the archaeological monitoring program shall include the presence of a local Native American representative (Gabrielino and/or Juaneno). Resources must be recovered, analyzed in accordance with CEQA guidelines, and curated. Suspension of ground disturbance in the vicinity of the discoveries shall not be lifted until the archaeologist has evaluated discoveries to assess whether they are classified as historical resources or unique archaeological sites, pursuant to CEQA. | During construction | City of Newport Beach Community Development Department | |
| 4. The Project Applicant shall retain a qualified professional paleontologist to monitor for any potential impacts to paleontological resources throughout the duration of ground disturbing activities. In the event paleontological resources are uncovered, the professional paleontologist shall have the authority to halt any activities adversely impacting potentially significant fossil resources until the resources can be formally evaluated. If potentially significant fossils are uncovered they must be recovered, analyzed in accordance with CEQA guidelines, and curated at facilities at the Natural History Museum of Los Angeles County, or other scientific institution accredited for curation and collection of fossil specimens. Suspension of ground disturbances in the vicinity of the discoveries | During construction | City of Newport Beach Community Development Department | |

| *Mitigation Measure* | *Phase of Implementation* | *Responsible Monitoring Party* | *Completion Date/Initials* |
|---|---|---|---|
| shall not be lifted until the paleontologist has evaluated the significance of the resources pursuant to CEQA. | | | |
| ***Geology and Soils*** | | | |
| 5. Prior to issuance of grading permits, a detailed engineering-level geotechnical investigation report shall be prepared and submitted with engineered grading plans to further evaluate expansive soils, soil corrosivity, slope stability, landslide potential, settlement, foundations, grading constraints, and other soil engineering design conditions and to provide site-specific recommendations to address these conditions, if determined necessary. The engineering-level report shall include and address each of the recommendations included in the geotechnical reports prepared by MACTEC (2010a and 2010b) and included as Appendix E. The geotechnical reports shall be prepared and signed/stamped by a Registered Civil Engineer specializing in geotechnical engineering and a Certified Engineering Geologist. Geotechnical rough grading plan review reports shall be prepared in accordance with the City of Newport Beach Grading Ordinance. | Prior to issuance of grading permit | City of Newport Beach Community Development Department | |
| ***Noise*** | | | |
| 6. The contractor shall properly maintain and tune all construction equipment in accordance with the manufacturer's recommendations to minimize noise emissions. | During construction | City of Newport Beach Community Development Department | |
| 7. Prior to use of any construction equipment, the contractor shall ensure that all equipment is fitted with properly operating mufflers, air intake silencers, and engine shrouds no less effective than as originally equipped by the manufacturer. | During construction | City of Newport Beach Community Development Department | |
| 8. The construction contractor shall locate stationary noise sources (e.g., generators, compressors, staging areas) and material delivery (loading/unloading) areas as far from residences as possible (e.g., eastern portion of the project site). | During construction | City of Newport Beach Community Development Department | |
| 9. The construction contractor shall post a sign, clearly visible onsite, with a contact name and telephone number of construction contractor to respond in the event of a noise complaint. | During construction | City of Newport Beach Community Development Department | |
| ***Transportation and Traffic*** | | | |
| 10. Prior to issuance of a grading permit, the project will be required to develop a Construction Traffic Management Plan that includes the following elements:<br>• Restrict construction worker and equipment delivery trips to occur outside of the weekday AM and PM peak hours.<br>• Identify and establish truck haul routes and restrict haul operations to occur outside of the weekday AM and PM peak hours. | Prior to issuance of grading permit | City of Newport Beach Public Works Department | |

| *Mitigation Measure* | *Phase of Implementation* | *Responsible Monitoring Party* | *Completion Date/Initials* |
|---|---|---|---|
| • Provide Traffic Control Plans for detours and temporary road closures (if necessary) that meet the minimum Caltrans, City, and County criteria. | | | |
| 11. The applicant shall contact OCTA and coordinate operation of the Coast-Dover bus stop along the project's West Coast Highway frontage during project construction. Mitigation as required to suspend operation, or modify or temporarily relocate the bus stop during project construction activities shall be negotiated with OCTA. The applicant shall provide the plans/mitigation to the City as negotiated with OCTA for review and approval by the City of Newport Beach's Planning Division and Public Works Department prior to issuance of grading permits. The applicant shall provide OCTA with a minimum 14-day advance notice prior to the start of construction activities by contacting either the Detour Coordinator or Field Operations. | Prior to issuance of grading permit | City of Newport Beach Community Development and Public Works Department | |

**EXHIBIT "B"**

CONDITIONS OF APPROVAL
*(Project-specific conditions are in italics)*

**PLANNING**

1. *The development shall be in substantial conformance with the approved site plan, floor plans, roof plans, and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)*

2. *Site Development Review No. SR2010-001, Conditional Use Permit No. UP2010-024, and Variance No. 2010-004 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.*

3. *The outdoor patio and block wall proposed to encroach into the Dover Drive public right-of-way shall be eliminated, unless this conditional use permit is amended or a new conditional use permit is approved in conjunction with an eating and drinking establishment that specifically approves the construction of the outdoor patio and an encroachment or lease agreement is approved by the Public Work's Department.*

4. *The final design of the commercial building and parking structure shall provide all the architectural treatments as illustrated on the approved plans. Any changes to the architectural treatment shall be reviewed and approved by the Community Development Director and may require an amendment to this Site Development Review.*

5. *Flat roof portions of the building shall be painted to match the predominate building color. No mechanical equipment shall be permitted on the roof, except within the designated mechanical well and shall not be visible from West Coast Highway or the adjacent residential properties.*

6. *Uses shall be permitted, or conditionally permitted, within the project consistent with the provisions of the Zoning Code, so long as they do not increase the approved traffic generation for the project (TS2011-001).*

7. *Required parking for this project has been determined based on documentation and a number of assumptions, including: 1) the shared parking analysis prepared by LSA Associates, Inc., dated March 30, 2011; 2) a limitation that the maximum Net Public Area (NPA) of eating and drinking uses be limited to 4,968 square feet; and 3) the proposed floor area for eating and drinking uses will be occupied by fine dining establishments with very low turnover with a parking demand of 1 space per 50 square feet of NPA. Any changes to the assumed tenant mix or changes in the type of food use that would increase parking demands may require the preparation of a new shared parking analysis to ensure that adequate parking can be provided on-site and at the approved off-site parking lot, and shall be subject to the review and approval of the Community Development Department.*

8. *A total of 136 parking spaces shall be provided on-site as illustrated on the approved plans and parking management plan for the project.*

9. *Based on the assumptions contained within Condition No. 7, a parking demand of 145 spaces will exist after 6:00 p.m. A parking agreement, which guarantees the long term availability of nine off-site parking spaces for the use located at 100-300 West Coast Highway, shall be recorded with the County Recorder's Office. The agreement shall be in a form approved by the City Attorney and Community Development Director. The Community Development Director may waive this condition if the actual tenant mix or restaurant NPA results in reduced parking demands that can be accommodated entirely on-site.*

10. *The upper level of the parking structure shall only be used for employee or valet parking, unless an amendment to this Conditional Use Permit and new parking management plan is prepared and approved.*

11. *Any minor changes to the parking management plan shall be reviewed and approved by the Community Development Director and City Traffic Engineer prior to implementation. Significant changes may require an amendment to this Conditional Use Permit.*

12. *Should the applicant propose to alter the location and/or number of vehicular access points, or propose to take vehicular access across the adjacent property located at 320 West Coast Highway, such proposal shall be subject to review and approval by the Community Development Director and the City Traffic Engineer.*

13. Should this business be sold or otherwise come under different ownership, any future owners or assignees shall be notified in writing of the conditions of this approval by the current owner or leasing company.

14. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.

15. *The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for modification or revocation of Site Development Review No. SR2010-001, Conditional Use Permit No. UP2010-024, and Variance No. 2010-004.*

16. This approval was based on the particulars of the individual case and does not in and of itself or in combination with other approvals in the vicinity or Citywide constitute a precedent for future approvals or decisions.

17. This Conditional Use Permit, Site Development Review, and Variance may be modified or revoked by the City Council or Planning Commission should they determine that the proposed development, uses, and/ or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or

improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.

18. *Hours of operations for the uses within the project shall be limited to between 6:00 a.m. and 11:00 p.m. daily, unless otherwise permitted to maintain different hours of operation pursuant to a subsequent Conditional Use Permit.*

19. *All employees are required to park on-site, unless otherwise approved by the Community Development Director, and may require an amendment to this Site Development Review and Conditional Use Permit.*

20. *Any change in operational characteristics, hours of operation, expansion in area, or other modification to the approved plans, shall require an amendment to Site Development Review No. SR2010-001, Conditional Use Permit No. UP2010-024, and/or Variance No. 2010-004 or the processing of new permits.*

21. *All landscape materials and landscaped areas shall be installed and maintained in accordance with the approved landscape plan, including the proposed water feature. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.*

22. Prior to the issuance of a building permits, the applicant shall submit a landscape and irrigation plan prepared by a licensed landscape architect. These plans shall incorporate drought tolerant plantings and water efficient irrigation practices, and the plans shall be approved by the Planning Division and the Municipal Operations Department. All planting areas shall be provided with a permanent underground automatic sprinkler irrigation system of a design suitable for the type and arrangement of the plant materials selected. The irrigation system shall be adjustable based upon either a signal from a satellite or an on-site moisture-sensor. Planting areas adjacent to vehicular activity shall be protected by a continuous concrete curb or similar permanent barrier. Landscaping shall be located so as not to impede vehicular sight distance to the satisfaction of the Traffic Engineer.

23. Prior to the final of building permits, the applicant shall schedule an inspection by the Code Enforcement Division to confirm that all landscaping was installed in accordance with the approved plan.

24. Reclaimed water shall be used whenever available, assuming it is economically feasible.

25. Water leaving the project site due to over-irrigation of landscape shall be minimized. If an incident such as this is reported, a representative from the Code Enforcement Division of the City Manager's Office shall visit the location, investigate, inform and notice the responsible party, and, as appropriate, cite the responsible party and/or shut off the irrigation water.

26. Watering shall be done during the early morning or evening hours (between 4:00 p.m. and 9:00 a.m.) to minimize evaporation the following morning.

27. All leaks shall be investigated by a representative from the Code Enforcement Division of the City Manager's Office and the property owner or operator shall complete all required repairs.

28. Water shall not be used to clean paved surfaces such as sidewalks, driveways, parking areas, etc. except to alleviate immediate safety or sanitation hazards.

29. *Landscaping and plant selections shall be consistent with the applicable landscaping recommendations set forth by the Mariner's Mile Strategic Vision and Design Framework.*

30. New utility connections shall be placed underground unless the Public Works Department determines that undergrounding the connection is physically infeasible. Appurtenant and associated utility equipment such as transformers, utility vaults, terminal boxes, meter cabinets shall be placed underground unless the Public Works Department determines that undergrounding the appurtenant and associated equipment is physically infeasible. If appurtenant and associated utility equipment cannot be placed underground, the equipment shall be located in the least visible location practical and screened from public view on-site and off-site by fencing or landscaping to the satisfaction of the Community Development Director.

31. *The three existing power poles and overhead power lines shall be removed and the power lines shall be underground.*

32. All ground-mounted equipment including, but not limited to backflow preventers, vents, air handlers, generators, boilers, trash bins, transformers shall be screened from view behind and fully below the top of a screen wall or a solid hedge. Screen walls shall be of same or similar material as adjacent building walls and covered with vines when possible. Chain link fencing with slats is not permitted.

33. *All mechanical equipment shall be screened from view of adjacent properties and adjacent public streets within the mechanical screening equipment enclosure illustrated on the approved plans, and shall be sound attenuated in accordance with Chapter 10.26 of the Newport Beach Municipal Code, Community Noise Control.*

34. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

| | Between the hours of 7:00AM and 10:00PM | | Between the hours of 10:00PM and 7:00AM | |
|---|---|---|---|---|
| Location | Interior | Exterior | Interior | Exterior |
| Residential Property | 45dBA | 55dBA | 40dBA | 50dBA |
| Residential Property located within 100 feet of a commercial property | 45dBA | 60dBA | 45dBA | 50dBA |

| | | | | |
|---|---|---|---|---|
| Mixed Use Property | 45dBA | 60dBA | 45dBA | 50dBA |
| Commercial Property | N/A | 65dBA | N/A | 60dBA |

35. No outside paging system shall be utilized in conjunction with this development.

36. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.

37. The operator of the development shall be responsible for the control of noise generated by the subject facility including, but not limited to, noise generated by tenants, patrons, food service operations, and mechanical equipment. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code.

38. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Department.

39. *All trash shall be stored within the proposed trash enclosure located within the lower level of the parking structure or other approved enclosure. The trash dumpsters shall have a top, which shall remain closed at all times, except when being loaded or while being collected by the refuse collection agency.*

40. *Food uses shall be required to provide temporary refrigerated trash storage to control odors associated with food wastes, unless otherwise approved by the Community Development Director.*

41. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.

42. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.

43. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).

44. *To minimize conflict within the parking structure, refuse collection and deliveries for the facility utilizing large vehicles shall be allowed between the hours of 6:00 a.m. and 10:00*

*a.m., daily, unless otherwise approved by the Community Development Director, and may require an amendment to this Site Development Review and Conditional Use Permit.*

45. *Storage outside of the building or the parking structure shall be prohibited.*

46. All proposed signs shall be in conformance with the provision of Chapter 20.42 of the Newport Beach Municipal Code and shall be approved by the City Traffic Engineer if located adjacent to the vehicular ingress and egress.

47. The final location of the signs shall be reviewed by the City Traffic Engineer and shall conform to City Standard 110-L to ensure that adequate sight distance is provided.

48. Lighting shall be in compliance with applicable standards of the Zoning Code. Exterior on-site lighting shall be shielded and confined within site boundaries. No direct rays or glare are permitted to shine onto public streets or adjacent sites or create a public nuisance. "Walpak" type fixtures are not permitted. Parking area lighting shall have zero cut-off fixtures.

49. The site shall not be excessively illuminated based on the outdoor lighting standards contained within Section 20.30.070 of the Zoning Code, or, if in the opinion of the Community Development Director, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Community Development Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.

50. <u>Prior to the issuance of a building permits,</u> the applicant shall prepare photometric study in conjunction with a final lighting plan for approval by the Planning Division. The survey shall show that lighting values are "1" or less at all property lines.

51. *Any proposed illumination of the cupola and tower features shall consist of soft accent lighting so as not to become a visual disturbance to the views of the adjacent residences*

52. *<u>Prior to issuance of the certificate of occupancy or final of building permits,</u> the applicant shall schedule an evening inspection by the Code Enforcement Division to confirm control of all lighting sources.*

53. *A covered wash-out area for refuse containers and kitchen equipment, with minimum useable area dimensions of 36-inches wide, 36-inches deep and 72-inches high, shall be provided for all food uses, and the area shall drain directly into the sewer system, unless otherwise approved by the Building Official and Public Works Director in conjunction with the approval of an alternate drainage plan.*

54. Kitchen exhaust fans shall be installed/maintained in accordance with the Uniform Mechanical Code. The issues with regard to the control of smoke and odor shall be directed to the South Coast Air Quality Management District.

55. *The exhaust systems for any food uses shall be installed with pollution control units to filter and control odors.*

56. The construction and equipment staging area shall be located in the least visually prominent area on the site and shall be properly maintained and/or screened to minimize potential unsightly conditions.

57. A six-foot-high screen and security fence shall be placed around the construction site during construction.

58. Construction equipment and materials shall be properly stored on the site when not in use.

59. *To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Mariner's Pointe Project including, but not limited to, the approval of General Plan Amendment No. GP2010-009, Code Amendment No. CA2010-009, Site Development Review No. SR2010-001, Conditional Use Permit No. 2010-024, Variance No. 2010-004, and Parcel Map No. 2010-008; and/or the City's related California Environmental Quality Act determinations, the certification of the Mitigated Negative Declaration and/or the adoption of a Mitigation Monitoring Program for the project. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.*

**Fire Department Conditions**

60. Elevators shall be gurney-accommodating in accordance with Article 30 of the California Building Code (2007 edition).

61. Fire flow shall be provided to the property in accordance with Newport Beach Fire Department Guideline B.01.

62. *Fire sprinklers shall be installed throughout the commercial building and parking structure.*

63. *Fire apparatus access is required onto the property. The first level of the parking structure shall accommodate an inside turning radius of 20 feet and an outside turning radius of 40 feet. A clear ceiling height of 13 feet 6 inches shall be required.*

64. A manual fire alarms system is required that activates the occupant notification system in Group "M" occupancies when the combined occupant load of all floors if 500 or more persons or the Group "M" occupant load is more than 100 persons or below the lowest level of exit discharge.

65. *The proposed fire curtain between the parking structure and the exit corridor shall require activation by a smoke detector, unless deemed unnecessary by the Fire Marshall. A smoke detector in this location may be subject to nuisance alarms from car exhaust, which can result in false alarm fees from the City.*

**Building Department Conditions**

66. The applicant is required to obtain all applicable permits from the City Building and Fire Departments. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements.

67. Prior to the issuance of grading permits, a Storm Water Pollution Prevention Plan (SWPPP) and Notice of Intent (NOI) to comply with the General Permit for Construction Activities shall be prepared, submitted to the State Water Quality Control Board for approval and made part of the construction program. The project applicant will provide the City with a copy of the NOI and their application check as proof of filing with the State Water Quality Control Board. This plan will detail measures and practices that will be in effect during construction to minimize the project's impact on water quality.

68. Prior to issuance of grading permits, the applicant shall prepare and submit a Water Quality Management Plan (WQMP) for the proposed project, subject to the approval of the Building Division. The WQMP shall provide appropriate Best Management Practices (BMPs) to ensure that no violations of water quality standards or waste discharge requirements occur.

69. A list of "good house-keeping" practices will be incorporated into the long-term post-construction operation of the site to minimize the likelihood that pollutants will be used, stored or spilled on the site that could impair water quality. These may include frequent parking area vacuum truck sweeping, removal of wastes or spills, limited use of harmful fertilizers or pesticides, and the diversion of storm water away from potential sources of pollution (e.g., trash receptacles and parking structures). The Stage 2 WQMP shall list and describe all structural and non-structural BMPs. In addition, the WQMP must also identify the entity responsible for the long-term inspection, maintenance, and funding for all structural (and if applicable Treatment Control) BMPs.

70. The applicant shall comply with SCAQMD Rule 403 requirements as follows:

Land Clearing/Earth-Moving

a. Exposed pits (i.e., gravel, soil, dirt) with five percent or greater silt content shall be watered twice daily, enclosed, covered, or treated with non-toxic soil stabilizers according to manufacturers' specifications.

b. All other active sites shall be watered twice daily.

c. All grading activities shall cease during second stage smog alerts and periods of high winds (i.e., greater than 25 mph) if soil is being transported to off-site locations and cannot be controlled by watering.

d. All trucks hauling dirt, sand, soil, or other loose materials off-site shall be covered or wetted or shall maintain at least two feet of freeboard (i.e., minimum vertical distance between the top of the load and the top of the trailer).

e. Portions of the construction site to remain inactive longer than a period of three months shall be seeded and watered until grass cover is grown or otherwise stabilized in a manner acceptable to the City.

f. All vehicles on the construction site shall travel at speeds less than 15 mph.

g. All diesel-powered vehicles and equipment shall be properly operated and maintained.

h. All diesel-powered vehicles and gasoline-powered equipment shall be turned off when not in use for more than five minutes.

j. The construction contractor shall utilize electric or natural gas-powered equipment instead of gasoline or diesel-powered engines, where feasible.

Paved Roads

k. All construction roads internal to the construction site that have a traffic volume of more than 50 daily trips by construction equipment, or 150 total daily trips for all vehicles, shall be surfaced with base material or decomposed granite, or shall be paved.

l. Streets shall be swept hourly if visible soil material has been carried onto adjacent public paved roads.

m. Construction equipment shall be visually inspected prior to leaving the site and loose dirt shall be washed off with wheel washers as necessary.

Unpaved Staging Areas or Roads

n. Water or non-toxic soil stabilizers shall be applied, according to manufacturers' specifications, as needed to reduce off-site transport of fugitive dust from all unpaved staging areas and unpaved road surfaces.

**Public Works Conditions**

71. *The parking layout and circulation shall comply with City Standard STD-805-L-A and STD-805-L-B. The vehicular ramps within the parking garage should be a minimum of 24 feet wide. Ramp slopes shall not exceed 15-percent maximum. The maximum percent change is 11-percent at a minimum of five-foot intervals. The five-foot interval shall continue across the entire ramp. Parallel parking spaces shall be 8 feet wide by 22 feet long.*

72. *Prior to the issuance of a Building Permit, the final parking layout and circulation shall be subject to the review and approval by the City Traffic Engineer.*

73. *Prior to the issuance of a building or grading permit, a final valet operations plan is required to be reviewed and approved by the City Traffic Engineer. Any future changes to the approved valet plan shall be reviewed and approved by the Community Development Director and Traffic Engineer. The applicant shall immediately resolve any valet operational issues that impact the public right-of-way.*

74. *The ceiling height of the first level of the parking structure shall maintain an unobstructed vertical clearance of 14 feet clear.*

75. *Prior to the issue of a building permit, the applicant shall obtain approval from the adjacent property owner for the proposed lane drop extension and sidewalk along West Coast Highway running through the property and shall obtain an easement/dedication for the City for Street and Sidewalk purposes.*

76. *The driveway entrances to West Coast Highway shall be designed to accommodate vehicular sight distance per City Standard STD-110-L. All planting shall be limited to 24 inches in height maximum within the limited use area. Walls or other permanent obstructions shall be limited to 30 inches in height maximum within the limited use area.*

77. *The westerly outbound only driveway shall be narrowed to 20 feet maximum and appropriate signage shall be installed to discourage vehicles from entering the driveway, unless otherwise approved by the City Traffic Engineer.*

78. *The proposed striping changes on West Coast Highway shall be reviewed and approved by Caltrans prior to implementation.*

79. *The water feature and other non-standard improvements within the West Coast Highway right-of-way requires approval from the State Department of Transportation (Caltrans).*

80. *Water feature along Dover Drive shall require the review and approval of a Building Permit and requires an encroachment permit and agreement from the City of Newport Beach Public Work's Department.*

81. All landscaping within the public right-of-way shall be reviewed and approved by the Public Works Department and Municipal Operations Department. An encroachment agreement is required for all planting within the public right-of-way.

82. *No permanent structure shall be permitted within the required 10-foot-wide sewer easement area, unless otherwise approved by the Public Work's Department. The applicant is required to replace the 8-inch sewer main from the manhole located on the property line between 303 and 311 Kings Road and the manhole located on West Coast Highway. Knock-out panels or other improvements approved by the Public Works Department shall be installed along the entire length of the required 10-wide sewer easement. The final design of the parking structure shall take into account the sewer main and shall be subject to further review and approval by the Public Works Department*.

83. *Applicant shall bear all cost (design and construction) of the necessary water system and sewer improvements needed to support the proposed project, including minimum fire flow requirements. The water system improvements may include installation of a regulator and water main extension. The final design shall be reviewed and approved by the Public Works Department.*

84. Prior to issuance of demolition and grading permits, the applicant shall submit a construction management and delivery plan to be reviewed and approved by the Public Works Department. The plan shall include discussion of project phasing, parking arrangements for both sites during construction, and anticipated haul routes. Upon approval of the plan, the applicant shall be responsible for implementing and complying with the stipulations set forth in the approved plan.

85. Traffic control and truck route plans shall be reviewed and approved by the Public Works Department before their implementation. Large construction vehicles shall not be permitted to travel narrow streets as determined by the Public Works Department. Disruption caused by construction work along roadways and by movement of construction vehicles shall be minimized by proper use of traffic control equipment and flagman.

**Parcel Map Conditions**

86. This Parcel Map shall expire if the map has not been recorded within three years of the date of approval, unless an extension is granted by the Community Development Director in accordance with the provisions of Section 19.16 of the Newport Beach Municipal Code.

87. A parcel Map shall be recorded. The Map shall be prepared on the California coordinate system (NAD88). Prior to recordation of the Map, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach a digital-graphic file of said map in a manner described in Section 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual,

Subarticle 18. **The Map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.**

88. Prior to recordation of the parcel map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Section s 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. Monuments (one inch iron pipe with tag) shall be set <u>On Each Lot Corner</u> unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.

89. All improvements shall be constructed as required by Ordinance and the Public Works Department.

90. *The sidewalk, curb and gutter shall be reconstructed along the entire project frontage of West Coast Highway and Dover Drive. The sidewalk shall be a minimum width of 10 feet on West Coast Highway and 12 feet on Dover Drive. Limits of reconstruction are at the discretion of the Public Works inspector.*

91. *All unused driveway approaches along Dover Drive and West Coast Highway shall be replaced with a new driveway plug per City Standards.*

92. All new driveway approaches shall be constructed per City Standard STD-166-L.

93. All existing overhead utilities shall be undergrounded.

94. An encroachment permit is required for all work activities within the public right-of-way.

95. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.

96. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.

97. All on-site drainage shall comply with the latest City Water Quality requirements.

98. All proposed non-standard improvements within the public right of way, are subject to further review and approval by the Public Works Department and requires an encroachment permit and encroachment agreement.

99. *A 10-foot-wide sewer easement shall be provided through the lower level parking garage to accommodate the existing sewer main running through the property and connecting to West Coast Highway.*

100. *The applicant shall dedicate to the City a 20' by 27' area located at the southwest corner of the property to accommodate the new transition on West Coast Highway.*

101. *Relocation of the safety lighting on West Coast Highway requires approval from Caltrans.*

**Mitigation Measures**

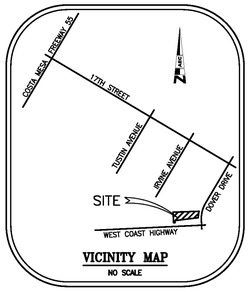
102. *The applicant shall comply with all mitigation measures and standard conditions contained within the approved Mitigation Monitoring and Reporting Program of the adopted Mitigated Negative Declaration (Exhibit A) for the project.*

# Attachment No. PC 2

Parcel Map

# TENTATIVE PARCEL MAP NO. 2010-133

A PORTION OF LOTS 1 THROUGH 6 INCLUSIVE OF TRACT NO. 1210, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA AS SHOWN ON MAP RECORDED IN BOOK 40, PAGES 45 AND 46 OF MISCELLANEOUS MAPS, RECORDS OF SAID COUNTY, CALIFORNIA.




VICINITY MAP
NO SCALE

## LEGEND

| | | | | | |
|---|---|---|---|---|---|
| FIRE HYDRANT | AC | ASPHALT PAVEMENT | O/S | OFFSET |
| EDGE PAVEMENT | BR | BIKE ROUTE | PB | PULL BOX |
| WATER VALVE | BS | BOTTOM OF STEP | PL | PROPERTY LINE |
| METER, PULL BOX | CRB | CROSS WALK BUTTON | R | RAMP |
| SIGN | DR | DRAIN | RAD | RADIAL |
| CONCRETE | DIR | DIRECTIONAL | R/W | RIGHT OF WAY |
| BLOCK WALL | EG | EDGE OF GUTTER | SCO | SEWER CLEAN OUT |
| LIGHT STANDARD | ELEC | ELECTRICAL | TC | TOP OF CURB |
| TRAFFIC SIGNAL | FC | FINISHED CONCRETE | TG | TOP OF GRATE |
| STREET LIGHT | FF | FINISHED FLOOR | TS | TOP OF STEP |
| WOOD FENCE | FL | FLOWLINE | TW | TOP OF WALL |
| CHAINLINK FENCE | FS | FINISHED SURFACE | WD | WOOD DECK |
| WROUGHT IRON FENCE | GB | GRADE BREAK | BW | BACK OF WALK |
| PARKING COUNT | GI | GRATE INLET | | |
| EXISTING GRADE | GP | GUARD POST | | |
| PER TRACT 1291 BOOK 38 PAGE 27 | L | LOT LINE | | |
| | MH | MANHOLE | | |
| | NG | NATURAL GROUND | | |

## BASIS OF BEARINGS

THE BASIS OF BEARINGS USED ON THIS SURVEY IS THE CENTERLINE OF WEST COAST HIGHWAY BEARING NORTH 87°17'00" EAST AS SHOWN ON TRACT NO. 1210 BOOK 40 PAGES 45-46 RECORDS OF SAID COUNTY.

## BENCHMARK

BENCHMARK NO. 3K-24A-82
DESCRIBED BY OCS 2002 - FOUND 3.75" OCS ALUMINUM BENCHMARK DISK STAMPED "3K-24A-82", SET IN TOP OF A CONCRETE BRIDGE DECK. MONUMENT IS LOCATED IN THE SOUTHWEST CORNER OF THE INTERSECTION OF PACIFIC COAST HIGHWAY AND NEWPORT BAY CROSSING, 42 FEET SOUTHERLY OF THE CENTERLINE OF PACIFIC COAST HIGHWAY AND 37 FEET EASTERLY OF THE WEST END OF THE SOUTHERN GUARD RAIL A;ONG BRIDGE. MONUMENT IS SET LEVEL WITH THE SIDEWALK.
ELEVATION: 19.259 FEET (NAVD88)

## GENERAL NOTES

1. SURVEYOR HAS RELIED UPON INFORMATION SUPPLIED IN THE CURRENT TITLE REPORT BY LAWYERS TITLE, REPORT NO. 9701386-JBE DATED FEBRUARY 17, 2010, TO DISCLOSE RECORD EASEMENTS THAT BURDEN OR BENEFIT THIS PROPERTY.
2. THIS PLAN AND/OR DATA FILES INCLUDING ALL CONTENTS HEREIN ARE FOR THE SOLE USES AND PARTIES INDICATED HEREON INCLUDING THEIR SUCCESSORS AND ASSIGNS. ANY DEVIATION OR MISUSES OF THIS PLAN AND/OR DATA FILES WITHOUT PRIOR WRITTEN AGREEMENTS BY ANACAL ENGINEERING IS PROHIBITED AND IS THE RESPONSIBILITY OF THE PARTIES USING SAID DRAWING AND/OR DATA FILES, UPON THE REUSE OF THIS PLAN AND/OR DATA FILES ANACAL ENGINEERING RELINQUISHES ALL RESPONSIBILITIES OF THE ACCURACY AND GENERAL CONTENT OF SAID PLAN AND/OR DATA FILES CONTAINED HEREIN.
3. THE EXISTENCE AND APPROXIMATE LOCATION OF UNDERGROUND UTILITIES OR STRUCTURES SHOWN ON THESE PLANS WERE DETERMINED BY A SEARCH OF THE AVAILABLE PUBLIC RECORDS AND ABOVE GROUND OBSERVANCE. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES.
4. PURPOSE OF TENTATIVE MAP IS TO CREATE SUBDIVISION OF 6 FULL AND A SEVENTH PORTION OF LOTS INTO 1.
5. CURRENTLY SITE HAS 2 BUILDINGS AND WILL BE COMPLETELY DEMOLISHED.
6. NEW BUILDING CONSTRUCTION IS REQUESTED.
7. SITE UTILITIES ARE SERVICED BY PUBLIC MEANS AND SERVICE IS AVAILABLE IN FROM THE PUBLIC RIGHT OF WAY.
8. EXISTING ASSESSOR PARCELS NUMBER ARE 049-280-51, 049-280-53, 049-280-55, A PORTION OF 049-280-56, A PORTION OF 049-280-57, 049-280-71 AND 049-280-73.
9. THE OWNER OF SUBJECT PROPERTY DOES NOT OWN ANY CONTIGUOUS PROPERTY.
10. SITE HAS DIRECT ACCESS FROM DOVER DRIVE AND COAST HIGHWAY BOTH PUBLIC RIGHT OF WAYS.
11. CAL-TRANS RIGHT OF WAY MAP NO. 2549-C 07-ORA-I-18.4 AFFECTS THIS PROPERTY.
12. BEARINGS AND DISTANCES ARE RECORD AND MEASURED PER TRACT NO. 1210 BOOK 40 PAGES 45-46 RECORDS OF SAID COUNTY, UNLESS NOTED OTHERWISE.
13. SITE USE TO BE RETAIL/RESTAURANT.
14. SITE SEWER SYSTEM TO BE PROVIDED BY PUBLIC SYSTEM.
15. FUTURE TELEPHONE AND SOUTHERN CALIFORNIA EDISON EASEMENT TO BE PROVIDED BY INDIVIDUAL ENTITIES.
16. PROPOSED 10' WIDE SANITARY SEWER EASEMENT TO BE PROVIDED.

## PROJECT JUSTIFICATION

PROJECT CONSIST OF A PORTION OF AN EXISTING CENTER WITH EXISTING BUILDING AND PARKING AREAS THAT ARE TO BE COMPLETELY DEMOLISHED.

A NEW TWO STORY RETAIL BUILDING WITH APPROXIMATELY 8 SEPARATE TENANTS CONSISTING OF 23.016 SQUARE FEET OF RETAIL SPACES IS TO BE CONSTRUCTED ALONG WITH A THREE LEVEL PARKING STRUCTURE.

## EASEMENT NOTES

THE FOLLOWING ITEMS WERE FOUND IN TITLE REPORT NO. 9701386-JBE DATED, FEBRUARY 17, 2010 BY LAWYERS TITLE:

(2) A 5' WIDE EASEMENT FOR SANITARY SEWERS AND APPURTENANCES PURPOSES TO THE CITY OF NEWPORT BEACH. RECORDED OCTOBER 7, 1955 IN BOOK 3237, PAGE 480, OFFICIAL RECORDS. EASEMENT AFFECTS SUBJECT PROPERTY AND IS PLOTTED HEREON.

(3) AN EASEMENT FOR AVIGATION PURPOSES TO THE COUNTY OF ORANGE. RECORDED MARCH 17, 1964 IN BOOK 6965, PAGE 721, OFFICIAL RECORDS. EASEMENT AFFECTS SUBJECT PROPERTY AND IS BLANKET IN NATURE..

## FLOOD ZONE INFORMATION

ZONE: X

(OUTSIDE 500 YEAR FLOOD PLAIN)

PANEL NO. 06059C 0381J

DATED: DECEMBER 3, 2009

NO FIELD SURVEYING WAS PERFORMED TO DETERMINE THIS ZONE AND AN ELEVATION CERTIFICATE MAY BE NEEDED TO VERIFY THIS DETERMINATION OR APPLY FOR VARIANCE FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

## ZONING INFORMATION

ZONE: CG

COMMERCIAL GENERAL

SETBACKS:

FRONT = 0'
SIDE = 0'
STREET=0'
REAR: 5'

FLOOR AREA RATIO: 0.3/0.5 (APPROXIMATE 0.7 FAR PROPOSED)

HEIGHT: 26'/35'

PARKING RESTRICTIONS:

VARIES

THIS INFORMATION WAS OBTAINED FROM THE CITY OF NEWPORT BEACH, 3360 NEWPORT BOULEVARD, 92663, 949-644-3309 ATTN: PUBLIC COUNTER

## FULL LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN IS SITUATED IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

LOTS 1 THROUGH 6 INCLUSIVE OF TRACT NO. 1210, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 40, PAGES 45 AND 46 OF MISCELLANEOUS MAPS, RECORDS OF SAID COUNTY, CALIFORNIA.

EXCEPTING THEREFROM, THAT PORTION DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTERLINE OF PACIFIC COAST HIGHWAY, 100.00 FEET WIDE, SHOWN AS CALIFORNIA STATE HIGHWAY-ORA-60-B, WITH THE CENTERLINE OF DOVER DRIVE, 80.00 FEET WIDE, FORMERLY 17TH STREET, AS SAID INTERSECTION IS SHOWN ON SAID MAP; THENCE ALONG SAID CENTERLINE OF PACIFIC COAST HIGHWAY, SOUTH 88°12'17" WEST 296.74 FEET; THENCE NORTH 1°47'43" WEST 50.00 FEET TO THE NORTHERLY LINE OF SAID PACIFIC COAST HIGHWAY AND THE TRUE POINT OF BEGINNING; THENCE NORTH 79°35'41" EAST 260.18 FEET TO A CURVE IN THE EASTERLY LINE OF LOT 1 OF SAID TRACT NO. 1210, WHICH CURVE IS CONCAVE EASTERLY HAVING A RADIUS OF 440.00 FEET; THENCE SOUTHERLY AND SOUTHWESTERLY ALONG THE EASTERLY AND SOUTHEASTERLY LINES OF SAID LOT 1 TO SAID NORTHERLY LINE; THENCE WESTERLY ALONG SAID NORTHERLY LINE TO THE TRUE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM THAT PORTION DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTERLINE OF PACIFIC COAST HIGHWAY, 100.00 FEET WIDE SHOWN AS CALIFORNIA STATE HIGHWAY-ORA-60-B, WITH THE CENTERLINE OF DOVER DRIVE 80.00 FEET WIDE, FORMERLY 17TH STREET, AS SAID INTERSECTION IS SHOWN ON SAID MAP; THENCE ALONG SAID CENTERLINE OF PACIFIC COAST HIGHWAY SOUTH 88°12'17" WEST 296.74 FEET; THENCE NORTH 1°47'43" WEST 50.00 FEET TO THE NORTHERLY LINE OF SAID PACIFIC COAST HIGHWAY AND THE TRUE POINT OF BEGINNING; THENCE NORTH 79°35'41" EAST 260.18 FEET TO A POINT IN A CURVE IN THE EASTERLY LINE OF LOT 1 OF SAID TRACT NO. 1210, WHICH CURVE IS CONCAVE EASTERLY HAVING A RADIUS OF 440.00 FEET, A RADIAL LINE AT SAID POINT OF SAID CURVE BEARS NORTH 88°59'27" EAST; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 1°28'12" AN ARC DISTANCE OF 11.29 FEET; THENCE SOUTH 83°47'36" WEST 306.49 FEET TO THE WESTERLY LINE OF THE EASTERLY 30.00 FEET OF SAID LOT 6; THENCE ALONG SAID WESTERLY LINE SOUTH 1°47'43" EAST 26.64 FEET TO SAID NORTHERLY LINE OF SAID PACIFIC COAST HIGHWAY; THENCE ALONG SAID NORTHERLY LINE NORTH 88°12'17" EAST 47.64 FEET TO THE TRUE POINT OF BEGINNING.

ALSO EXCEPT ALL OIL, OIL RIGHTS, MINERALS, MINERAL RIGHTS, NATURAL GAS RIGHTS AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN THAT MAY BE WITHIN OR UNDER THE LAND HEREINABOVE DESCRIBED, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING, EXPLORING AND OPERATING THEREFROM, AND REMOVING THE SAME FROM SAID LAND OR ANY OTHER LAND, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM THE LANDS OTHER THAN THOSE HEREINABOVE DESCRIBED, OIL OR GAS WELLS, TUNNELS AND SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF THE LAND HEREINABOVE DESCRIBED, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS UNDER AND BENEATH OR BEYOND THE EXTERIOR LIMITS THEREOF, AND TO REDRILL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS OR MINES, WITHOUT HOWEVER, THE RIGHT TO DRILL, MINE, EXPLORE AND OPERATE THROUGH THE SURFACE OR THE UPPER 500 FEET OF THE SUBSURFACE OF THE LAND HEREINABOVE DESCRIBED, AS CONTAINED IN THE DEED RECORDED JUNE 2, 1969 IN BOOK 8974, PAGE 265 OF OFFICIAL RECORDS.

ASSESSOR'S PARCEL NUMBER

049-280-51, 53, 55, 71, 72, 73, 049-280-56 (PORTION) 049-280-57 (AS TO A PORTION OF LOT 6)

## UTILITY STATEMENT

ELECTRIC
SOUTHERN CALIFORNIA EDISON COMPANY
7333 BOLSA AVENUE
WESTMINSTER, CA. 92683
PHONE: 714-895-0292

GAS
SOUTHERN CALIFORNIA GAS COMPANY
1919 S. STATE COLLEGE BOULEVARD
ANAHEIM, CA. 92803
PHONE: 714-432-6021

TELEPHONE
AT&T
3939 E. CORONADO
ANAHEIM, CA. 92801
PHONE: 714-237-6044

CABLE TELEVISION
TIME WARNER
7142 CHAPMAN AVENUE
GARDEN GROVE, CA. 92841
PHONE: 714-903-8336

WATER
CITY OF NEWPORT BEACH
3300 NEWPORT BEACH BOULEVARD
NEWPORT BEACH, CA. 92663
PHONE: 949-644-3309

SEWER
CITY OF NEWPORT BEACH
3300 NEWPORT BEACH BOULEVARD
NEWPORT BEACH, CA. 92663
PHONE: 949-644-3309

STORM DRAIN
CITY OF NEWPORT BEACH
3300 NEWPORT BEACH BOULEVARD
NEWPORT BEACH, CA. 92663
PHONE: 949-644-3309

THE EXISTENCE AND APPROXIMATE LOCATION OF UNDERGROUND UTILITIES OR STRUCTURES SHOWN ON THESE PLANS WERE DETERMINED BY A SEARCH OF THE AVAILABLE PUBLIC RECORDS AND ABOVE GROUND OBSERVANCE. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES.

## EXISTING PARKING COUNT

REGULAR STALLS - 14

HANDICAP STALLS - 0
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TOTAL STALLS - 14

(INDICATES STRIPED STALLS ONLY)

## LAND AREA

33,036 SQUARE FEET

0.758 ACRES

## ARCHITECT

STOUTEBOROUGH ARCHITECTS AND PLANNERS
420 ALISO VISTA WAY STE 100
LAGUNA BEACH, CA. 92651
PH.: (949)-715-3257

## OWNER/SUB DIVIDER

VBAS PROPERTIES, INC.
18582 BEACH BLVD. STE#226
HUNTINGTON BEACH, CA. 92648
PH.: (949) 645-9000
ATTN:GLEN VENDULT

| REVISIONS | | | |
|---|---|---|---|
| NO. | DESCRIPTION | DATE | APP'D |


PROJECT ENGINEER
ANACAL ENGINEERING CO.
CIVIL ENGINEERING & LAND SURVEYING
1900 EAST LA PALMA AVENUE ~ SUITE 202 ~
ANAHEIM, CALIFORNIA 92805
PHONE: 714-774-1763 FAX: 714-774-4690
E-MAIL ADDRESS: ANACAL@ANACALENGINEERING.COM

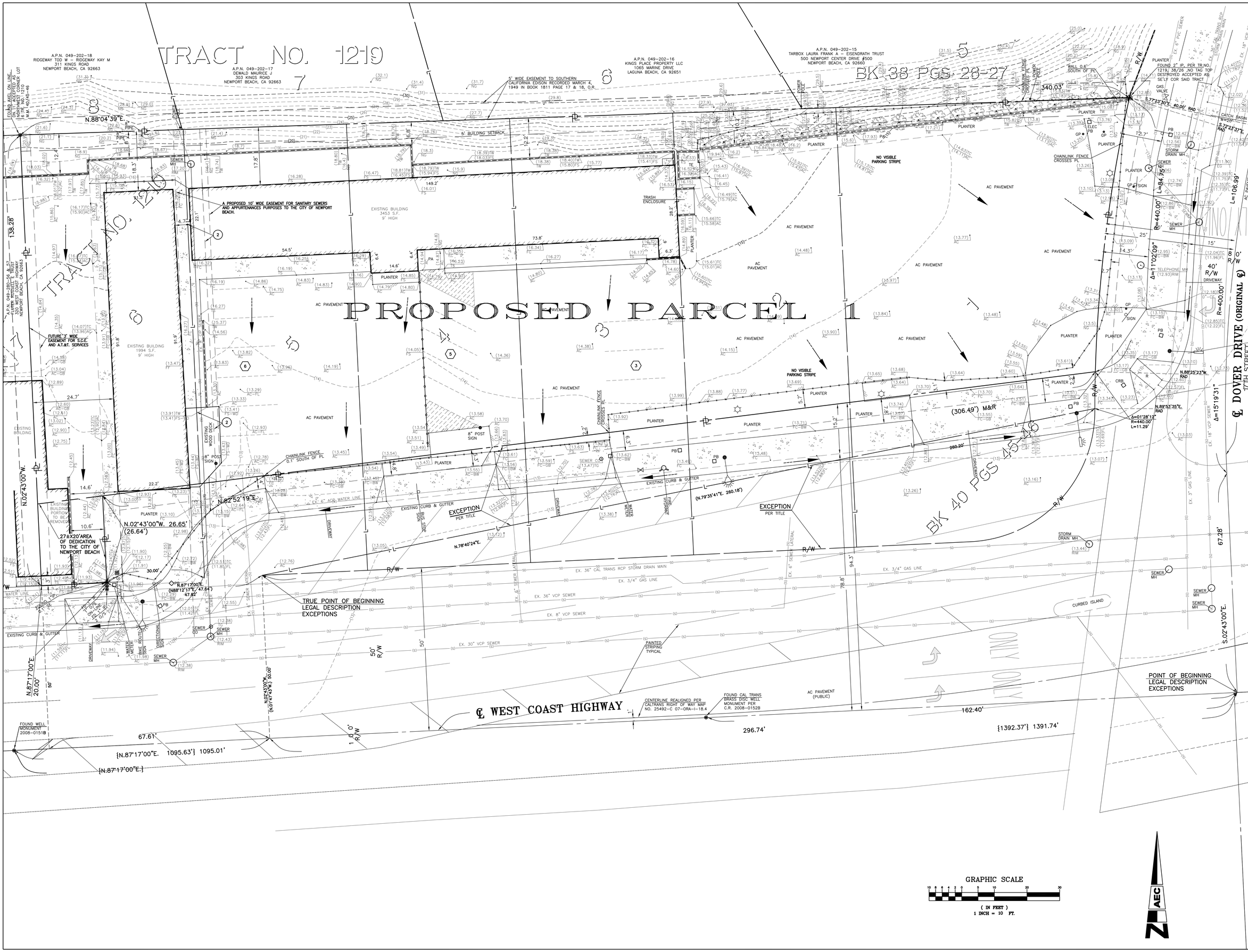

DATE 5/28/11
SCALE NONE
DRAWN G. A. G.
CHECKED C. J. Q.

SHEET TITLE
TENTATIVE PARCEL MAP NO. 2010-133

PROJECT
MARINER'S POINTE
200-320 WEST COAST HIGHWAY
NEWPORT BEACH, CALIFORNIA

A.E.C. NO. 10028-TPM

SHEET NO.
1 OF 2




PROJECT ENGINEER
ANACAL ENGINEERING CO.
CIVIL ENGINEERING & LAND SURVEYING
1900 EAST LA PALMA AVENUE ~ SUITE 202 ~
ANAHEIM, CALIFORNIA 92805
PHONE: 714-774-1763 FAX: 714-774-4690
E-MAIL ADDRESS: ANACAL@ANACALENGINEERING.COM

DATE 5/28/11
SCALE 1" = 10'
DRAWN G. A. G.
CHECKED C. J. Q.

SHEET TITLE
# TENTATIVE PARCEL MAP NO. 2010-133

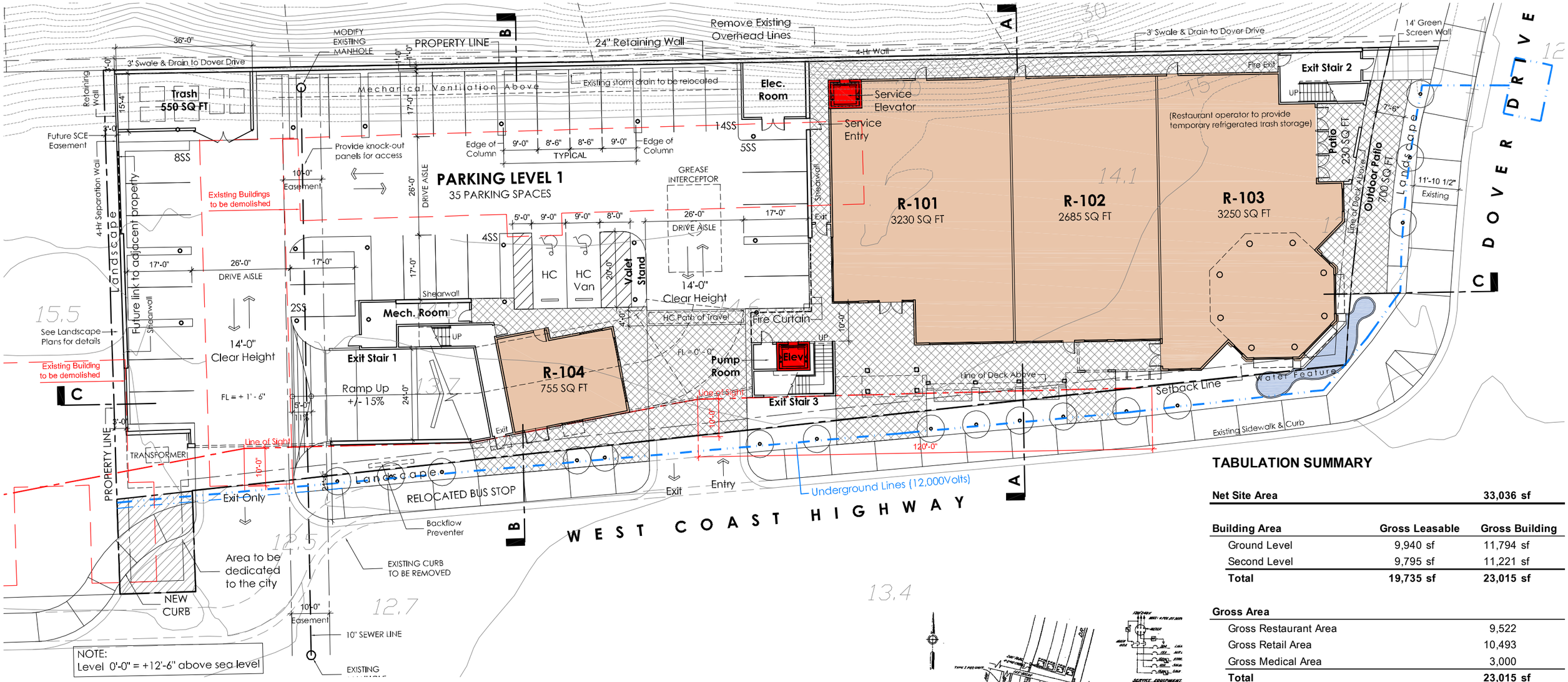
PROJECT
## MARINER'S POINTE
## 200-320 WEST COAST HIGHWAY
NEWPORT BEACH, CALIFORNIA

A.E.C. NO. 10028-TPM

SHEET NO. 2 OF 2

# Attachment No. PC 3

Project Plans



Location Map

Not to Scale

**CODE INFORMATION:**

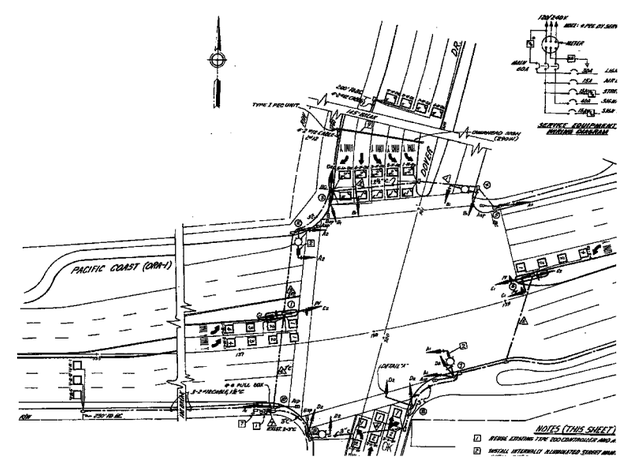
Project to comply with new code to be adapted by the City of Newport Beach - January 2011

Parking Structure:

Type I Construction
Fully sprinklered with smoke detectors

Commercial Building:

Type V Construction
1-Hour with 4-Hour Separation at Property Line




Road Striping

Not to Scale

## TABULATION SUMMARY

| Net Site Area | 33,036 sf |
|---|---|

| Building Area | Gross Leasable | Gross Building |
|---|---|---|
| Ground Level | 9,940 sf | 11,794 sf |
| Second Level | 9,795 sf | 11,221 sf |
| **Total** | **19,735 sf** | **23,015 sf** |

| Gross Area | |
|---|---|
| Gross Restaurant Area | 9,522 |
| Gross Retail Area | 10,493 |
| Gross Medical Area | 3,000 |
| **Total** | **23,015 sf** |

**Parking Provided On-Site**

| Level | | HC Stalls | Standard Stalls | Tandem Stalls | Valet Only | Total |
|---|---|---|---|---|---|---|
| Ground Level | P1 | 2 | 33 | 0 | 0 | **35** |
| Second Level | P2 | 1 | 24 | 16 | 5 | **46** |
| Third Level | P3 | 2 | 18 | 30 | 5 | **55** |
| **Total** | | **5** | **75** | **46** | **10** | **136** |

# Mariner's Pointe

West Coast Highway at Dover — Newport Beach, CA

WINSTON'S JEWELERS c/o VBAS Properties, Inc

18582 Beach Boulevard, Suite 226 — Huntington Beach, CA 92648

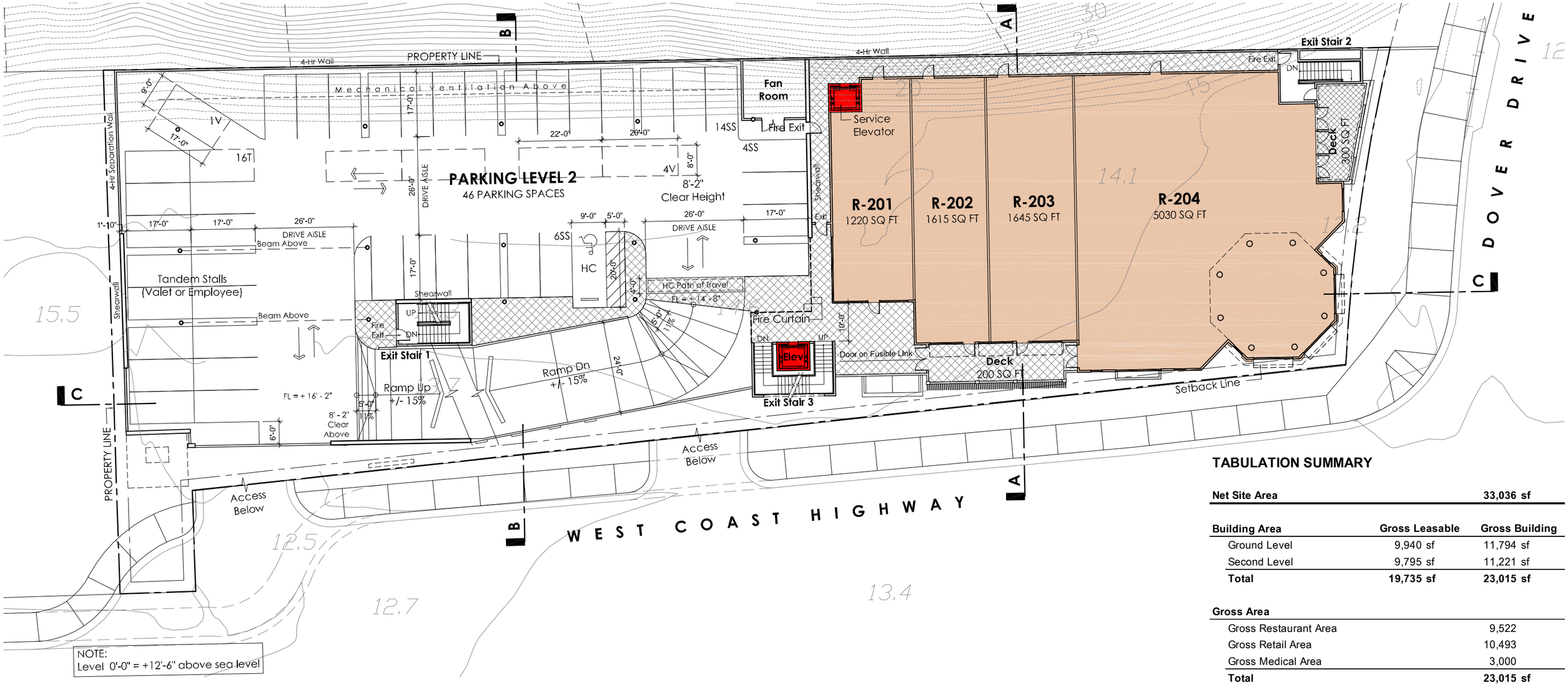
STOUTENBOROUGH INC
Architects and Planners
420 Alta Vista Way, Suite 100, Laguna Beach, Ca 92651
T 949 715 3257 | F 949 715 3256 | www.stoutenboroughinc.com

Ground Level Plan on Site

May 25, 2011

NORTH

0' 10' 20' 30' 40' 50' 60' 70'



Location Map

Not to Scale

Second Level Plan on Site

May 25, 2011

NORTH

0' 10' 20' 30' 40' 50' 60' 70'

## TABULATION SUMMARY

| Net Site Area | 33,036 sf |
|---|---|

| Building Area | Gross Leasable | Gross Building |
|---|---|---|
| Ground Level | 9,940 sf | 11,794 sf |
| Second Level | 9,795 sf | 11,221 sf |
| **Total** | **19,735 sf** | **23,015 sf** |

| Gross Area | |
|---|---|
| Gross Restaurant Area | 9,522 |
| Gross Retail Area | 10,493 |
| Gross Medical Area | 3,000 |
| **Total** | **23,015 sf** |

**Parking Provided On-Site**

| Level | | HC Stalls | Standard Stalls | Tandem Stalls | Valet Only | Total |
|---|---|---|---|---|---|---|
| Ground Level | P1 | 2 | 33 | 0 | 0 | **35** |
| Second Level | P2 | 1 | 24 | 16 | 5 | **46** |
| Third Level | P3 | 2 | 18 | 30 | 5 | **55** |
| **Total** | | **5** | **75** | **46** | **10** | **136** |

# Mariner's Pointe

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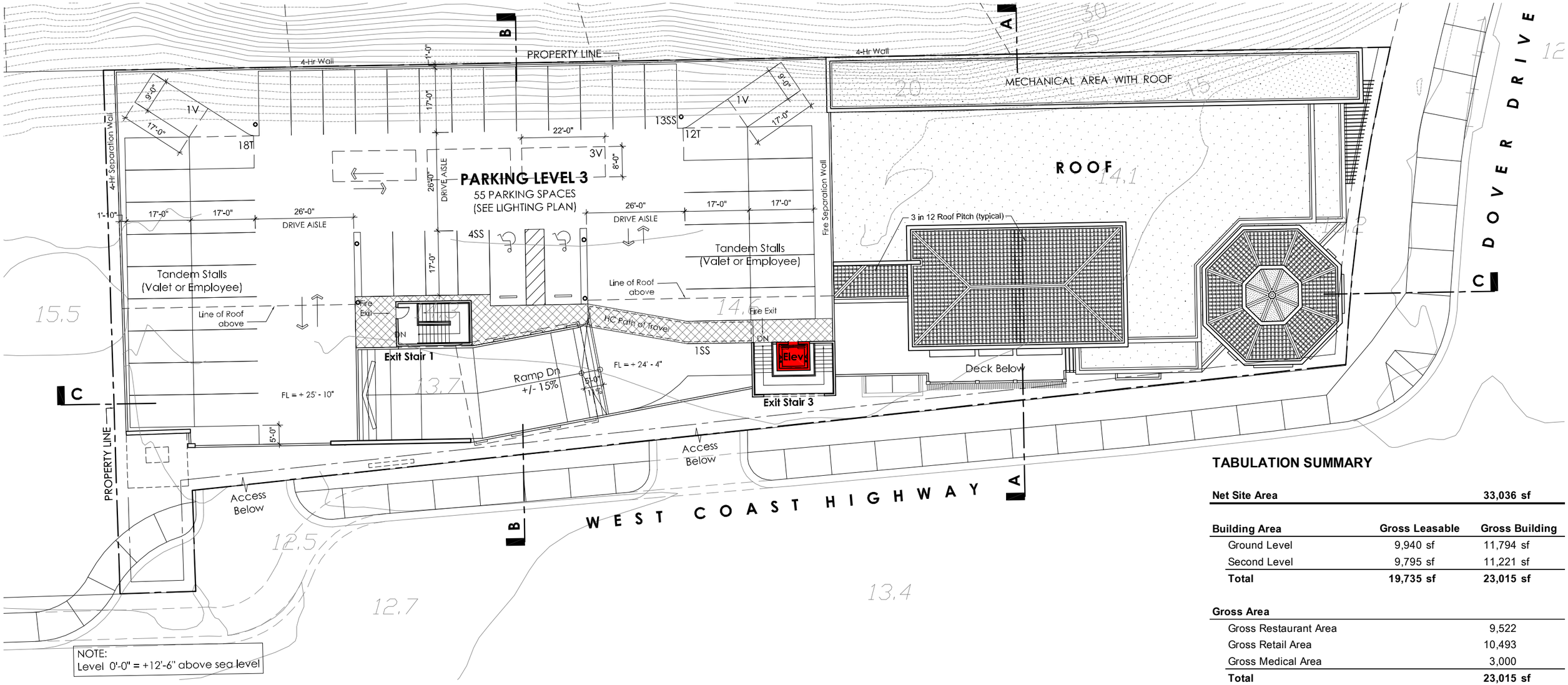
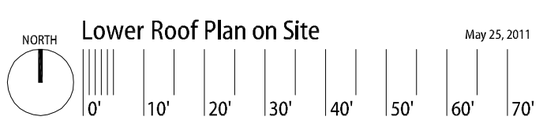



NOTE:
Level 0'-0" = +12'-6" above sea level

Location Map

Not to Scale




Lower Roof Plan on Site

May 25, 2011

## TABULATION SUMMARY

| Net Site Area | 33,036 sf |
|---|---|

| Building Area | Gross Leasable | Gross Building |
|---|---|---|
| Ground Level | 9,940 sf | 11,794 sf |
| Second Level | 9,795 sf | 11,221 sf |
| **Total** | **19,735 sf** | **23,015 sf** |

| Gross Area | |
|---|---|
| Gross Restaurant Area | 9,522 |
| Gross Retail Area | 10,493 |
| Gross Medical Area | 3,000 |
| **Total** | **23,015 sf** |

**Parking Provided On-Site**

| Level | | HC Stalls | Standard Stalls | Tandem Stalls | Valet Only | Total |
|---|---|---|---|---|---|---|
| Ground Level | P1 | 2 | 33 | 0 | 0 | **35** |
| Second Level | P2 | 1 | 24 | 16 | 5 | **46** |
| Third Level | P3 | 2 | 18 | 30 | 5 | **55** |
| **Total** | | **5** | **75** | **46** | **10** | **136** |

# Mariner's Pointe

West Coast Highway at Dover — Newport Beach, CA

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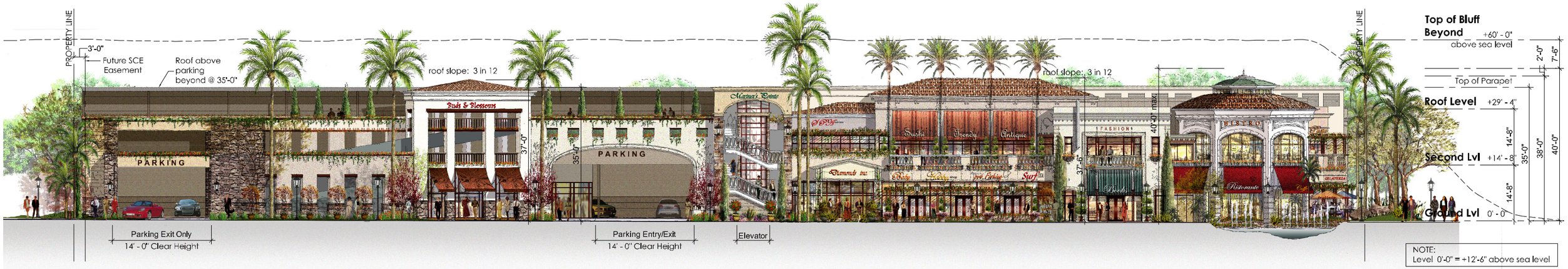
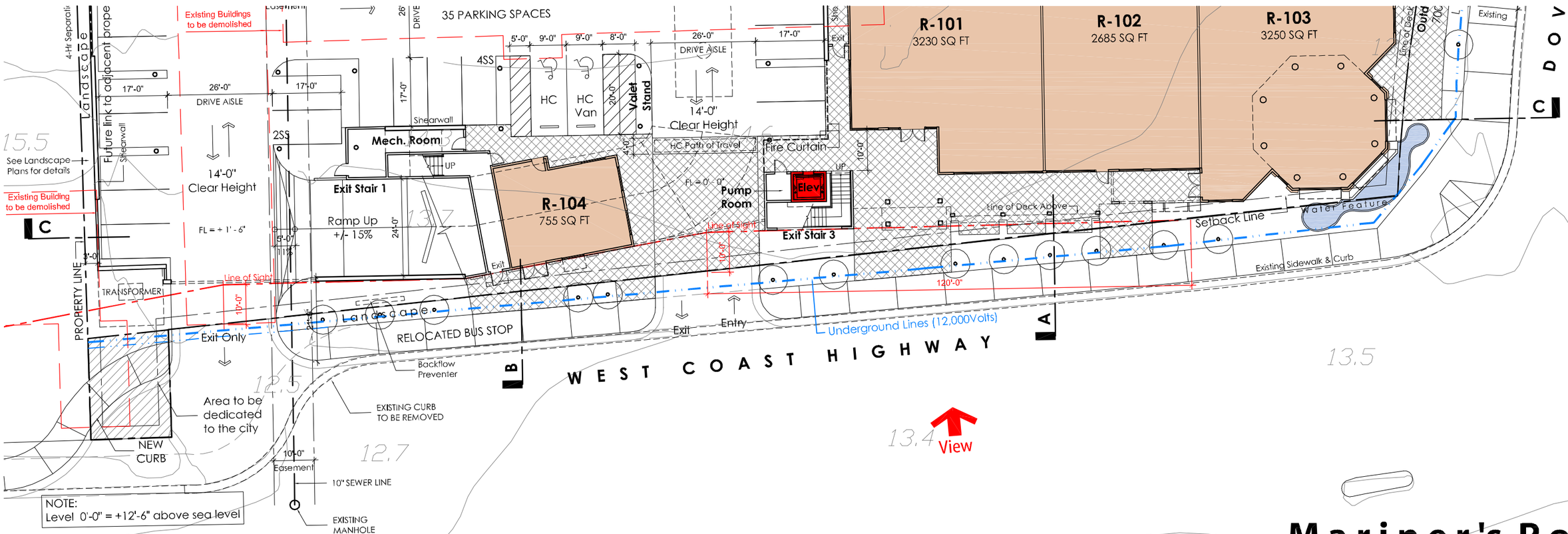



South Elevation - West Coast Highway




Partial Ground Level Plan on Site

NORTH

Elevation

May 25, 2011

0' 10' 20' 40' 50' 60' 70' 80'

# Mariner's Pointe

West Coast Highway at Dover — Newport Beach, CA

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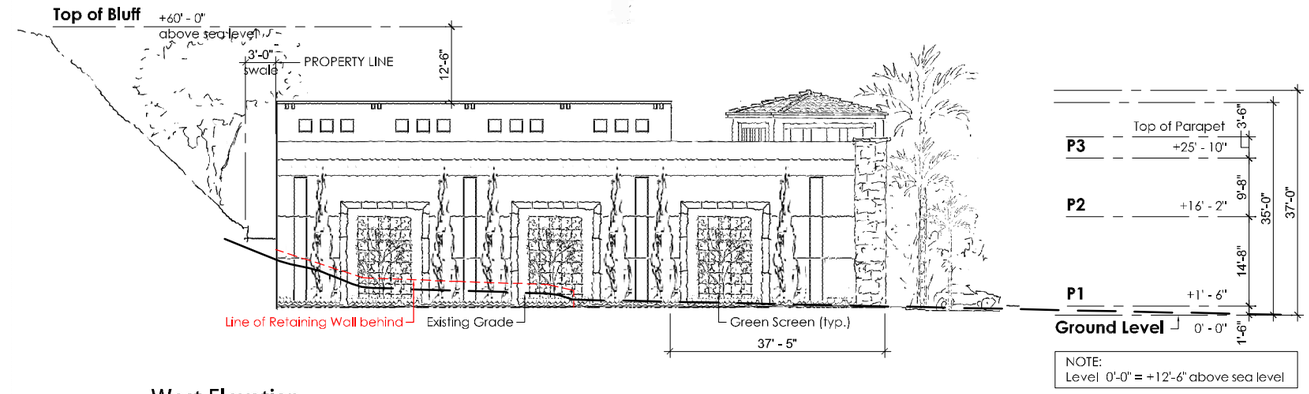
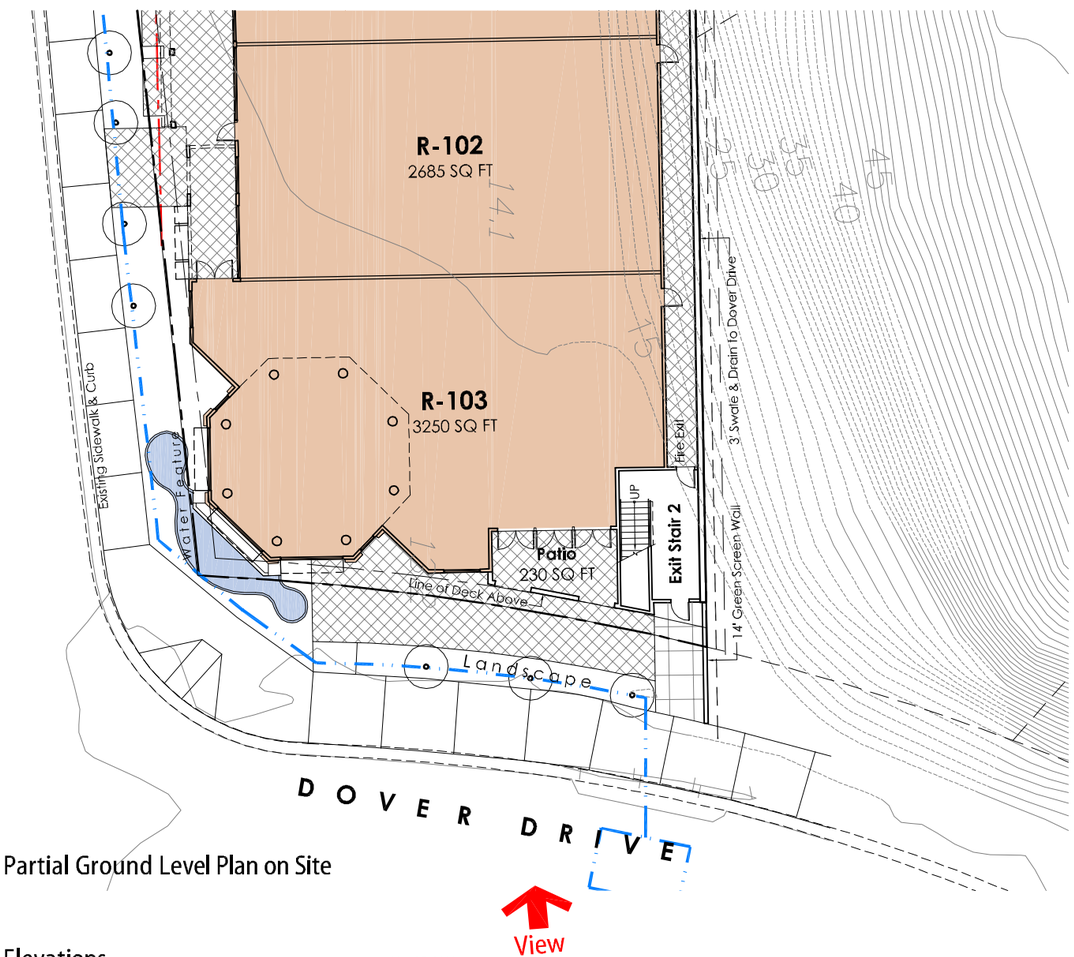
East Elevation - Dover Drive




West Elevation




Partial Ground Level Plan on Site

Elevations

May 25, 2011

0' 10' 20' 40' 50' 60' 70' 80'

# Mariner's Pointe

West Coast Highway at Dover — Newport Beach, CA

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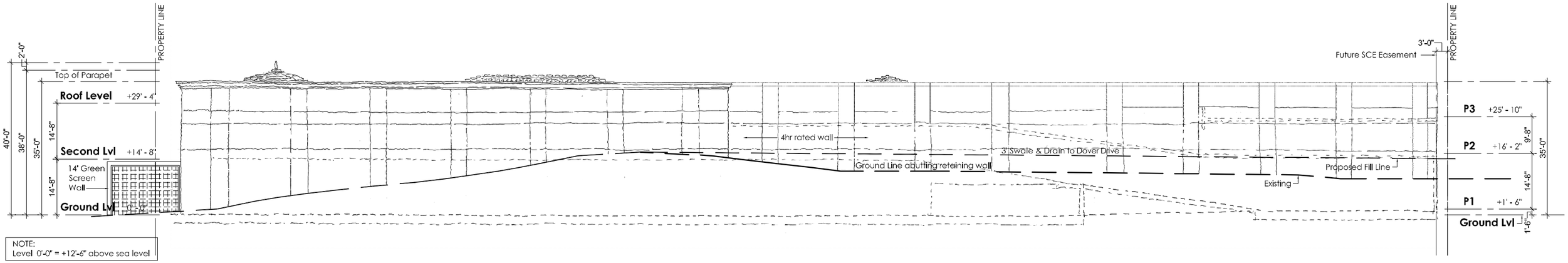
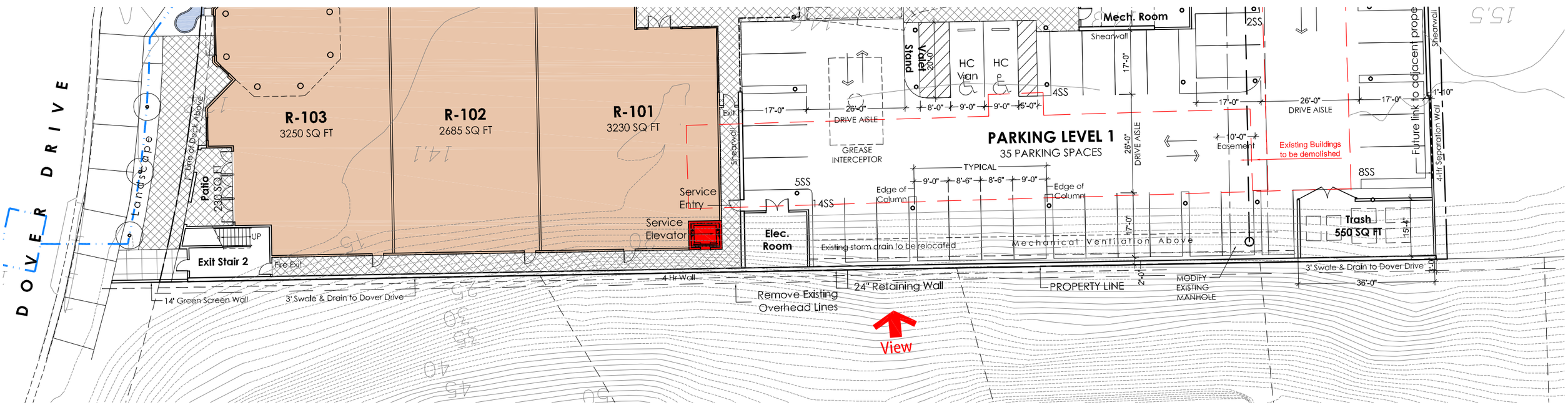



North Elevation - Bluff Side




Partial Ground Level Plan on Site

# Mariner's Pointe

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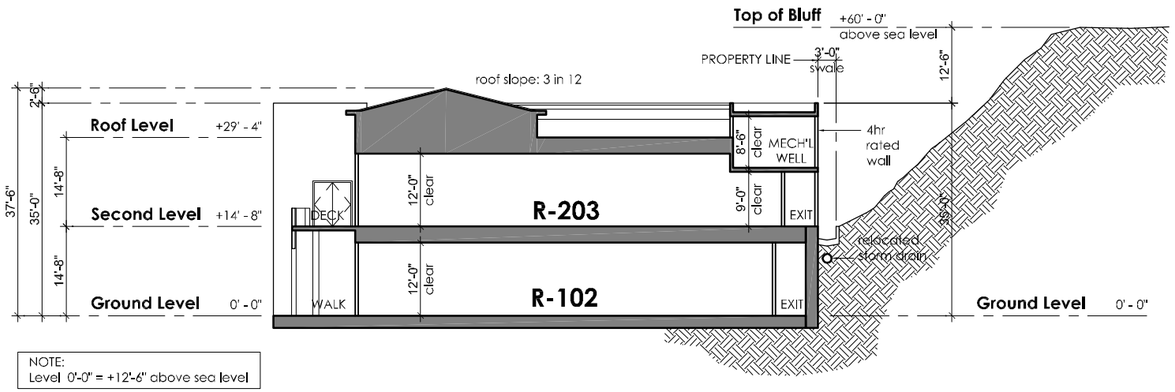
NORTH

Elevation

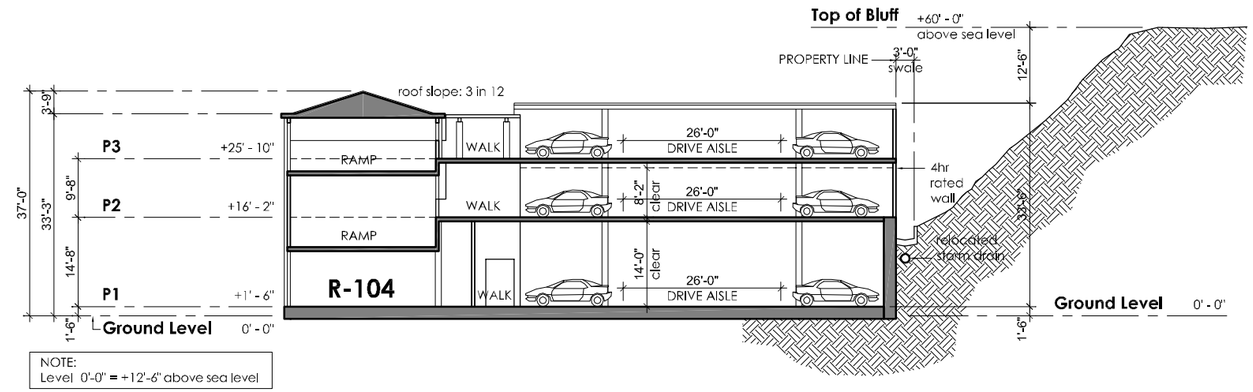
May 25, 2011

0' 10' 20' 40' 50' 60' 70' 80'



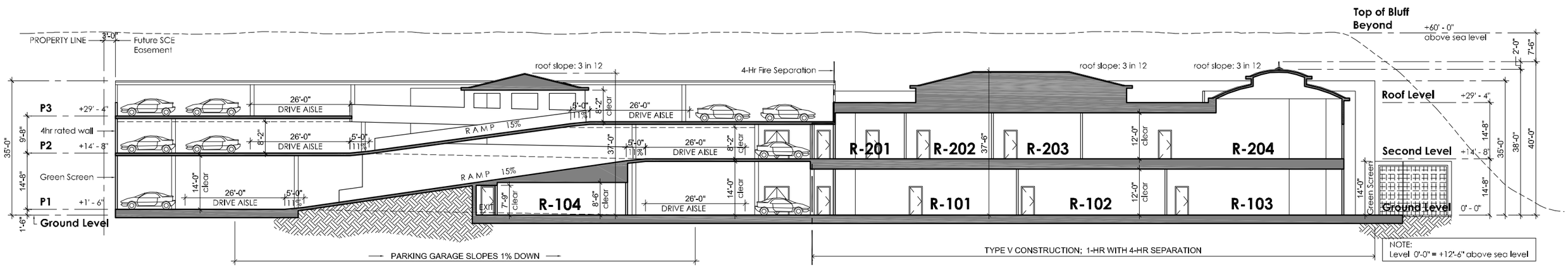

NOTE:
Level 0'-0" = +12'-6" above sea level

Section A - A




NOTE:
Level 0'-0" = +12'-6" above sea level

Section B - B




NOTE:
Level 0'-0" = +12'-6" above sea level

Section C - C

Building Sections

May 25, 2011

0' 10' 20' 30' 40' 50' 60' 70'

# Mariner's Pointe

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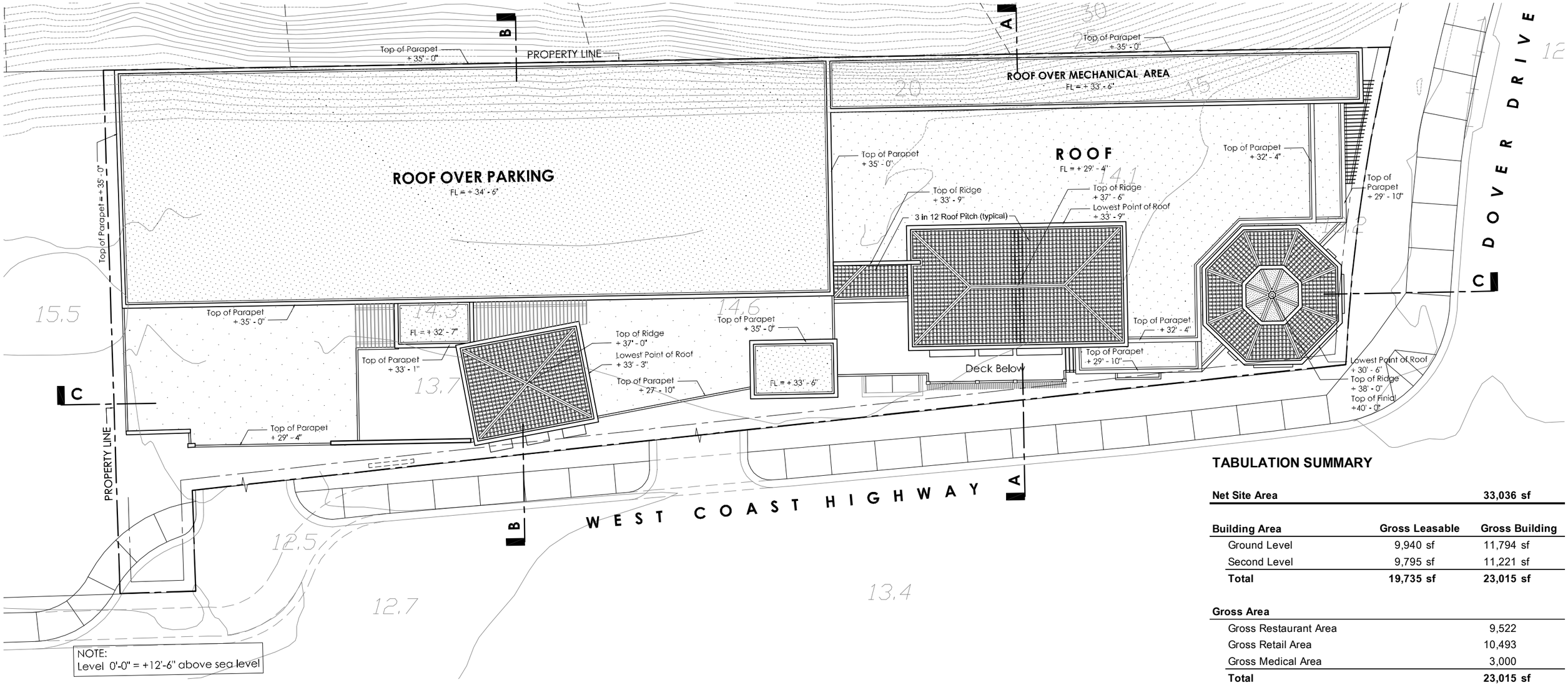


NOTE:
Level 0'-0" = +12'-6" above sea level

Location Map

Not to Scale

Upper Roof Plan on Site

May 25, 2011

NORTH

0' 10' 20' 30' 40' 50' 60' 70'

## TABULATION SUMMARY

| Net Site Area | 33,036 sf |
|---|---|

| Building Area | Gross Leasable | Gross Building |
|---|---|---|
| Ground Level | 9,940 sf | 11,794 sf |
| Second Level | 9,795 sf | 11,221 sf |
| **Total** | **19,735 sf** | **23,015 sf** |

| Gross Area | |
|---|---|
| Gross Restaurant Area | 9,522 |
| Gross Retail Area | 10,493 |
| Gross Medical Area | 3,000 |
| **Total** | **23,015 sf** |

**Parking Provided On-Site**

| Level | | HC Stalls | Standard Stalls | Tandem Stalls | Valet Only | Total |
|---|---|---|---|---|---|---|
| Ground Level | P1 | 2 | 33 | 0 | 0 | **35** |
| Second Level | P2 | 1 | 24 | 16 | 5 | **46** |
| Third Level | P3 | 2 | 18 | 30 | 5 | **55** |
| **Total** | | **5** | **75** | **46** | **10** | **136** |

# Mariner's Pointe

West Coast Highway at Dover — Newport Beach, CA

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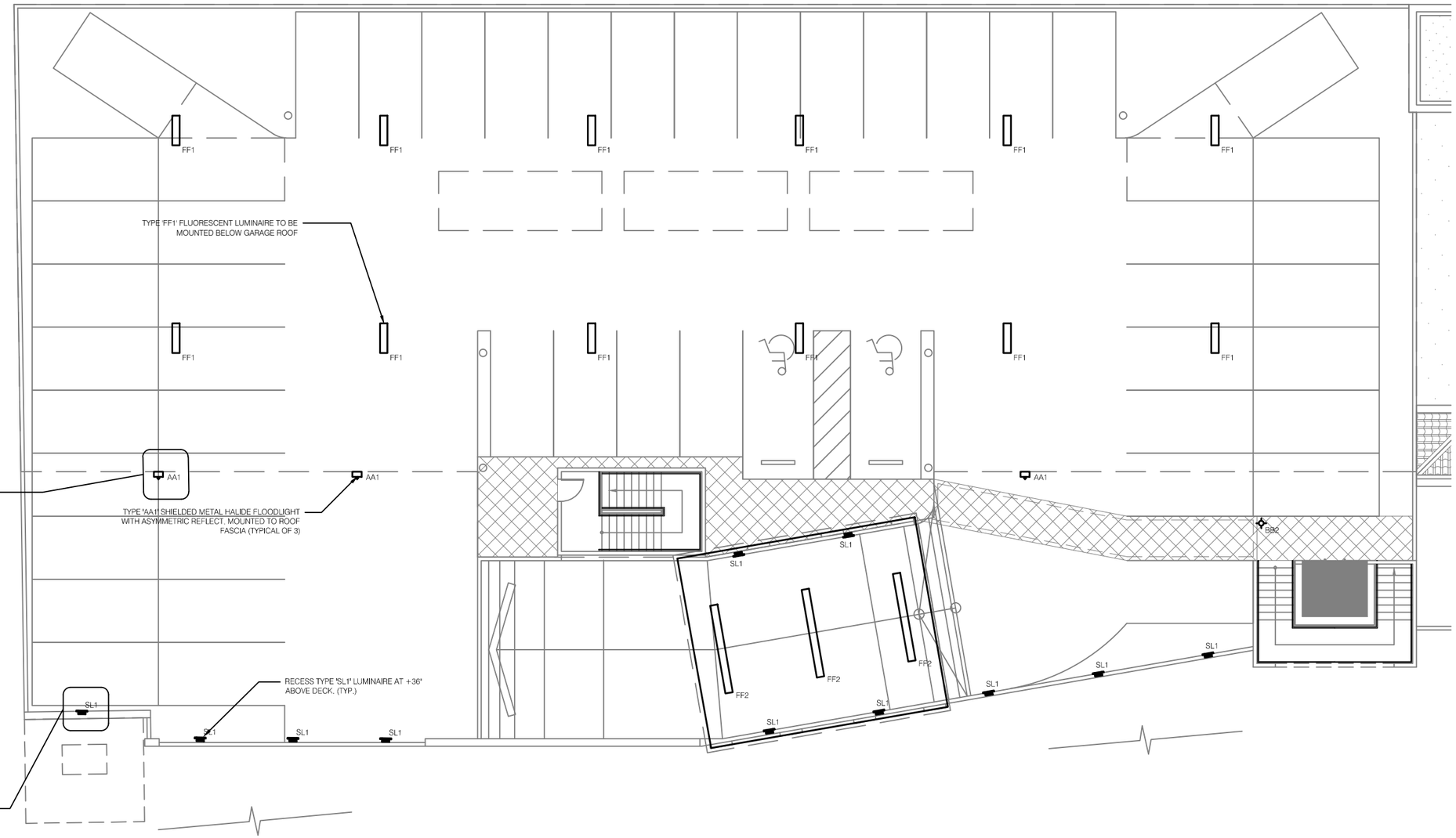
ASYMMETRIC FLOODLIGHT AT ROOF FASCIA

RECESSED LIGHTS AT SOUTH WALL




NORTH

Garage Deck Lighting Plan

0' 10' 20' 30' 40' 50'

June 10, 2011

Scale :
1/16" = 1'-0"


THE RUZIKA COMPANY

2 Executive Circle, Suite 290
Irvine, California 92614

(949) 253-3479
(949) 250-0181 fax
info@ruzika.com
www.ruzika.com

*Lighting Designers + Theatre Consultants*



THIS DRAWING RELATES TO LIGHTING DESIGN INTENT ONLY. THE RUZIKA COMPANY DOES NOT ASSUME RESPONSIBILITY FOR STRUCTURAL INTEGRITY, BUILDING, RIGGING, CONSTRUCTION, FABRICATION, MATERIAL, OR EQUIPMENT.

THE RUZIKA COMPANY WILL NOT BE HELD RESPONSIBLE FOR THE INABILITY OF CONTRACTORS OR BUILDERS TO EXECUTE THE DESIGN PLANS.

ALL ELECTRICAL INFORMATION AND LOCAL ENERGY CODE COMPLIANCE FORMS TO BE PROVIDED BY A LICENSED ELECTRICAL ENGINEER OR ELECTRICAL CONTRACTOR.

ALL EQUIPMENT ATTACHMENT DETAILS AND STRUCTURAL LOAD CALCULATIONS MUST BE PROVIDED BY A LICENSED STRUCTURAL ENGINEER.

FOR LIGHTING DESIGN INFORMATION ONLY


# Mariner's Point

West Coast Highway at Dover Newport Beach, C

WINSTON'S JEWELERS c/o VBAS Properties, I

18582 Beach Boulevard, Suite 226 Huntington Beach, CA 92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Architects and Planne

420 Alta Vista Way, Suite 100, Laguna Beach, Ca 926

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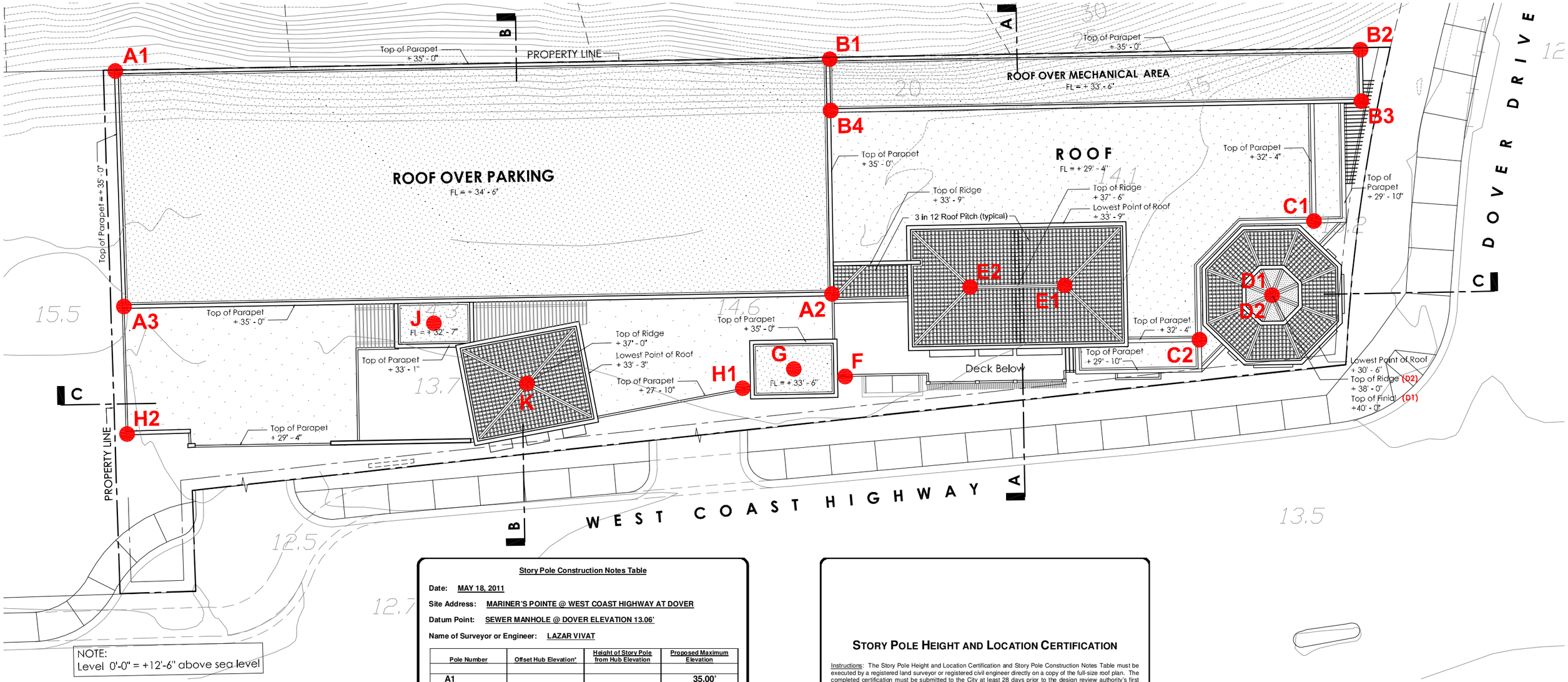

Location Map

Not to Scale

Staking Plan

NORTH

May 25, 2011

0' 10' 20' 30' 40' 50' 60' 70'

**Story Pole Construction Notes Table**

**Date:** MAY 18, 2011

**Site Address:** MARINER'S POINTE @ WEST COAST HIGHWAY AT DOVER

**Datum Point:** SEWER MANHOLE @ DOVER ELEVATION 13.06'

**Name of Surveyor or Engineer:** LAZAR VIVAT

| Pole Number | Offset Hub Elevation* | Height of Story Pole from Hub Elevation | Proposed Maximum Elevation |
|---|---|---|---|
| | | | |
| A1 | | | 35.00' |
| A2 | | | 35.00' |
| A3 | | | 35.00' |
| B1 | | | 35.00' |
| B2 | | | 35.00' |
| B3 | | | 35.00' |
| B4 | | | 35.00' |
| C1 | | | 32.33' |
| C2 | | | 32.33' |
| D1 | | | 40.00' |
| D2 | | | 38.00' |
| E1 | | | 37.50' |
| E2 | | | 37.50' |
| F | | | 17.66' |
| G | | | 35.00' |
| H1 | | | 27.83' |
| H2 | | | 29.33' |
| J | | | 33.08' |
| K | | | 37.00' |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

*If standard survey hubs are not feasible because of the existence of rocks, paving or existing structural improvements, then the surveyor or engineer may use an alternative method of establishing horizontal and vertical control for story poles that can be observed in the field. The surveyor or engineer shall describe the control method used directly on the full-size roof plan. Such alternative methods may include painted markings or nail with information tags attached.

## STORY POLE HEIGHT AND LOCATION CERTIFICATION

Instructions: The Story Pole Height and Location Certification and Story Pole Construction Notes Table must be executed by a registered land surveyor or registered civil engineer directly on a copy of the full-size roof plan. The completed certification must be submitted to the City at least 28 days prior to the design review authority's first noticed public hearing date.

**Required Certification Statement:**
I hereby certify that the story poles located on the above referenced site were constructed under my supervision and survey, and the story poles are in conformance with the design, height and location as shown on the approved staking plan. I further certify that the attached table identifying 1) the story pole identification numbers, 2) elevations of the top of the surveyed offset hubs, 3) elevations of the top of the story poles and 4) the heights of the story poles as measured from the top of the offset hubs is true and correct. I acknowledge and understand that the required project staking is for the purpose of informing the owner, architect, designer, City staff, design review authority and the public as to the accurate location and exterior dimensions of the proposed structure or addition.

Please stamp & sign below

Signature of Registered Land Surveyor or Civil Engineer

Name (printed or typed)

License No./Expiration Date

Date

# Mariner's Pointe

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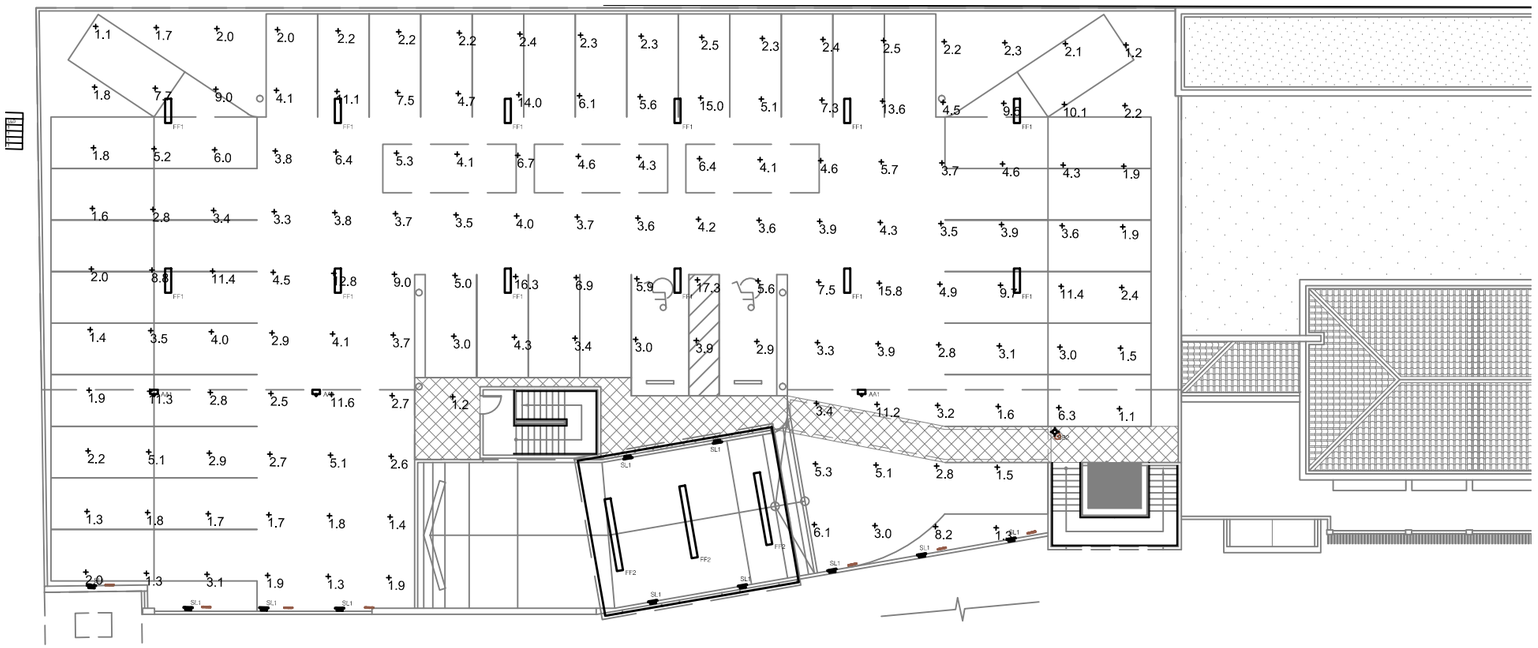
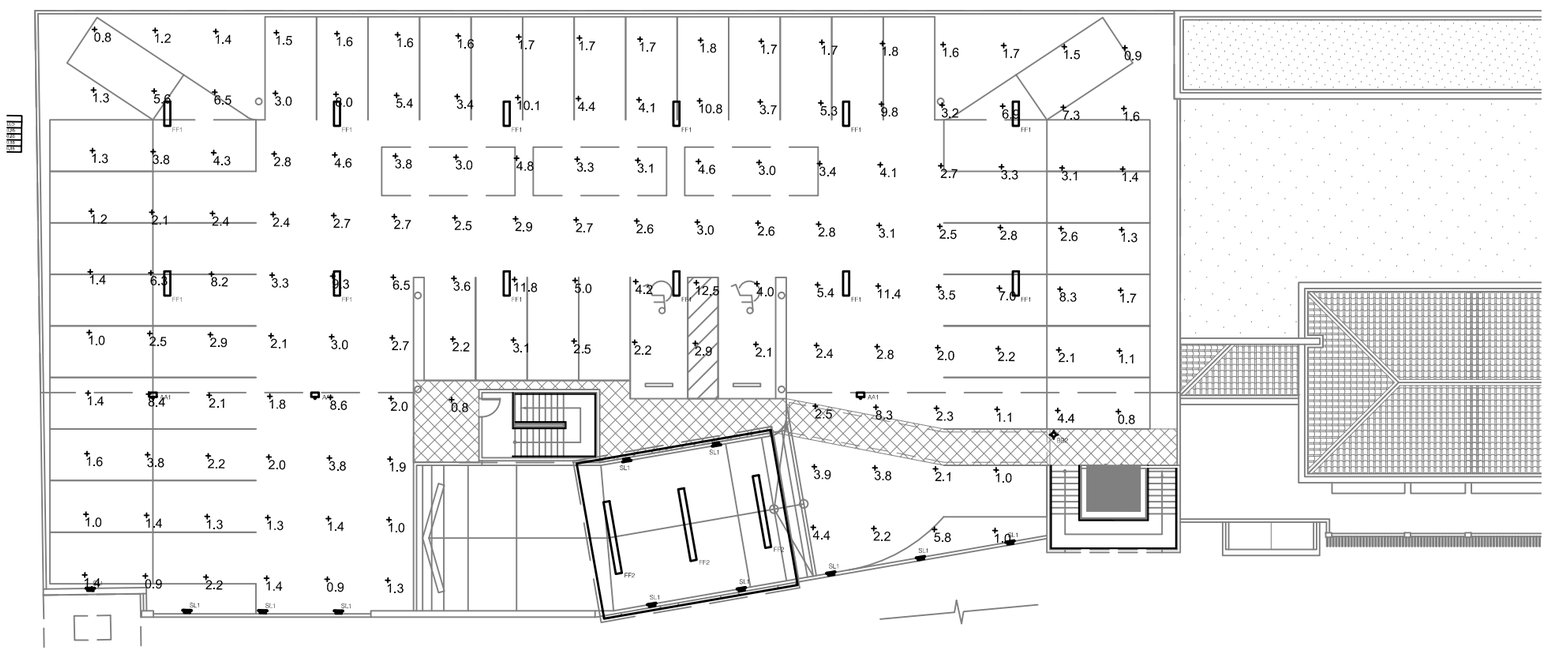


| Calculation Summary | | | | | | | |
|---|---|---|---|---|---|---|---|
| Label | CalcType | Units | Avg | Max | Min | Avg/Min | Max/Min |
| Parking Deck | Illuminance | Fc | 4.58 | 17.3 | 1.1 | 4.16 | 15.73 |

| Luminaire Schedule | | | | | |
|---|---|---|---|---|---|
| Label | Description | Lumens | LLF | LDD | LLD |
| AA1 | Elliptipar M102 - 70MH | 6300 | 1.000 | 1 | 1 |
| BB2 | Beta BRM 820_821_822_823-50MV_DX_MED (8_ ROUND LOUVER BOLLARD) | 5500 | 1.000 | 1 | 1 |
| FF1 | Beta BLF-06-W-__-2-032T8F-A | 2950 | 1.000 | 1 | 1 |
| SL1 | Bega 2852P 32W | 2400 | 1.000 | 1 | 1 |

## Initial Illuminance



| Calculation Summary | | | | | | | |
|---|---|---|---|---|---|---|---|
| Label | CalcType | Units | Avg | Max | Min | Avg/Min | Max/Min |
| Parking Deck | Illuminance | Fc | 3.58 | 12.5 | 0.8 | 4.16 | 15.63 |

| Luminaire Schedule | | | | | |
|---|---|---|---|---|---|
| Label | Description | Lumens | LLF | LDD | LLD |
| AA1 | Elliptipar M102 - 70MH | 6300 | 0.748 | 0.88 | 0.85 |
| BB2 | Beta BM 820_821_822_823-50MV_DX_MED (8_ ROUND LOUVER BOLLARD) | 5500 | 0.701 | 0.825 | 0.85 |
| FF1 | Beta BLF-06-W-__-2-032T8F-A | 2950 | 0.723 | 0.85 | 0.85 |
| SL1 | Bega 2852P 32W | 2400 | 0.701 | 0.825 | 0.85 |

## Maintained Illuminance

# Mariner's Point

West Coast Highway at Dover — Newport Beach, C

WINSTON'S JEWELERS c/o VBAS Properties, I

18582 Beach Boulevard, Suite 226 — Huntington Beach, CA 92

STOUTENBOROUGH

Architects and Planne

420 Alta Vista Way, Suite 100, Laguna Be Ca 926

T 949 715 3257 | F 949 715 3256 | www.stou boroughinc.

NORTH

## Preliminary Garage Deck Lighting Calcs

June 10, 2011

0' 10' 20' 30' 40' 50' 60' 70'

Scale : 1" = 20'


THE RUZIKA COMPANY

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Irvine, California 92614

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FOR LIGHTING DESIGN INFORMATION ONLY

## Preliminary Plant Palette

| Botanical Name | Common Name | Size: |
|---|---|---|
| **PACIFIC COAST HIGHWAY EDGE LANDSCAPE** (per Section 3.20): | | |
| **Palm:** | | |
| *Washingtonia robusta* | Mexican Fan Palm | 20' b.t.h |
| **Shrub:** | | |
| Ligustrum j. 'Texanum' | Texas Prvet | 5 gal. Hedge |
| **P.C.H. and DOVER DRIVE LANDSCAPE SETBACK** (from back of walk to face of building): | | |
| **Trees and Palms:** | | |
| *Arbutus* 'Marina' | Hybrid Strawberry Tree | 24" box |
| *Archontophoenix cunninghamiana* | King Palm - multi | 36" box |
| *Cupressus sempervirens* | Italian Cypress | 24" box |
| *Dracaena drago* | Dragon Tree-min. 3 arms | 24" Box |
| *Magnolia* 'Little Gem" | Southern Magnolia | 24" box |
| Olea europeae "Swan Hill" | Fruitless Olive-multi | 48" box |
| *Tipuana tipu* | Tipu Tree | 24" box |
| Trachycarpus fortunei | Windmill Palm - Hts. Vary | 6' to 12' b.t.h. |
| Tristania conferta | Brisbane Box - low branch | 24" box |
| **Shrubs:** | | |
| Background: *(minimum 5 gallon size)* | | |
| *Prunus caroliniana* "Bright and Tight" | Carolina Cherry | |
| *Strelitzia nicolia* | Giant Bird of Paradise | |
| *Chamaerops humilis* | Mediterranean Fan Palm-multi | |
| *Feijoa sellowiana* | Pineapple Guava | |
| *Tecoma stans* | Yellow Bells | |
| *Westringia fruticosa* | Coast Rosemary | |
| Middleground: *(minimum 5 gallon size)* | | |
| *Anigozanthos sp.* 'Bush Gold' | Kangaroo Paw | |
| *Bougainvillea rosenka* | Shrub type Bouganivillea | |
| *Callistemon* 'Little John' | Dwarf Bottlebrush | |
| *Dietes bicolor* | Butterfly Iris | |
| *Grevillia species* | Grevillia | |
| *Hemerocallis hybrids* | Evergreen Daylilies | |
| *Pittosporum species* | Mock Orange | |
| *Raphiolepis indica species* | India Hawthorn | |
| *Strelitzia reginae* | Bird of Paradise | |
| Foreground: *(minimum 1 gallon size)* | | |
| *Bougainvillea* 'Oo *La La'* | Bougainvillea | |
| Carissa m. "Horizontalis' | Natal Plum | |
| *Carex species* | Sedge | |
| *Festuca ovina glauca* | Blue Fescue | |
| *Hemerocallis hybrids* | Evergreen Daylilies | |
| *Rosmarinus o. prostratus* | Dwarf Rosemary | |
| *Trachelospermum jasminoides* | Star jJasmine | |
| Accent / Color shrubs *(minimum 5 gallon size)* | | |
| *Aeonium x floribundum* | Aeonium Hybrid | |
| *Aloe species* | Aloe | |
| *Agave species* | Agave | |
| *Cycas revoluta* | Sago | |
| *Hesperaloe parvifola* | Red Yucca | |
| *Nassella tenuissima* | *Mexican Feather Grass* | |
| *Stipa species* | Feather Grass | |
| **Vines and Espalliers** *(minimum 5 gallon size)* | | |
| *Bougainvillea* 'La Jolla Red' | Bougainvillea | |
| *Citrus species* | Thornless Citrus | |
| *Distictus buccinatoria* | Blood Red Trumpet Vine | |
| *Distictus riversii* | Royal Trumpet Vine | |
| *Magnolia* "Little Gem" | Southern Magnolia | |
| *Solanum jasminoides* | Potato Vine | |
| **GREEN SCREEN WALL:** | | |
| *Distictus buccinatoria* | Blood Red Trumpet Vine | |
| **NORTH-SIDE of PARKING STRUCTURE** | | |
| *Pittosporum eugenioides* 'Variegata' | Wavy-Leaf Pittosporum | 15 gallon at 6' o.c. |

**LINE OF SIGHT NOTE:**
Maintain shrubs at 24" high inside of Line of Sight at driveways and street intersections.

## Preliminary Planting & Irrigation Concept Statement

1. Provide simple, bold and low maintenance landscape planting design which incorporates many non-invasive and water conserving plant types. Landscape elements visible from the public realm will blend with and appear to be an extension of the Mariner's Mile Design Framework landscape objective.
2. Each plant hydrozone shall have plant material with similar water requirements.
3. Provide a variety of plant material shapes, sizes and texture in an informal arrangement compatible with the architectural theme.
4. The landscape potable water irrigation design will be designed to provide the most efficient and conserving means to distribute irrigation water with the latest technology for water conservation.
5. All landscape improvements will meet the requirements contained in the City of Newport Beach Mariner's Mile Design Framework and N.B.M.C. 14.17 "Water Efficient Landscape Ordinance"
6. The Conceptual Landscape Plan has been prepared by a registered Landscape Architect.

## Water Feature Narrative:

The proposed water feature, visible from the intersection of Dover Drive and West Coast Highway, will have a naturalistic form with contemporary influences compatible with the architectural theme.
The maximum water depth is 18". Water effects include a clean, knife-edge water weir falling towards the street at the center and a naturalistic, low water wall at each end of the feature.
The edges, softened by the adjacent plant material will be a combination of eroded, colored concrete and natural stone.
The recirculating water system equipment will be concealed in a vault in the landscape area.
The surface area of the water feature is included in the high water use hydrozone area of the water budget calculation.

## Landscape Documentation Package Note:

A landscape documentation package by the project applicant is required to be submitted to the City of Newport Beach pursuant to section 2.1 of the Water Efficient Ordinance Standards.

## Landscape Areas:

| | | |
|---|---|---|
| WEST COAST HIGHWAY | : | 2,450 S.F. |
| DOVER DRIVE | : | 275 S.F. |
| WATER FEATURE | : | 280 S.F. |
| APPROXIMATE TOTAL | : | 3,005 S.F. |

LANDSCAPE AREA EXCEEDS 2,500 S.F. and IS SUBJECT to N.B.M.C. 14.17 "WATER EFFICIENT LANDSCAPE ORDINANCE"

## Water Quality Best Management Practices (B.M.P.)

1. Planting areas have been incorporated into the hardscape layout. Hardscape paving drains into the landscape areas wherever possible.
2. Surface drainage is directed into the landscape areas to retain significant amounts of water on-site.
3. Roof downspouts daylight or flow into landscape areas wherever possible.
4. Use of low water consumptive plant material and proper irrigation techniques take into consideration hydrozones, sun and shade exposures and soil types.

# Mariner's Pointe

West Coast Highway at Dover — Newport Beach, CA

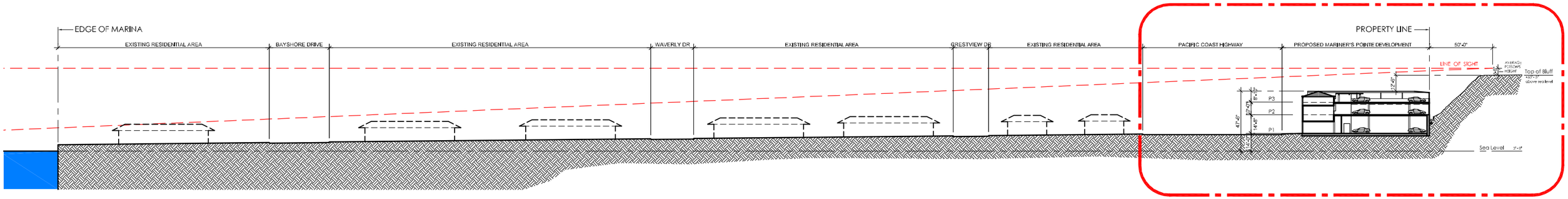
WINSTON'S JEWELERS c/o VBAS Properties, Inc
18582 Beach Boulevard, Suite 226 — Huntington Beach, CA 92648

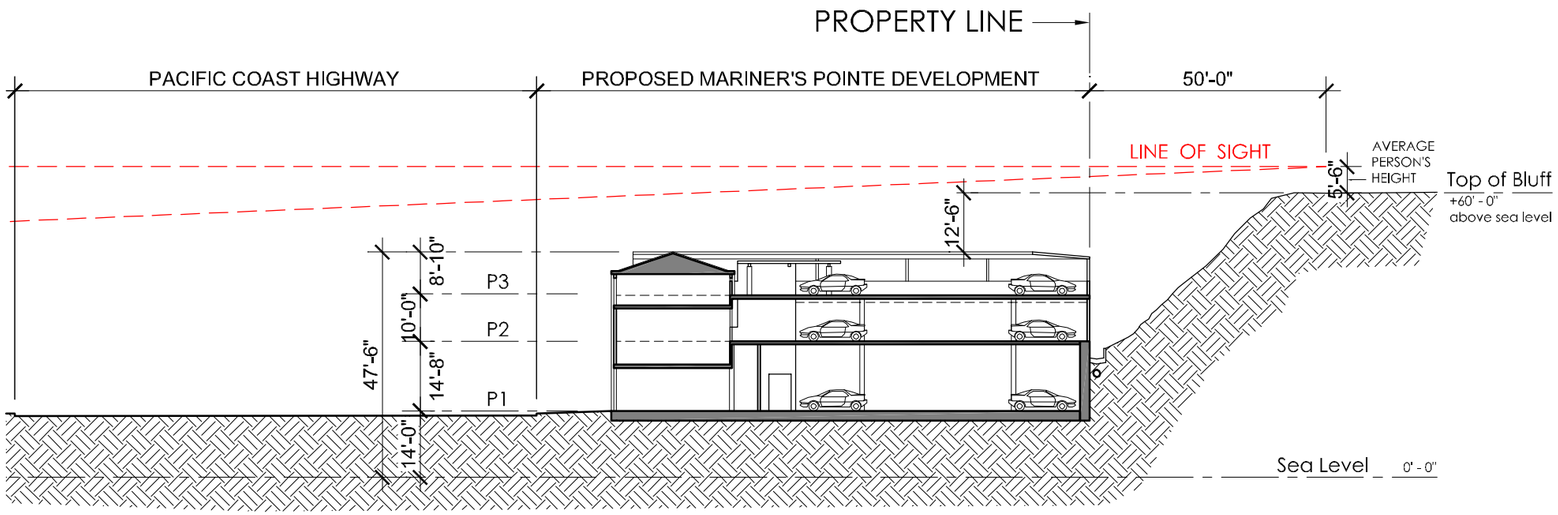
## CONCEPTUAL LANDSCAPE PLAN

0' 5' 10' 15' 20' 30'
SCALE: 1" = 10'

NORTH

REVISED: 6.9.2011



Line of Sight Exhibit - 311 King's Road

May 12, 2011

0' 20' 60' 120' 200'

# Mariner's Pointe

West Coast Highway at Dover Newport Beach, CA

WINSTON'S JEWELERS c/o VBAS Properties, Inc

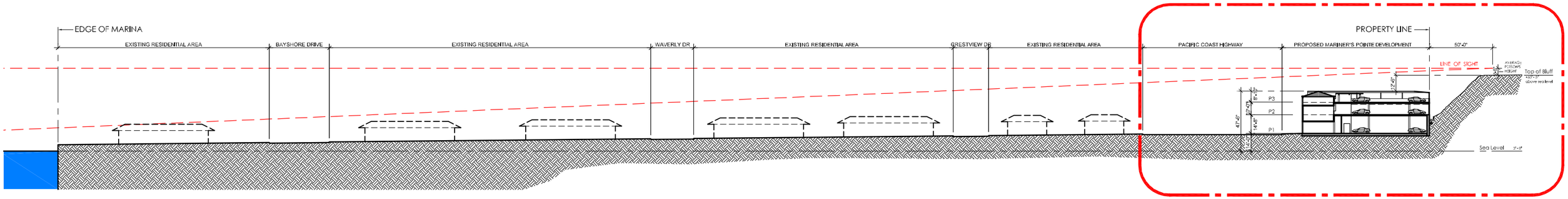
18582 Beach Boulevard, Suite 226 Huntington Beach, CA 92648

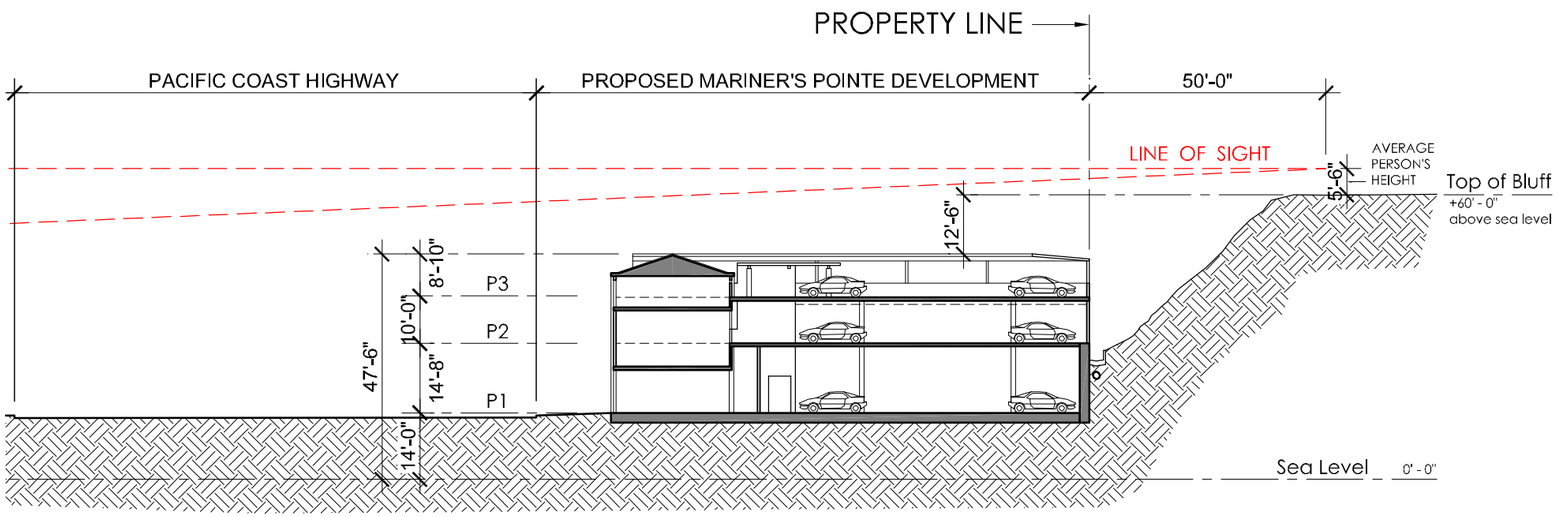
STOUTENBOROUGH INC

Architects and Planners

420 Alta Vista Way, Suite 100, Laguna Beach, Ca 92651

T 949 715 3257 | F 949 715 3256 | www.stoutenboroughinc.com



Line of Sight Exhibit - 303 King's Road

May 12, 2011

0' 20' 60' 120' 200'

# Mariner's Pointe

West Coast Highway at Dover — Newport Beach, CA

WINSTON'S JEWELERS c/o VBAS Properties, Inc

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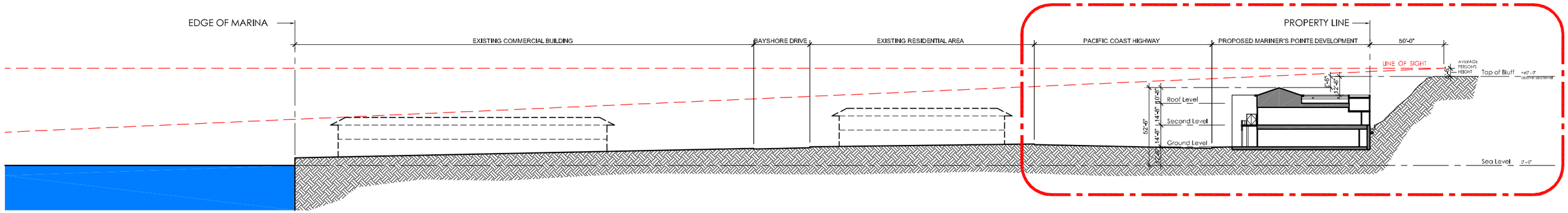


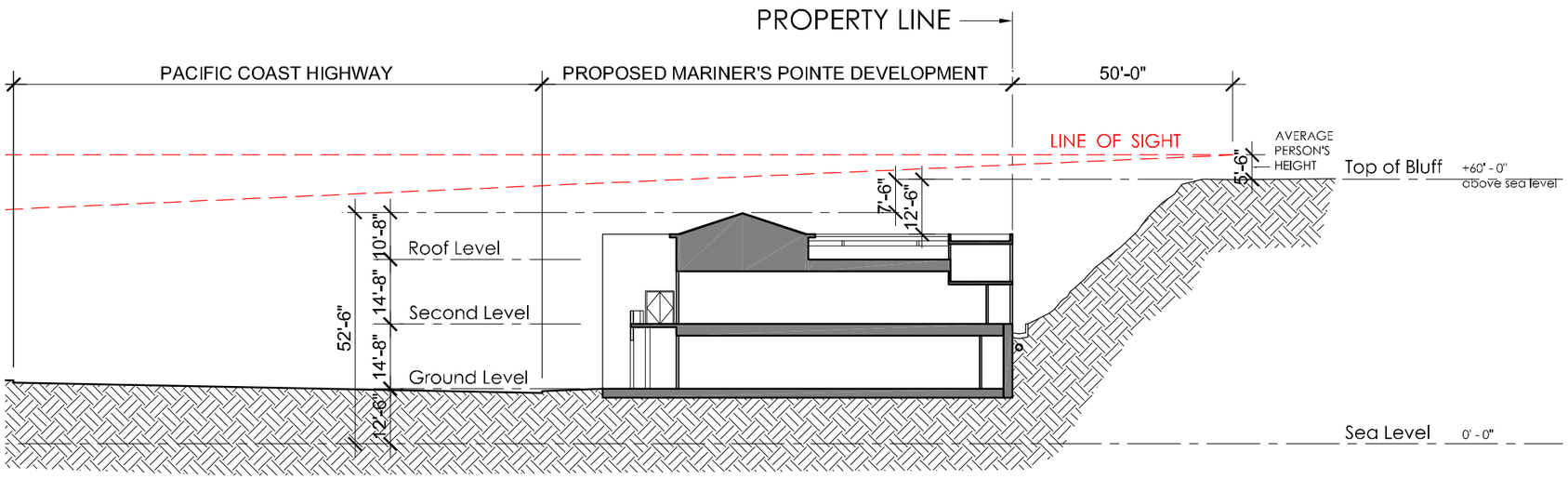

Line of Sight Exhibit - 100 King's Place

May 12, 2011

0' 20' 60' 120' 200'

# Mariner's Pointe

West Coast Highway at Dover — Newport Beach, CA

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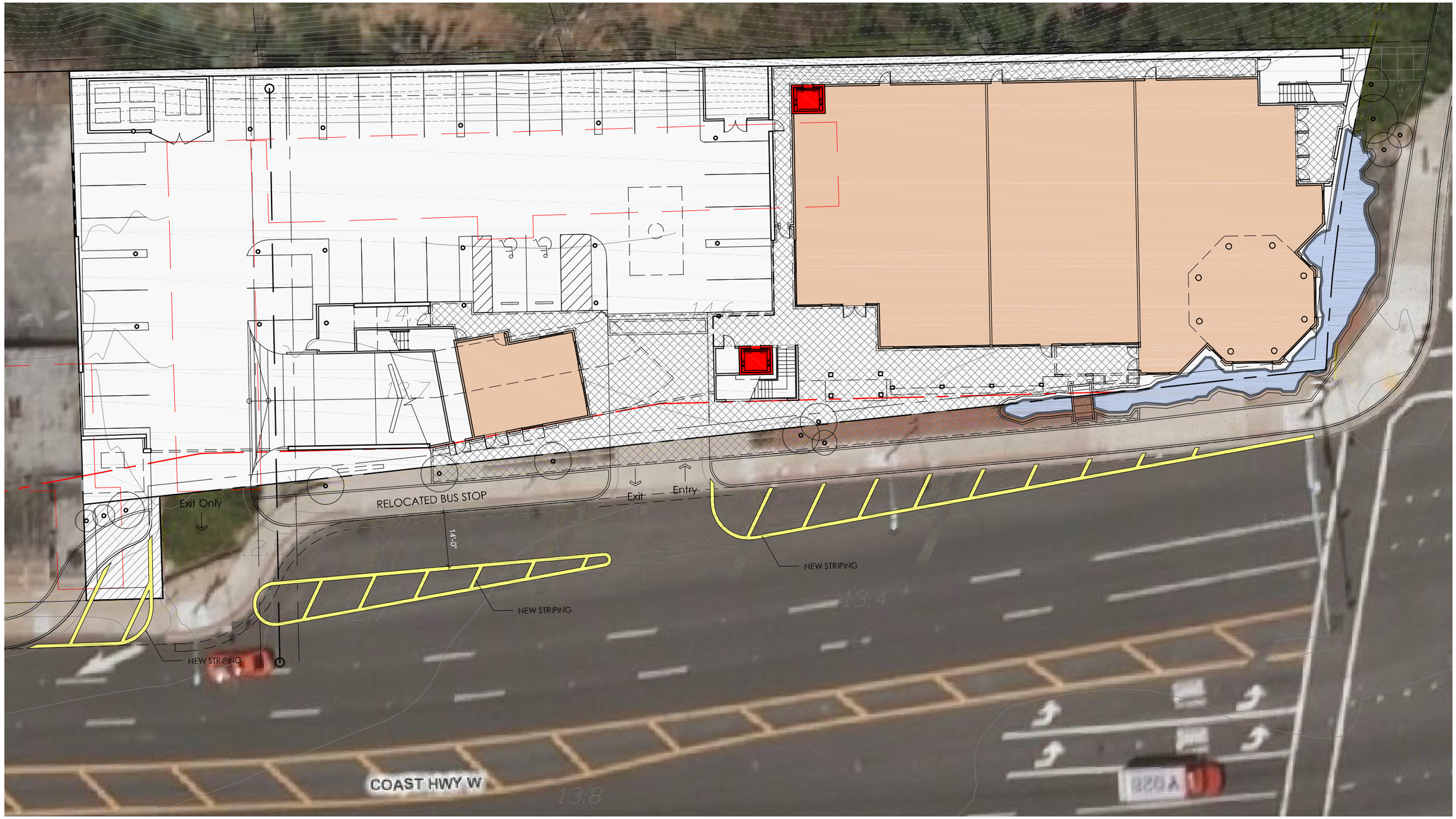


# Mariner's Pointe

West Coast Highway at Dover — Newport Beach, CA

WINSTON'S JEWELERS c/o VBAS Properties, Inc

18582 Beach Boulevard, Suite 226 — Huntington Beach, CA 92648

## Striping Plan

NORTH

November 17, 2010

0' 10' 20' 30' 40' 50' 60' 70'

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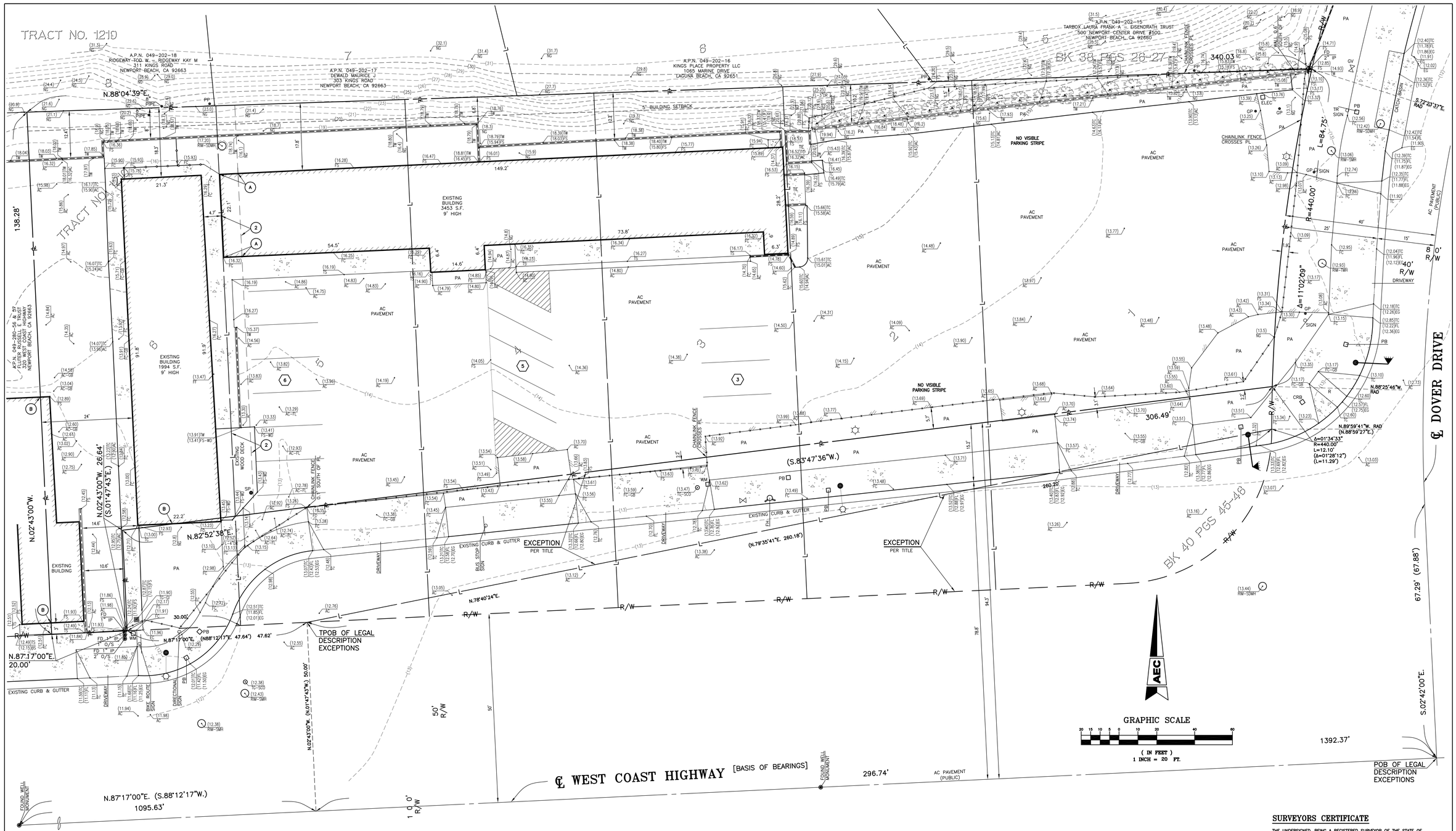



## GENERAL NOTES

1. SURVEYOR HAS RELIED UPON INFORMATION SUPPLIED IN THE CURRENT TITLE REPORT BY LAWYERS TITLE, REPORT NO. 9701386–JBE DATED FEBRUARY 17, 2010, TO DISCLOSE RECORD EASEMENTS THAT BURDEN OR BENEFIT THIS PROPERTY.
2. BUILDING SETBACK LINES SHOWN HEREON REFLECT THE INFORMATION AS EXPLAINED BY THE CITY REPRESENTATIVE INDICATED HEREON.
3. THE PHRASE "FLOOD HAZARD" WITHIN THE CERTIFICATION HEREON REFERS TO "SPECIAL FLOOD HAZARD AREA" AS DEFINED BY FEMA AND THE NFIP AND ONLY REFERS TO THOSE AREAS ON FLOOD INSURANCE RATE MAPS AS BEING WITHIN ZONES A OR V OF SAID MAPS.
4. BY OBSERVATION NO CEMETERIES ARE KNOWN OR FOUND ON SUBJECT PROPERTY.
5. NO MONUMENTATION WAS FOUND OR SET AT THE PROPERTY CORNERS UNLESS NOTED OTHERWISE.
6. ASSESSORS PARCEL NUMBER FOR THIS PROPERTY ARE 049–280–51, 53, 55–57 AND 71–73.
7. BEARINGS AND DISTANCES ARE RECORD AND MEASURED PER TRACT NO. 1210 BOOK 40 PAGES 45–46 RECORDS OF SAID COUNTY, UNLESS NOTED OTHERWISE.
8. SURVEYOR TAKES NO RESPONSIBILITY OF ITEMS OMITTED DUE TO A RESULT OF VISUAL OBSTRUCTIONS, SUCH AS AUTOMOBILES, EQUIPMENT & THICK SHRUBBERY.
9. THE BUILDING SQUARE FOOTAGE INDICATED ON THIS PLAN IS BASED ON EXTERIOR DIMENSIONS AT GROUND LEVEL ONLY.
10. THIS PLAN AND/OR DATA FILES INCLUDING ALL CONTENTS HEREIN ARE FOR THE SOLE USES AND PARTIES INDICATED HEREON INCLUDING THEIR SUCCESSORS AND ASSIGNS. ANY DEVIATION OR MISUSES OF THIS PLAN AND/OR DATE FILES WITHOUT PRIOR WRITTEN AGREEMENTS BY ANACAL ENGINEERING IS PROHIBITED AND IS THE RESPONSIBILITY OF THE PARTIES USING SAID DRAWING AND/OR DATA FILES, UPON THE REUSE OF THIS PLAN AND/OR DATA FILES ANACAL ENGINEERING RELINQUISHES ALL RESPONSIBILITIES OF THE ACCURACY AND GENERAL CONTENT OF SAID PLAN AND/OR DATA FILES CONTAINED HEREIN.
11. THERE IS NO EVIDENCE OF EARTH MOVING WORK, EXTERIOR BUILDING CONSTRUCTION OR BUILDING ADDITIONS OBSERVED THAT HAVE BEEN DONE WITHIN RECENT MONTHS.
12. THERE IS NO EVIDENCE OF SOLID WASTE DUMP, SUMP OR SANITARY LAND FILL USE.
13. THROUGH RESEARCH DONE AT THE CITY'S &/OR COUNTY'S PUBLIC WORKS DEPARTMENTS THERE ARE NO CHANGES IN THE STREET RIGHT OF WAY LINES AS SHOWN HEREON. FURTHERMORE THERE IS NO OBSERVABLE EVIDENCE OF ANY RECENT STREET OR SIDEWALK CONSTRUCTION OR REPAIRS.
14. THIS PLAN DOES NOT CONTAIN SUFFICIENT DATA FOR DESIGN PURPOSES AND IS NOT FOR CONSTRUCTION PURPOSES.
15. BASED ON VISUAL OBSERVATION, THE SUBJECT SITE IS SERVICED BY ALL THE NECESSARY UTILITIES REQUIRED TO MAINTAIN NORMAL OPERATION.
16. IF UNDERGROUND UTILITIES OR OTHER STRUCTURES, ZONES, SETBACK AND/OR STREET WIDENING DATA ARE SHOWN HEREON, IT IS FOR INFORMATION ONLY, HAVING BEEN OBTAINED FROM A GENERAL REQUEST AT THE LOCAL AGENCY'S PUBLIC COUNTER AND/OR OTHER SOURCES NOT CONNECTED WITH THIS COMPANY. NO REPRESENTATION IS MADE AS TO THE ACCURACY, CURRENCY OR COMPLETENESS OF SAID INFORMATION DUE TO CHANGED CONDITIONS NOT REFLECTED IN THE STANDARD RESEARCH PERFORMED FOR THIS PROJECT. ANY USER OF SAID INFORMATION ARE URGED TO CONTACT THE UTILITY COMPANY OR LOCAL AGENCY DIRECTLY.
17. ALL FIELD MEASUREMENTS MATCHED RECORD DIMENSIONS WITHIN THE PRECISION REQUIREMENTS OF ALTA/ACSM SPECIFICATIONS UNLESS OTHERWISE NOTED.
18. SURVEYOR DOES NOT ASCERTAIN OWNERSHIP OF FENCES AND PERIMETER WALLS.

## ZONING INFORMATION

ZONE: RSC–MM (RETAIL–SERVICE COMMERCIAL)

SETBACKS: FRONT, SIDE & STREET=0' REAR: 5'

BULK: 0.3:1 F.A.R. HEIGHT: 26'
PARKING RESTRICTIONS: 1 STALL PER 250 SQUARE FEET

THIS INFORMATION WAS OBTAINED FROM THE CITY OF NEWPORT BEACH, 3360 NEWPORT BOULEVARD, 92663, 949–644–3309 ATTN: PUBLIC COUNTER

## FLOOD ZONE INFORMATION

ZONE: X (OUTSIDE 500 YEAR FLOOD PLAIN).
PANEL NO. 06059C 0381J DATED: DECEMBER 3, 2009
NO FIELD SURVEYING WAS PERFORMED TO DETERMINE THIS ZONE AND AN ELEVATION CERTIFICATE MAY BE NEEDED TO VERIFY THIS DETERMINATION OR APPLY FOR VARIANCE FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

## LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN IS SITUATED IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

LOTS 1 THROUGH 6 INCLUSIVE OF TRACT NO. 1210, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 40, PAGES 45 AND 46 OF MISCELLANEOUS MAPS, RECORDS OF SAID COUNTY, CALIFORNIA.

EXCEPTING THEREFROM, THAT PORTION DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTERLINE OF PACIFIC COAST HIGHWAY, 100.00 FEET WIDE, SHOWN AS CALIFORNIA STATE HIGHWAY-ORA-60-B, WITH THE CENTERLINE OF DOVER DRIVE, 80.00 FEET WIDE, FORMERLY 17TH STREET, AS SAID INTERSECTION IS SHOWN ON SAID MAP; THENCE ALONG SAID CENTERLINE OF PACIFIC COAST HIGHWAY, SOUTH 88°12'17" WEST 296.74 FEET; THENCE NORTH 1°47'43" WEST 50.00 FEET TO THE NORTHERLY LINE OF SAID PACIFIC COAST HIGHWAY AND THE TRUE POINT OF BEGINNING; THENCE NORTH 79°35'41" EAST 260.18 FEET TO A CURVE IN THE EASTERLY LINE OF LOT 1 OF SAID TRACT NO. 1210, WHICH CURVE IS CONCAVE EASTERLY HAVING A RADIUS OF 440.00 FEET; THENCE SOUTHERLY AND SOUTHWESTERLY ALONG THE EASTERLY AND SOUTHEASTERLY LINES OF SAID LOT 1 TO SAID NORTHERLY LINE; THENCE WESTERLY ALONG SAID NORTHERLY LINE TO THE TRUE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM THAT PORTION DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTERLINE OF PACIFIC COAST HIGHWAY, 100.00 FEET WIDE SHOWN AS CALIFORNIA STATE HIGHWAY-ORA-60-B, WITH THE CENTERLINE OF DOVER DRIVE 80.00 FEET WIDE, FORMERLY 17TH STREET, AS SAID INTERSECTION IS SHOWN ON SAID MAP; THENCE ALONG SAID CENTERLINE OF PACIFIC COAST HIGHWAY SOUTH 88°12'17" WEST 296.74 FEET; THENCE NORTH 1°47'43" WEST 50.00 FEET TO THE NORTHERLY LINE OF SAID PACIFIC COAST HIGHWAY AND THE TRUE POINT OF BEGINNING; THENCE NORTH 79°35'41" EAST 260.18 FEET TO A POINT IN A CURVE IN THE EASTERLY LINE OF LOT 1 OF SAID TRACT NO. 1210, WHICH CURVE IS CONCAVE EASTERLY HAVING A RADIUS OF 440.00 FEET, A RADIAL LINE AT SAID POINT OF SAID CURVE BEARS NORTH 88°59'27" EAST; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 1°28'12" AN ARC DISTANCE OF 11.29 FEET; THENCE SOUTH 83°47'36" WEST 306.49 FEET TO THE WESTERLY LINE OF THE EASTERLY 30.00 FEET OF SAID LOT 6; THENCE ALONG SAID WESTERLY LINE SOUTH 1°47'43" EAST 26.64 FEET TO SAID NORTHERLY LINE OF SAID PACIFIC COAST HIGHWAY; THENCE ALONG SAID NORTHERLY LINE NORTH 88°12'17" EAST 47.64 FEET TO THE TRUE POINT OF BEGINNING.

ALSO EXCEPT ALL OIL, OIL RIGHTS, MINERALS, MINERAL RIGHTS, NATURAL GAS RIGHTS AND OTHER HYDROCARBONS BY WHATSOEVER NAME KNOWN THAT MAY BE WITHIN OR UNDER THE LAND HEREINABOVE DESCRIBED, TOGETHER WITH THE PERPETUAL RIGHT OF DRILLING, MINING, EXPLORING AND OPERATING THEREFROM, AND REMOVING THE SAME FROM SAID LAND OR ANY OTHER LAND, INCLUDING THE RIGHT TO WHIPSTOCK OR DIRECTIONALLY DRILL AND MINE FROM THE LANDS OTHER THAN THOSE HEREINABOVE DESCRIBED, OIL OR GAS WELLS, TUNNELS AND SHAFTS INTO, THROUGH OR ACROSS THE SUBSURFACE OF THE LAND HEREINABOVE DESCRIBED, AND TO BOTTOM SUCH WHIPSTOCKED OR DIRECTIONALLY DRILLED WELLS, TUNNELS AND SHAFTS UNDER AND BENEATH OR BEYOND THE EXTERIOR LIMITS THEREOF, AND TO REDRILL, RETUNNEL, EQUIP, MAINTAIN, REPAIR, DEEPEN AND OPERATE ANY SUCH WELLS OR MINES, WITHOUT HOWEVER, THE RIGHT TO DRILL, MINE, EXPLORE AND OPERATE THROUGH THE SURFACE OR THE UPPER 500 FEET OF THE SUBSURFACE OF THE LAND HEREINABOVE DESCRIBED, AS CONTAINED IN THE DEED RECORDED JUNE 2, 1969 IN BOOK 8974, PAGE 265 OF OFFICIAL RECORDS.

ASSESSOR'S PARCEL NUMBER

049-280-51, 53, 55, 71, 72, 73, 049-280-56 (PORTION) 049-280-57 (AS TO A PORTION OF LOT 6)

## BASIS OF BEARINGS

THE BASIS OF BEARINGS USED ON THIS SURVEY IS THE CENTERLINE OF WEST COAST HIGHWAY BEARING NORTH 87°17'00" EAST AS SHOWN ON TRACT NO. 1210 BOOK 40 PAGES 45–46 RECORDS OF SAID COUNTY.

## BENCHMARK

BENCHMARK NO. 3K–24A–82
DESCRIBED BY OCS 2002 – FOUND 3.75" OCS ALUMINUM BENCHMARK DISK STAMPED "3K–24A–82", SET IN TOP OF A CONCRETE BRIDGE DECK. MONUMENT IS LOCATED IN THE SOUTHWEST CORNER OF THE INTERSECTION OF PACIFIC COAST HIGHWAY AND NEWPORT BAY CROSSING, 42 FEET SOUTHERLY OF THE CENTERLINE OF PACIFIC COAST HIGHWAY AND 37 FEET EASTERLY OF THE WEST END OF THE SOUTHERN GUARD RAIL ALONG BRIDGE. MONUMENT IS SET LEVEL WITH THE SIDEWALK.
ELEVATION: 19.259 FEET (NAVD88)

## LIST OF ENCROACHMENTS

(A) BUILDING ENCROACHES ONTO ITEM NO. 2 PER TITLE REPORT.

(B) BUILDING ENCROACHES ONTO PROPERTY LINE.

## LEGEND

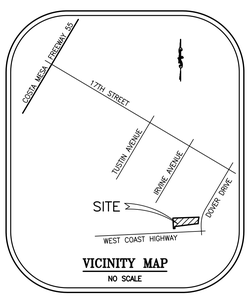
| | | | | | | | |
|---|---|---|---|---|---|---|---|
| ℄ | FIRE HYDRANT | GI | GRATE INLET | CRB | CROSS WALK BUTTON |
| | EDGE PAVEMENT | GP | GUARD POST | AC | ASPHALT PAVEMENT |
| | WATER VALVE | FS | FINISHED SURFACE | T.P.O.B. | TRUE POINT OF BEGINNING |
| | METER, PULL BOX | L | LOT LINE | SDMH | STORM DRAIN MANHOLE |
| | SIGN | PA | PLANTER AREA | P.O.B. | POINT OF BEGINNING |
| | CONCRETE | PL | PROPERTY LINE | | WROUGHT IRON FENCE |
| | BLOCK WALL | R/W | RIGHT OF WAY | TMH | TELEPHONE MANHOLE |
| | LIGHT STANDARD | SCO | SEWER CLEAN OUT | FD | FOUND |
| | TRAFFIC SIGNAL | TE | TRASH ENCLOSURE | DR | DRAIN |
| | WOOD FENCE | WM | WATER METER | TP | TOP OF DRAIN |
| | CHAINLINK FENCE | PB | PULL BOX | EG | EDGE OF GUTTER |
| (1) | PARKING COUNT | RAD | RADIAL | NG | NATURAL GROUND |
| GV | GAS VALVE | PP | POWER POLE | BS | BOTTOM OF STEP |
| FH | FIRE HYDRANT | SMH | SEWER MANHOLE | FC | FINISHED CONCRETE |
| TS | TOP OF STEP | R | RAMP | TG | TOP OF GRATE |
| TC | TOP OF CURB | DR | DRAIN | ELEC | ELECTRICAL |
| FL | FLOWLINE | WD | WOOD DECK | SP | SIGN POST |
| GB | GRADE BREAK | FF | FINISHED FLOOR | (000) | EXISTING GRADE |
| TW | TOP OF WALL | TR | TRAFFIC | DIR | DIRECTIONAL |
| BR | BIKE ROUTE | O/S | OFFSET | | |

## EASEMENT NOTES

THE FOLLOWING ITEMS WERE FOUND IN TITLE REPORT NO. 9701386–JBE DATED FEBRUARY 17, 2010 BY LAWYERS TITLE:

(2) AN EASEMENT FOR SANITARY SEWERS AND APPURTENANCES PURPOSES TO THE CITY OF NEWPORT BEACH. RECORDED OCTOBER 7, 1955 IN BOOK 3237, PAGE 480, OFFICIAL RECORDS. EASEMENT AFFECTS SUBJECT PROPERTY AND IS PLOTTED HEREON.

(3) AN EASEMENT FOR AVIGATION PURPOSES TO THE COUNTY OF ORANGE. RECORDED MARCH 17, 1964 IN BOOK 6965, PAGE 721, OFFICIAL RECORDS. EASEMENT AFFECTS SUBJECT PROPERTY AND IS BLANKET IN NATURE..




VICINITY MAP
NO SCALE

## LAND AREA

33,036 SQUARE FEET

0.758 ACRES

## PARKING COUNT

| | |
|---|---|
| REGULAR STALLS | – 14 |
| HANDICAP STALLS | – 0 |
| TOTAL STALLS | – 14 |

## SURVEYORS CERTIFICATE

THE UNDERSIGNED, BEING A REGISTERED SURVEYOR OF THE STATE OF CALIFORNIA CERTIFIES TO (i) LAWYERS TITLE (ii) _____ (iii) _____ AS FOLLOWS:

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IS BASED WERE MADE IN ACCORDANCE WITH "MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS," JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS IN 2005, AND INCLUDES ITEMS 2, 3, 4, 5, 6, 7(A), (B)(1). 7(C), 8, 9, 10, 11(A) (LOCATION OF UTILITIES PER VISIBLE, ABOVEGROUND, ON–SITE OBSERVATION) 13, 14, 16, 17 AND 18 OF TABLE A THEREOF. PURSUANT TO THE ACCURACY STANDARDS AS ADOPTED BY ALTA AND NSPS AND IN EFFECT ON THE DATE OF THE CERTIFICATION, UNDERSIGNED FURTHER CERTIFIES THAT IN MY PROFESSIONAL OPINION, AS A LAND SURVEYOR REGISTERED IN THE STATE OF CALIFORNIA, THAT THE RELATIVE POSITIONAL ACCURACY OF THIS SURVEY DOES NOT EXCEED THAT WHICH IS SPECIFIED THEREIN.

THE SURVEY MEASUREMENTS WERE MADE IN ACCORDANCE WITH THE "MINIMUM ANGLE DISTANCE, AND CLOSURE REQUIREMENTS FOR SURVEY MEASUREMENTS WHICH CONTROL LAND BOUNDARIES FOR ALTA/ACSM LAND TITLE SURVEYS.

THE PARTIES LISTED ABOVE ARE ENTITLED TO RELY ON THE SURVEY AND THIS CERTIFICATE AS BEING TRUE AND ACCURATE.

C. J. QUEYREL, LS 2988 _____ DATE

NOTE: SECTION 8770.6 OF THE CALIFORNIA BUSINESS AND PROFESSIONS CODE STATES THAT THE USE OF THE WORD CERTIFY OR CERTIFICATION BY A LICENSED LAND SURVEYOR IN THE PRACTICE OF LAND SURVEYING OR THE PREPARATION OF MAPS, PLATS, REPORTS, DESCRIPTIONS OR OTHER SURVEYING DOCUMENTS ONLY CONSTITUTES AN EXPRESSION OF PROFESSIONAL OPINION REGARDING THOSE FACTS OR FINDINGS WHICH ARE THE SUBJECT OF THE CERTIFICATION AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE, EITHER EXPRESSED OR IMPLIED.

| NO. | DESCRIPTION | DATE | APP'D |
|---|---|---|---|
| | | | |

REVISIONS


PROJECT ENGINEER
ANACAL ENGINEERING CO.
CIVIL ENGINEERING & LAND SURVEYING
1900 EAST LA PALMA AVENUE ~ SUITE 202 ~
ANAHEIM, CALIFORNIA 92805
PHONE: 714–774–1763 FAX: 714–774–4690
E–MAIL ADDRESS: ANACAL@ANACALENGINEERING.COM


DATE 3–18–10
SCALE 1" = 10'
DRAWN V. F. L.
CHECKED C. J. Q.

# A.L.T.A./A.C.S.M. LAND TITLE SURVEY

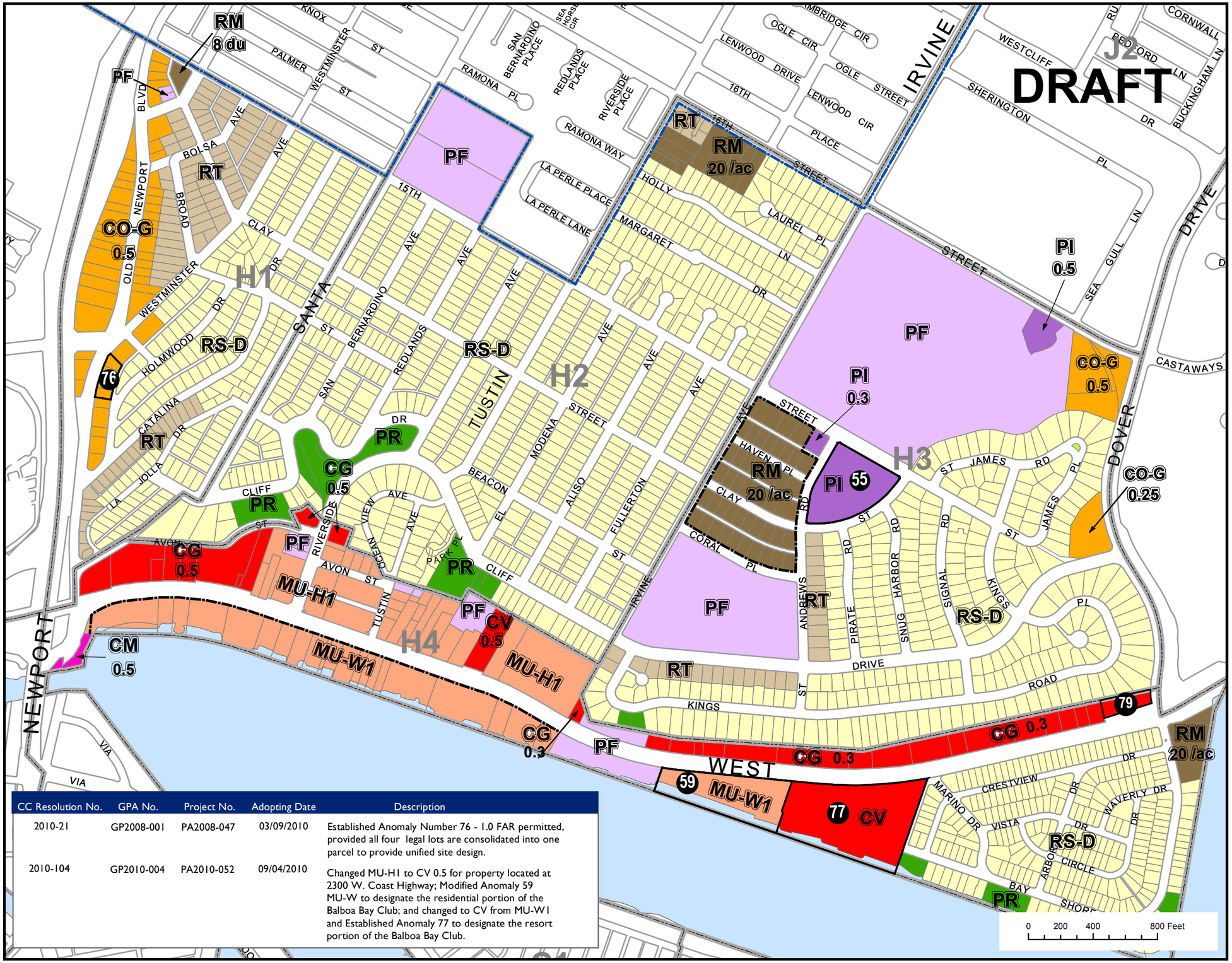
## MARINER'S MILE
200–320 WEST COAST HIGHWAY
NEWPORT BEACH, CALIFORNIA

SHEET TITLE
PROJECT
A.E.C. NO. 10028–AT

SHEET NO. 1 OF 99

# Attachment No. PC 4

Land Use Element Changes




| CC Resolution No. | GPA No. | Project No. | Adopting Date | Description |
|---|---|---|---|---|
| 2010-21 | GP2008-001 | PA2008-047 | 03/09/2010 | Established Anomaly Number 76 - 1.0 FAR permitted, provided all four legal lots are consolidated into one parcel to provide unified site design. |
| 2010-104 | GP2010-004 | PA2010-052 | 09/04/2010 | Changed MU-H1 to CV 0.5 for property located at 2300 W. Coast Highway; Modified Anomaly 59 MU-W to designate the residential portion of the Balboa Bay Club; and changed to CV from MU-W1 and Established Anomaly 77 to designate the resort portion of the Balboa Bay Club. |

CITY of NEWPORT BEACH
GENERAL PLAN

Figure LU9

STATISTICAL AREAS
H1 - H4

**Residential Neighborhoods**

- RS-D Single-Unit Residential Detached
- RS-A Single-Unit Residential Attached
- RT Two-Unit Residential
- RM Multiple-Unit Residential
- RM-D Multiple-Unit Residential Detached

**Commercial Districts and Corridors**

- CN Neighborhood Commercial
- CC Corridor Commercial
- CG General Commercial
- CV Visitor Serving Commercial
- CM Recreational and Marine Commercial
- CR Regional Commercial

**Commercial Office Districts**

- CO-G General Commercial Office
- CO-M Medical Commercial Office
- CO-R Regional Commercial Office

**Industrial Districts**

- IG Industrial

**Airport Supporting Districts**

- AO Airport Office and Supporting Uses

**Mixed -Use Districts**

- MU-V Mixed Use Vertical
- MU-H Mixed Use Horizontal
- MU-W Mixed Use Water Related

**Public, Semi-Public and Institutional**

- PF Public Facilities
- PI Private Institutions
- PR Parks and Recreation
- OS Open Space
- TS Tidelands and Submerged Lands

City of Newport Beach Boundary

Statistical Area Boundary H1

Land Use Delineator Line

Refer to anomaly table

LU9_NP_Heights.mxd June/2011

## Table LU2 Anomaly Locations

| Anomaly Number | Statistical Area | Land Use Designation | Development Limit (sf) | Development Limit (Other) | Additional Information |
|---|---|---|---|---|---|
| 1 | L4 | MU-H2 | 460,095 | 471 Hotel Rooms (not included in total square footage) | |
| 2 | L4 | MU-H2 | 1,052,880 | | |
| 2.1 | L4 | MU-H2 | 18,810 | | 11,544 sf restricted to general office use only (included in total square footage) |
| 3 | L4 | CO-G | 734,641 | | |
| 4 | L4 | MU-H2 | 250,176 | | |
| 5 | L4 | MU-H2 | 32,500 | | |
| 6 | L4 | MU-H2 | 46,044 | | |
| 7 | L4 | MU-H2 | 81,372 | | |
| 8 | L4 | MU-H2 | 442,775 | | |
| 9 | L4 | CG | 120,000 | 164 Hotel Rooms (included in total square footage) | |
| 10 | L4 | MU-H2 | 31,362 | 349 Hotel Rooms (not included in total square footage) | |
| 11 | L4 | CG | 11,950 | | |
| 12 | L4 | MU-H2 | 457,880 | | |
| 13 | L4 | CO-G | 288,264 | | |
| 14 | L4 | CO-G/MU-H2 | 860,884 | | |
| 15 | L4 | MU-H2 | 228,214 | | |
| 16 | L4 | CO-G | 344,231 | | |
| 17 | L4 | MU-H2 | 33,292 | 304 Hotel Rooms (not included in total square footage) | |
| 18 | L4 | CG | 225,280 | | |
| 19 | L4 | CG | 228,530 | | |
| 21 | J6 | CO-G | 687,000 | | Office: 660,000 sf; Retail: 27,000 sf |
| | | CV | | 300 Hotel Rooms | |
| 22 | J6 | CO-G | 70,000 | | Restaurant: 8000 sf, or Office: 70,000 sf |
| 23 | K2 | PR | 15,000 | | |
| 24 | L3 | IG | 89,624 | | |
| 25 | L3 | PI | 84,585 | | |
| 26 | L3 | IG | 33,940 | | |
| 27 | L3 | IG | 86,000 | | |
| 28 | L3 | IG | 110,600 | | |
| 29 | L3 | CG | 47,500 | | |
| 30 | M6 | CG | 54,000 | | |
| 31 | L2 | PR | 75,000 | | |
| 32 | L2 | PI | 34,000 | | |

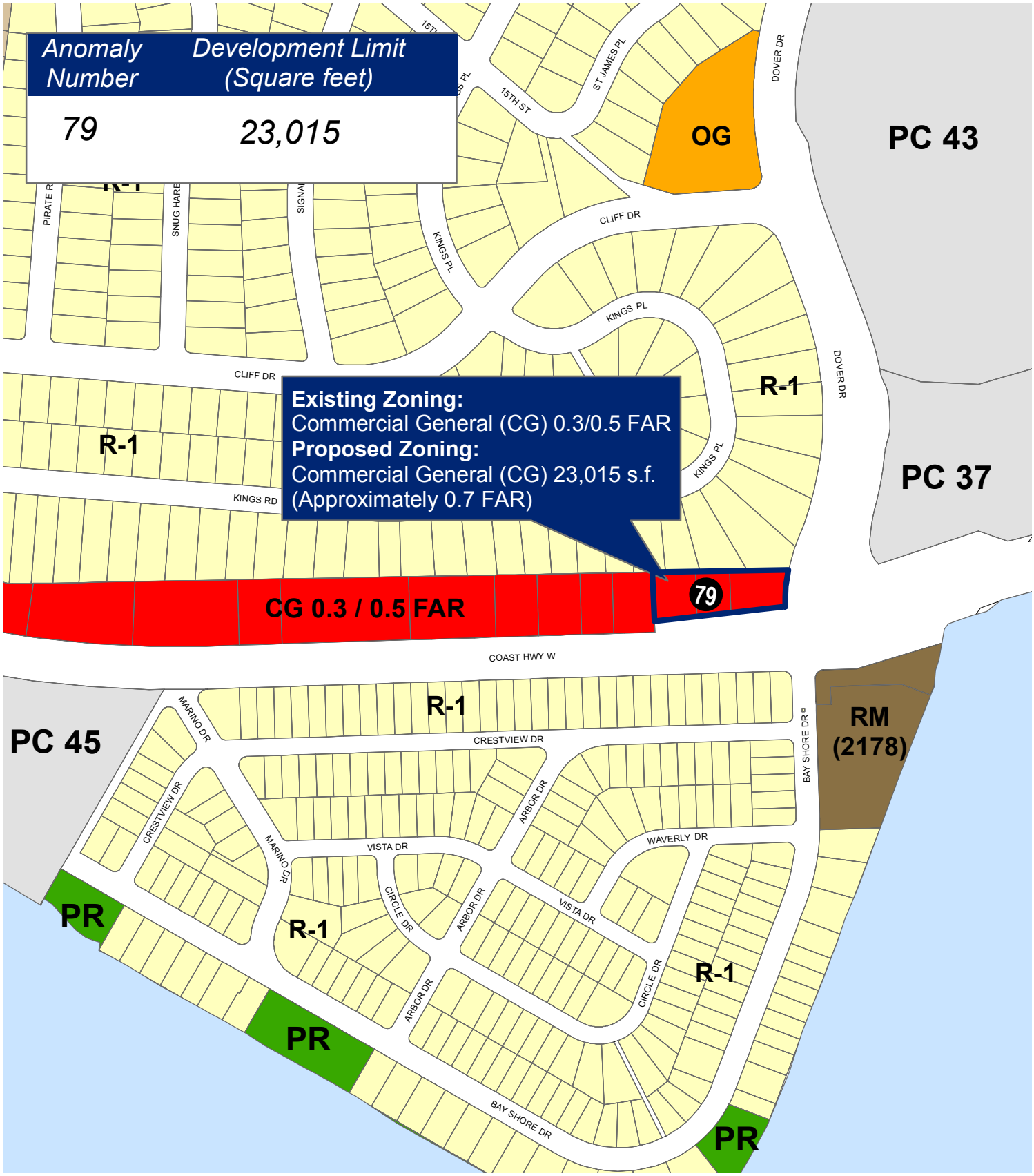
## Table LU2 Anomaly Locations

| Anomaly Number | Statistical Area | Land Use Designation | Development Limit (sf) | Development Limit (Other) | Additional Information |
|---|---|---|---|---|---|
| 33 | M3 | PI | 163,680 | | Administrative Office and Support Facilitates: 30,000 sf<br>Community Mausoleum and Garden Crypts: 121,680 sf<br>Family Mausoleums: 12,000 sf |
| 34 | L1 | CO-R | 484,348 | | |
| 35 | L1 | CO-R | 199,095 | | |
| 36 | L1 | CO-R | 227,797 | | |
| 37 | L1 | CO-R | 131,201 | 2,050 Theater Seats (not included in total square footage) | |
| 38 | L1 | CO-M | 443,627 | | |
| 39 | L1 | MU-H3 | 408,084 | | |
| 40 | L1 | MU-H3 | 1,426,634 | 425 Hotel Rooms (included in total Square Footage) | |
| 41 | L1 | CO-R | 327,671 | | |
| 42 | L1 | CO-R | 286,166 | | |
| 43 | L1 | CV | | 611 Hotel Rooms | |
| 44 | L1 | CR | 1,619,525 | 1,700 Theater Seats (not included in total square footage) | |
| 45 | L1 | CO-G | 162,364 | | |
| 46 | L1 | MU-H3/PR | 3,725 | 24 Tennis Courts | Residential permitted in accordance with MU-H3. |
| 47 | L1 | CG | 105,000 | | |
| 48 | L1 | MU-H3 | 337,261 | | |
| 49 | L1 | PI | 45,208 | | |
| 50 | L1 | CG | 25,000 | | |
| 51 | K1 | PR | 20,000 | | |
| 52 | K1 | CV | | 479 Hotel Rooms | |
| 53 | K1 | PR | 567,500 | | See Settlement Agreement |
| 54 | J1 | CM | 2,000 | | |
| 55 | H3 | PI | 119,440 | | |
| 56 | A3 | PI | 1,343,238 | 990,349 sf Upper Campus<br>577,889 sf Lower Campus | In no event shall the total combined gross floor area of both campuses exceed the development limit of 1,343,238 sq. ft. |
| 57 | Intentionally Blank | | | | |
| 58 | J5 | PR | 20,000 | | |
| 59 | H4 | MU-W1 | 247,402 | 144 Dwelling Units (included in total square footage) | |
| 60 | N | CV | 2,660,000 | 2,150 Hotel Rooms (included in total square footage) | |
| 61 | N | CV | 125,000 | | |
| 62 | L2 | CG | 2,300 | | |

| Table LU2 Anomaly Locations | | | | | |
|---|---|---|---|---|---|
| *Anomaly Number* | *Statistical Area* | *Land Use Designation* | *Development Limit (sf)* | *Development Limit (Other)* | *Additional Information* |
| 63 | G1 | CN | 66,000 | | |
| 64 | M3 | CN | 74,000 | | |
| 65 | M5 | CN | 80,000 | | |
| 66 | J2 | CN | 138,500 | | |
| 67 | D2 | PI | 20,000 | | |
| 68 | L3 | PI | 71,150 | | |
| 69 | K2 | CN | 75,000 | | |
| 70 | D2 | RM-D | | | Parking Structure for Bay Island (No Residential Units) |
| 71 | L1 | CO-G | 11,630 | | |
| 72 | L1 | CO-G | 8,000 | | |
| 73 | A3 | CO-M | 350,000 | | |
| 74 | L1 | PR | 35,000 | | |
| 75 | L1 | PF | | | City Hall, and the administrative offices of the City of Newport Beach, and related parking, pursuant to Section 425 of the City Charter. |
| 76 | H1 | CO-G | | 0.5 FAR | 1.0 FAR permitted, provided all four legal lots are consolidated into one parcel to provide unified site design |
| 77 | H4 | CV | 240,000 | 157 Hotel Rooms (included in total square footage) | |
| 78 | B5 | CM | 139,840 | | |
| **79** | **H4** | **CG** | | **03./0.5 FAR** | **Development limit of 23,015 sq. ft. permitted, provided all six legal lots are consolidated into one parcel to provide unified site design** |

# Attachment No. PC 5

Zoning Map Changes




# CA2010-009 (PA2010-114)
# Zoning Code Amendment

100, 224, and 300 West Coast Highway

CA2010-009.mxd June/2011

# Attachment No. PC 6

Shared Parking Analysis

LSA

LSA ASSOCIATES, INC.
20 EXECUTIVE PARK, SUITE 200
IRVINE, CALIFORNIA 92614

949.553.0666 TEL
949.553.8076 FAX

BERKELEY
CARLSBAD
FORT COLLINS
FRESNO
PALM SPRINGS
POINT RICHMOND
RIVERSIDE
ROCKLIN
SAN LUIS OBISPO
SOUTH SAN FRANCISCO

March 30, 2011

Tod Ridgeway
Ridgeway Development
2804 Lafayette Avenue
Newport Beach, CA 92663

Subject: Shared Parking Analysis: Mariner's Pointe

Dear Mr. Ridgeway:

LSA Associates Inc. (LSA) is pleased to submit this analysis of the parking availability and demand at Mariner's Pointe, which is located on West Coast Highway at Dover Drive in the City of Newport Beach (City). The purpose of this analysis is to evaluate the on-site parking supply versus the demand that will occur for parking throughout the day. The Mariner's Pointe site is proposed to contain a mix of retail stores, a medical office suite, and restaurants in 23,015 square feet (sf) of building area with an attached three-level parking garage. LSA evaluated the parking demand generated by each of these uses and compared that demand to proposed on-site parking spaces, valet parking spaces, and potential off-site parking spaces.

## Parking Supply

The site plan for Mariner's Pointe includes plans for a proposed three-story parking garage. The parking garage plans include 33 standard stalls and 2 handicapped stalls on the ground floor (total of 35 spaces). On the second floor of the parking garage would be 24 standard stalls, 1 handicapped stall, 8 tandem stalls (16 spaces) to be used by employees or valet operations, and 5 valet only stalls during valet operations (total of 46 spaces). The third floor of the parking structure provides 18 standard stalls, 2 handicapped stalls, 15 tandem stalls (30 spaces) to be used by employees or valet operations, and 5 valet only stalls during valet operations (total of 55 spaces). Valet operations are planned to begin at 10:00 a.m. and continue until 11:00 p.m. Prior to beginning valet operations, 78 parking spaces are provided on-site. During valet operations, 136 parking spaces are provided on-site. It should be noted that the applicant's valet parking service can park additional vehicles on the second and third floors. However, the 136-space limit was determined using the City's "move one to get one" rule for valet parking plans.

In addition to the parking spaces available on site, the applicant is seeking an agreement to provide up to 20 off-site parking spaces. The parking spaces would be located at the intersection of Dover Drive and Cliff Drive. Mariner's Pointe employees would utilize the off-site parking spaces after 5:00 p.m.

It should be noted that two Orange County Transportation Authority (OCTA) bus lines operate in the vicinity of Mariner's Pointe. Route 1 operates along Pacific Coast Highway between San Clemente and Long Beach. Service on Route 1 to/from the project is provided approximately once an hour between 6:00 a.m. and 9:00 p.m. Northbound Route 1 stops immediately adjacent to the project site. Route 55 operates between Fashion Island and the Santa Ana Civic Center and serves the property on

Dover Drive. Service is provided approximately every 20 to 30 minutes between 5:00 a.m. and 10:00 p.m.

## Parking Demand

The City established minimum parking requirements in Newport Beach Municipal Code (NBMC) 20.66.030. The City requires 1 parking space for every 200 sf of gross area for medical and dental offices and 1 parking space for every 250 sf of gross area for retail sales. Mariner's Pointe does not qualify for the reduced parking provisions for shopping centers found in NBMC 20.40.050. Parking requirements for eating and drinking establishments are set by the City Planning Commission using criteria identified in NBMC 20.40.060. Unlike parking requirements for most land uses that are dependent on gross square feet, parking requirements for eating and drinking establishments are dependent on net public area. Requirements can range from 1 space per 30 sf of net public area to 1 space per 50 sf of net public area, depending on the number and arrangement of tables, presence of live entertainment, etc. For the purposes of this analysis, a parking requirement of 1 space per 50 sf of net public area was used.

LSA conducted an initial analysis using size calculations found on the Mariner's Pointe site plan dated February 24, 2011. As a result of this initial analysis, the applicant reduced the gross area designated for restaurant use and increased the area designated for retail sales. Table A provides the revised allocation of restaurant, retail, and medical/dental office space. The table also provides the number of spaces each land use would require if it were in separate parcels.

### Table A: Parking Requirements

| Land Use | Gross Square Feet[1] | Leasable Restaurant Area (sf) | Net Public Area[2] (sf) | Parking Rate[3] | Required Parking[4] |
|---|---|---|---|---|---|
| Restaurant | 9,522 | 8,280 | 4,968 | 1 per 50 sf [5] | 100 |
| Retail | 10,493 | n/a | n/a | 1 per 250 sf | 42 |
| Medical Office | 3,000 | n/a | n/a | 1 per 200 sf | 15 |
| Total | 23,015 | | | | 157 |

[1] Gross square feet of restaurant includes enclosed outside area behind R-103 and R-204.
[2] Estimated as 60 percent of net restaurant area consistent with the project description.
[3] From NBMC 20.40.040.
[4] NBMC 20.40.030.E requires fractional spaces to be rounded up.
[5] NBMC 20.40.060 allows the Planning Commission to adopt a parking rate between 1/30 sf to 1/50 sf for restaurants.
sf = square feet

## Shared Parking

Because of different hours of operation and different offsetting parking activities, not all of uses at Mariner's Pointe require their full allotment of parking spaces at the same time. LSA used methodologies found in *Shared Parking, Second Edition 2005* (Urban Land Institute) to identify the daily variations in parking demand for each of the Mariner's Pointe land uses. The time-of-day factors

found in *Shared Parking* are based on empirical studies and result from multiple parking accumulation counts.

Table B (attached) applies these time-of-day factors to the required parking for each land use. The total parking required for all three uses has two peaks: (1) one peak in the early afternoon with a demand for 131 parking spaces at 1:00 p.m., and (2) a second peak in the early evening with a demand of 145 parking spaces at 6:00 p.m. The Mariner's Pointe parking garage can accommodate 136 parking spaces on site with valet operations. The applicant is committed to providing valet operations from 10:00 a.m. to 11:00 p.m. Therefore, the site will be able to accommodate the demand for 131 parking spaces that occurs at 1:00 p.m. Demand for parking in excess of the 136 spaces on site does not manifest until 6:00 p.m. (145 spaces). Per an off-site shared parking agreement, after 5:00 p.m. Mariner's Pointe employees would have access to 20 off-site parking spaces. With those off-site parking spaces, the total parking demand for Mariner's Pointe can be accommodated.

## Conclusion

The shared parking analysis reveals that 10,493 sf of retail sales, 3,000 sf of medical/dental office, and approximately of 5,000 sf of net public restaurant area can be provided in the 23,015 sf Mariner's Pointe without exceeding available parking. However, at least 9 off-site parking spaces will need to be maintained for employees during the evening hours.

Sincerely,

**LSA ASSOCIATES, INC.**

Ken Wilhelm
Principal

Attachments: Table B: Time-of-Day Parking Requirements

**Table B: Shared Parking Analysis**

| Shared Parking Time-of-Day Factors | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Time of Day Factors[1]** | | 6:00 a.m. | 7:00 a.m. | 8:00 a.m. | 9:00 a.m. | 10:00 a.m. | 11:00 a.m. | 12:00 p.m. | 1:00 p.m. | 2:00 p.m. | 3:00 p.m. | 4:00 p.m. | 5:00 p.m. | 6:00 p.m. | 7:00 p.m. | 8:00 p.m. | 9:00 p.m. | 10:00 p.m. | 11:00 p.m. |
| Restaurant [2] | | | | | | 15% | 40% | 75% | 75% | 65% | 40% | 50% | 75% | 95% | 100% | 100% | 100% | 95% | 75% |
| Medical Office | | | | 90% | 90% | 100% | 100% | 30% | 90% | 100% | 100% | 100% | 100% | 67% | 30% | 15% | | | |
| Retail | | 1% | 5% | 15% | 35% | 65% | 85% | 95% | 100% | 95% | 90% | 90% | 95% | 95% | 95% | 80% | 50% | 30% | 10% |
| **Time of Day Parking** | | | | | | | | | | | | | | | | | | | |
| Restaurant | 100 | 0 | 0 | 0 | 0 | 15 | 40.0 | 75.0 | 75.0 | 65.0 | 40.0 | 50.0 | 75.0 | 95.0 | 100 | 100 | 100 | 95.0 | 75.0 |
| Office | 15 | 0 | 0 | 13.5 | 13.5 | 15 | 15 | 4.5 | 13.5 | 15 | 15 | 15 | 15 | 10.1 | 4.5 | 2.3 | 0 | 0 | 0 |
| Retail | 42 | 0.42 | 2.1 | 6.3 | 14.7 | 27.3 | 35.7 | 39.9 | 42 | 39.9 | 37.8 | 37.8 | 39.9 | 39.9 | 39.9 | 34 | 21 | 12.6 | 4.2 |
| **Total** | **157** | **0** | **2** | **20** | **28** | **57** | **91** | **119** | **131** | **120** | **93** | **103** | **130** | **145** | **144** | **136** | **121** | **108** | **79** |

Notes:

[1] Time-of-Day Factors referenced from *Shared Parking, Second Edition,* Urban Land Institute, 2005.

[2] Fine/Casual Dinning.

# Attachment No. PC 7

Parking Management Plan

Family of Companies

April 13, 2011

Tod Ridgeway
Ridgeway Development
2804 Lafayette Avenue
Newport Beach, CA 92663

**Re: Mariner's Pointe Parking Operational Plan Version 5**

Dear Mr. Ridgeway,

Thank you for allowing Sunset Parking to consult on the parking for the Mariner's Pointe development.

The following is a revised "Daily Operational Plan" for submission to the City of Newport Beach. If there are any questions or requested changes, please contact me at anytime.

If there is anything we can help you with in the approval process, please let us know.

Respectfully,

Kynn Knight
Executive Vice President
Kynn.knight@sunsetparking.com
Cell 760-815-6193
Office 760-753-4004x205

Family of Companies

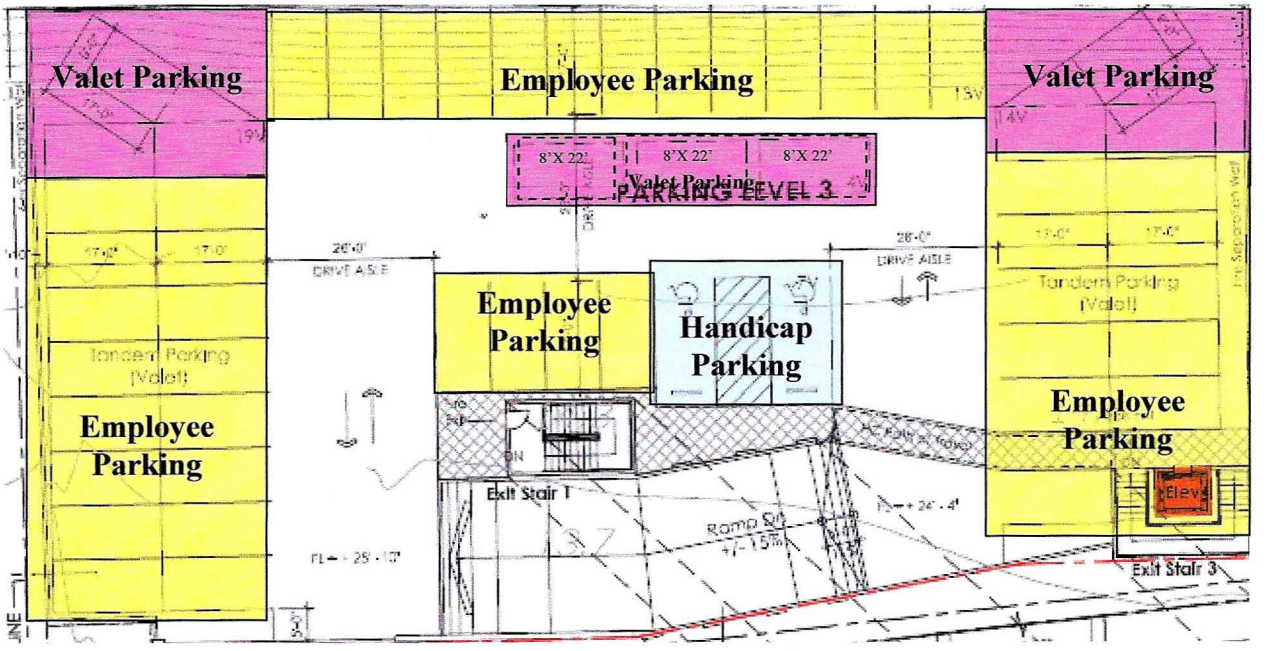
# Daily Operational Plan

## Employee Parking

**Monday – Friday 6am – 5pm 46 Stalls Level 3**
**Monday – Friday After 5pm, Saturday and Sunday 46 Stalls Level 3 + 20 Offsite Spaces after 5pm (65 Stalls)**
Employees are typically the first to arrive and the last to leave in a restaurant/retail setting. For this reason, we would have the staff of all the businesses in Mariner's Pointe, on the 3rd level of the parking structure with the following operational plan:

1. Stalls would be assigned to all suites.
2. Tandem stalls would be assigned within the same suite (26 total).
3. On Level 3, 3 Aisle spaces would be valet spaces and a valet would be stationed with vehicles until removed from the aisle. There would also be 4 tandem stalls and 2 angled stalls used for valet for a total of 9 valet use spaces on Level 3.
4. 2 Handicap spaces would be located on Level 3. The valet spaces in the lane would be the last used by the valet staff, keeping blockage of the handicap spaces to a minimum. At such times that valet spaces in the lane are used, Valet will post an attendant with any vehicle(s) in the lane and move the vehicle(s) necessary to allow vehicle entering or leaving the handicap space room to safely enter or depart the handicap parking stall.
5. While Level 2 or 3 valet Lane Spaces are in use, any exiting employee vehicles would be driven from Level 3 to Level 1 by a valet attendant and retrieved by the employee on Level 1 by the west garage exit.
6. An additional 20 employee parking stalls would be offered at an offsite lot on nights after 5:00 p.m. and weekends. Before 5pm if additional employee parking was needed, employees would be valet parked.
7. Signs on wall and striping on ground would label stalls as "Employee Parking". Signs would state municipal code to allow towing of vehicles if necessary.

## Level 3






120

## Guest Parking

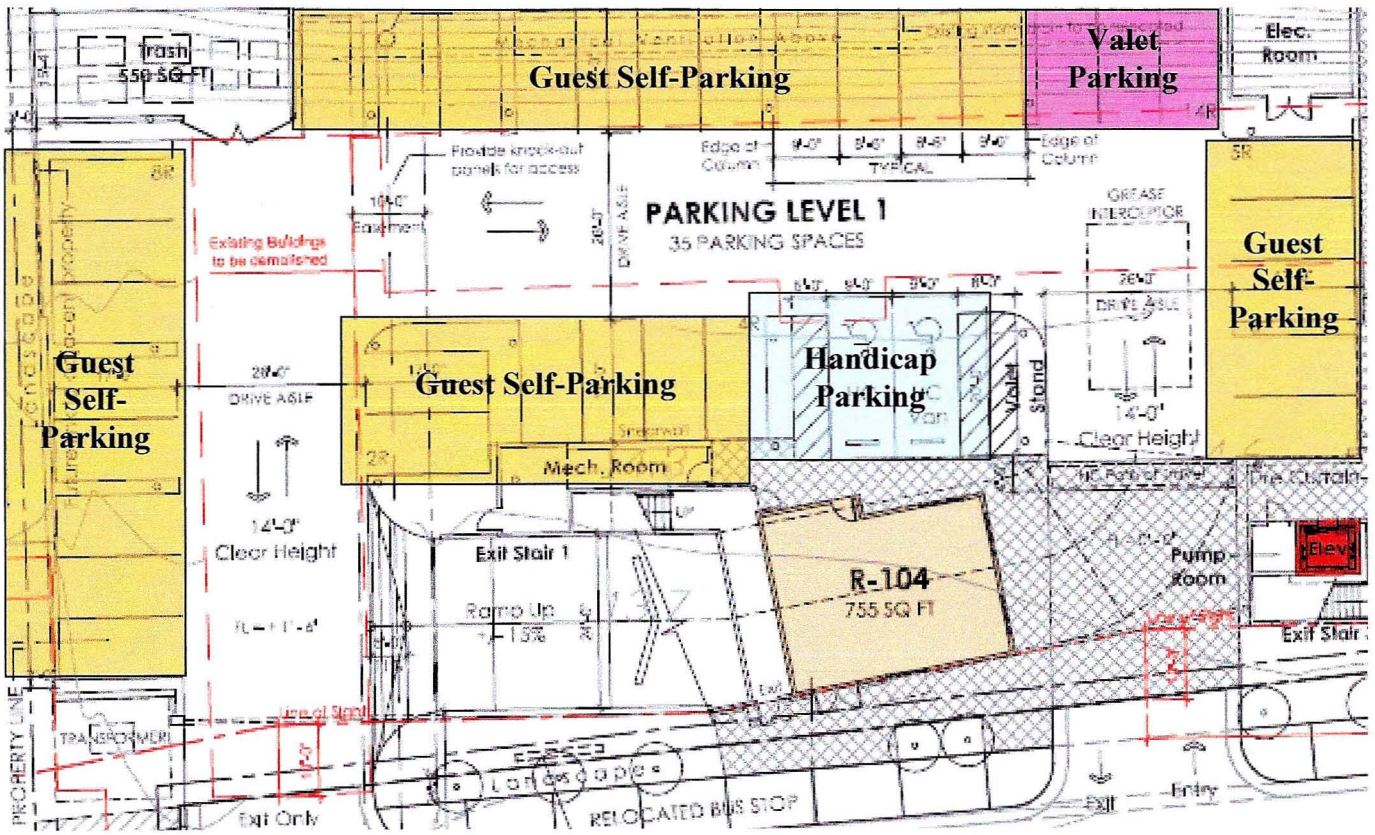
**Self-Parking 7am-5pm:**

**Handicap Parking All Operational Hours**

**30 Standard and 5 Handicap (2 Handicap Stalls Level 1, 1 Level 2, 2 Level 3) 35 Stalls total.**

1. Parking on Level 1 would be dedicated to Guest Self-Parking during weekday daytime hours.
2. There would be three parking stalls in the north east corner of the garage for valet greeting
3. Total stalls available on Level 1 = 30 regular Stalls + 2 Handicap Stalls + 3 Valet Greeting Stalls.
4. At 4pm each day, valet attendant would place a cone or vehicle in each empty stall on the first level to reserve for evening valet.
5. Drive lane would be kept clear until all self-parked vehicles have exited, expected between 5pm and 5:30pm.
6. Each daytime self-parking stall on the first level would be signed for 7am-5pm use and valet after 5pm.

# Level 1






121

## Valet Parking

**Monday – Friday 10am-5pm: 3 Greeting Stalls Level 1 + 45 Storage Stalls Level 2 + 9 Storage Stalls Level 3 (57 Stalls)**

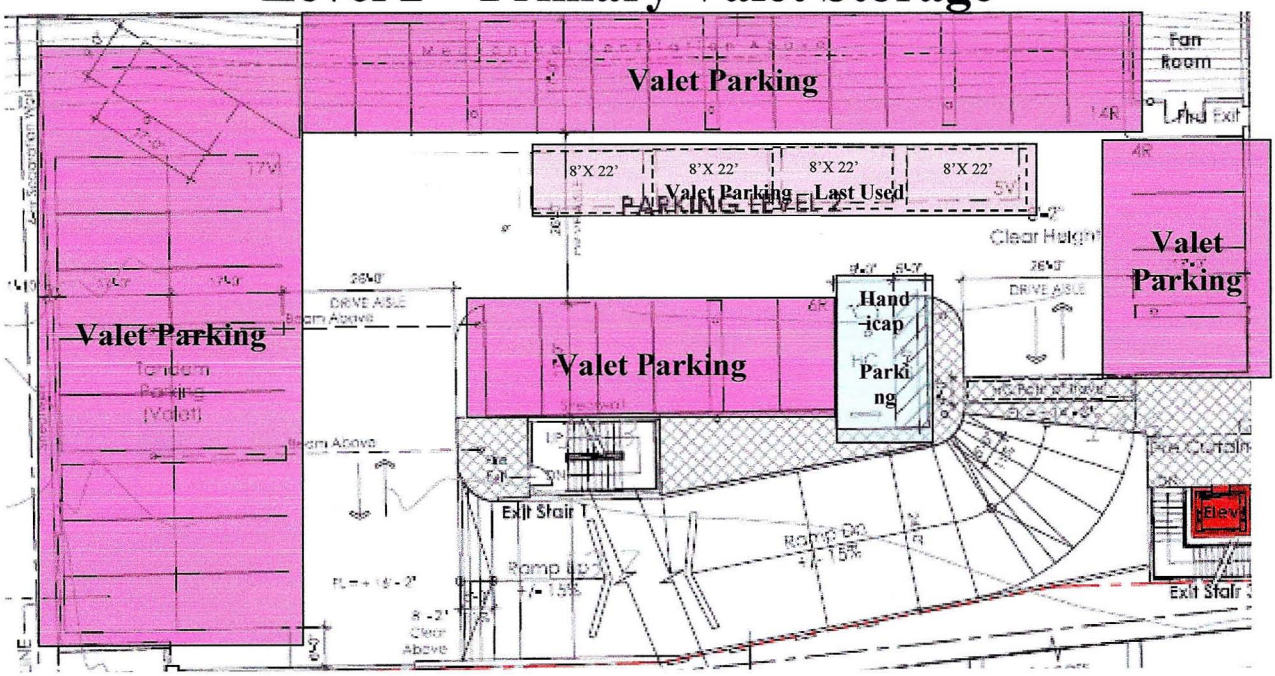
After Guest Self-Parking fills on Level 1, guests would be valeted from Parking Level 1 and valet vehicles stored on parking level 2 & 3. Signs and striping on ground would label stalls "Valet Parking". Signs would state municipal code to allow towing of vehicles if necessary.

**Monday – Friday After 5pm and Weekends: 33 Stalls Level 1 + 45 Storage Stalls Level 2 + 9 Storage Stalls Level 3 (87 Stalls)**

After Guest Self-Parking fills on Level 1, guests would be valeted from Parking Level 1 and valet vehicles stored on parking level 2 & 3. Signs and striping on ground would label stalls "Valet Parking". Signs would state municipal code to allow towing of vehicles if necessary.

**Level 2 & 3 Plan for Lane spaces use:** The valet spaces in the lane would be the last used by the valet staff, keeping blockage of the handicap space to a minimum on Level 2 and 3. At such times that valet spaces in the lane are used, Valet will post an attendant with any vehicle(s) in the lane on each level and move the vehicle(s) necessary to allow a vehicle entering or leaving the handicap space room to safely enter or depart the handicap parking stall. While Level 2 valet Lane Spaces are in use, any exiting employee vehicles would be driven from Level 3 to Level 1 by a valet attendant and retrieved by the employee on Level 1 by the west garage exit.

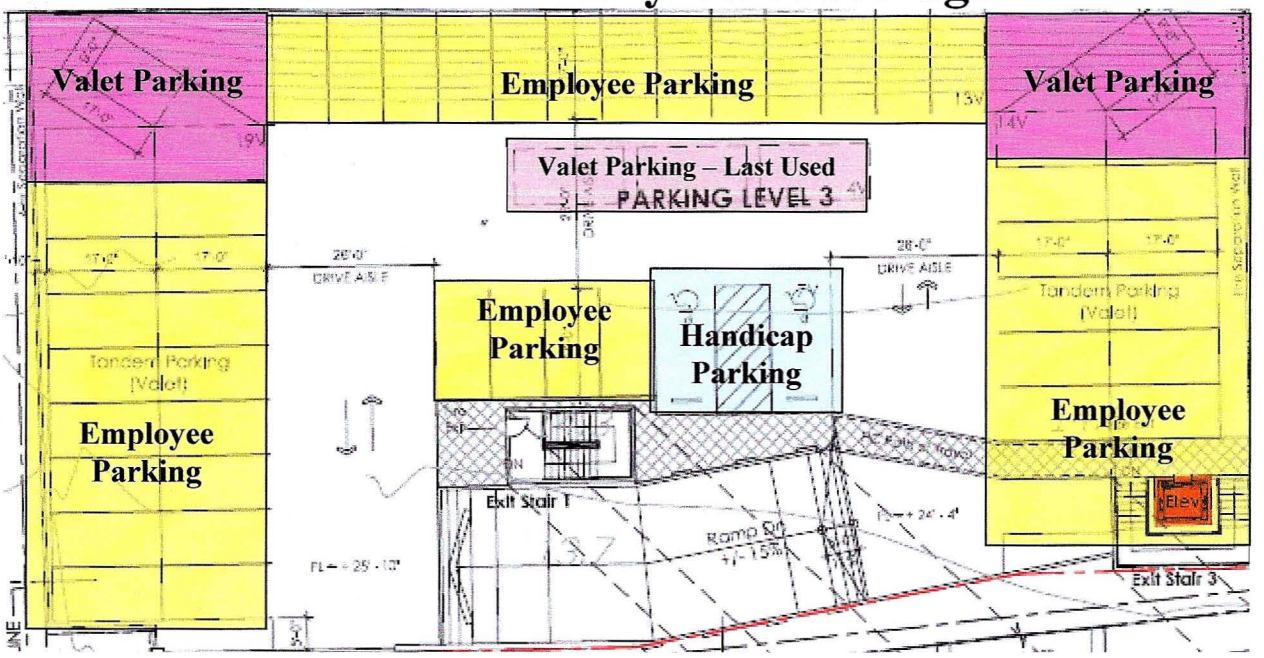
# Level 2 – Primary Valet Storage



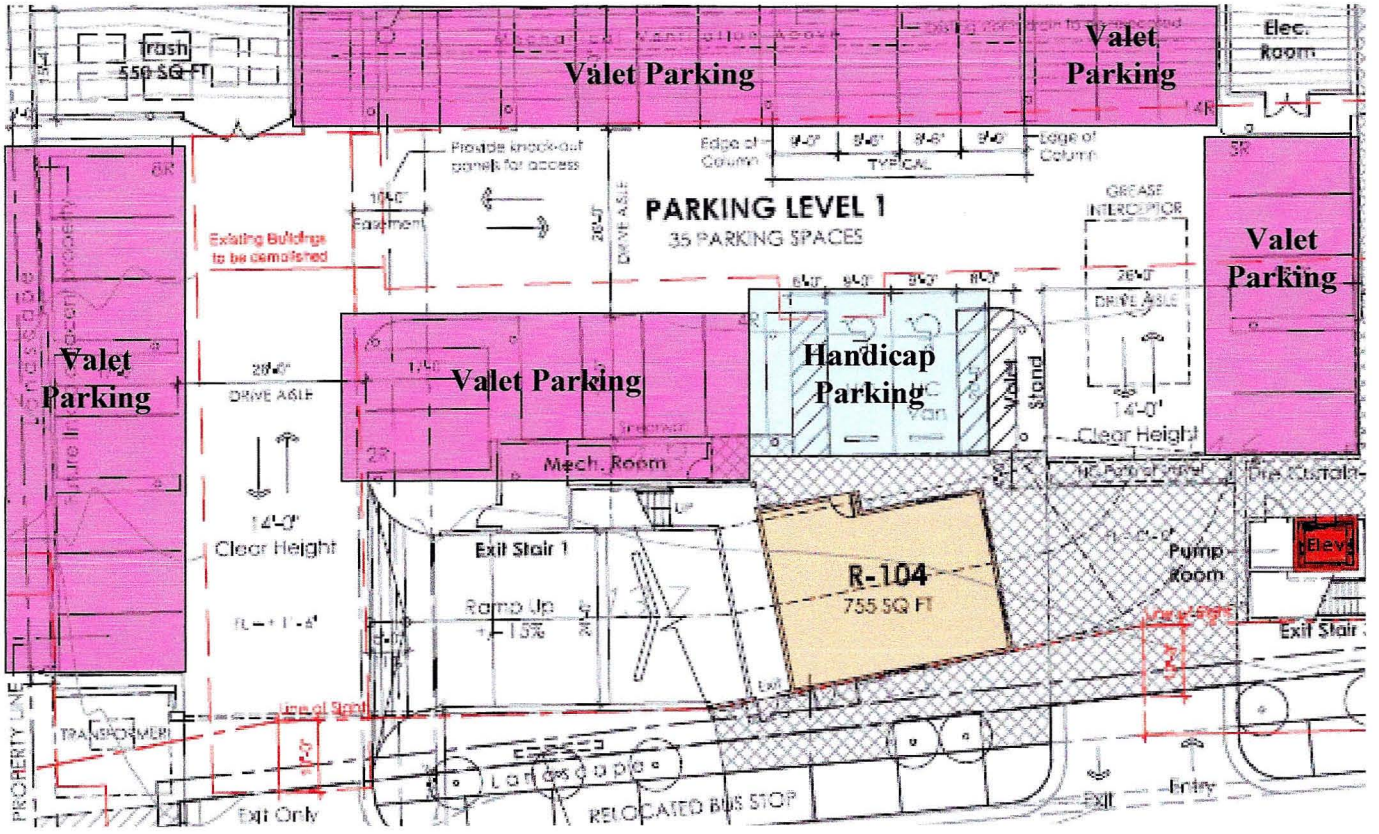



122

# Level 3 – Primary Valet Storage




# Level 1 – After 5pm






123

# Valet Operation

Guests would be greeted and vehicles parked in the following manner for the valet parking operation:

**Guest Experience**

1. Guest is greeted by valet attendant on Parking Level 1 in Level 1 Valet Greeting Stalls in the Northeast corner Monday – Friday 10am-5pm and in spaces on Level 1 in the Southwest corner of the garage after 5pm and on weekends.
2. Guest is issued a valet claim check by valet attendant.
3. Guest leaves parking garage via elevator or sidewalk and enters Mariner's Pointe Shops & Restaurants.
4. Guest returns to Parking Level 1 and presents valet claim check to valet attendant.
5. Valet attendant retrieves guest's keys, runs to vehicle and pulls the vehicle up in the exit lane on Parking Level 1.
6. Valet attendant opens all doors for guest, thanks the guest and hands the driver the vehicle keys.
7. Guest departs in their vehicle through east exit.

**Double-Parking Procedures**

1. A self-locking key box will be located on a wall or column in each row where vehicles are double-parked. Keys are stored in these boxes for vehicles that are double-parked.
2. When a blocked-in vehicle is requested, the valet attendant will retrieve the keys for the vehicle in the front tandem stall from the key box located on the row where the car is parked. The front vehicle will be pulled out and re-parked on a neighboring tandem stall and the keys hung in the key box. The rear vehicle will be pulled out and taken to the guest on Parking Level 1.
3. If the garage is completely full, the valet that pulls out from the front space of a tandem stall will pull out into the lane while a second valet pulls out the rear vehicle and proceeds to Level 1. The first vehicle will be re-parked in the rear tandem stall and the keys hung in the key box.
4. Vehicle keys will be locked in the locking key boxes at all times when parked.

**Valet Vehicle Arrival and Departure Staging on Level 1**

There would be two staging setups used in operating the valet parking operation. The first setup would be for non-peak times. The second is for peak business times. Both configurations are described in the following pages. Vehicles would be parked from the rear of the line first, so that the line of staged vehicles would quickly get shorter.

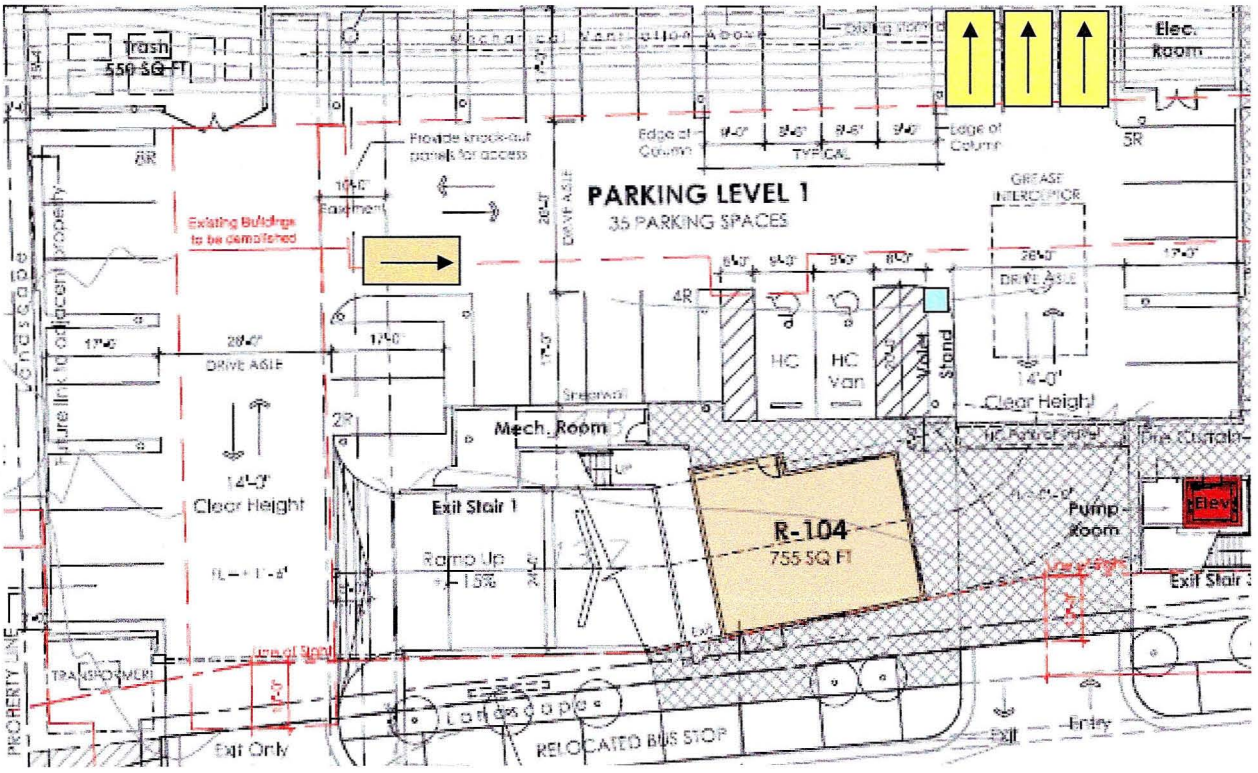
**Non-Peak Valet Operations**

| | |
|---|---|
| 11am – 5pm | Monday – Sunday |
| 5pm – 1am | Sunday – Thursday (October – March) or until restaurants close |
| 5pm – 1am | Sunday – Tuesday (April – September) or until restaurants close |

* Lunch or Dinner shifts during events, holidays, or periods of good weather may change to Peak Operation.

**Arrival:** Vehicles would be greeted head-in via the spaces in the northeast corner of Level 1. We could greet 3 arriving vehicles at a given time.

**Departure:** Departing guests' vehicles would be pulled up in front of the wall located on the south wall of Level 1, paying special attention not to pull up vehicles in the lane behind the parking stalls. Guests' vehicles would exit through the east exit.




Arriving Departing Valet Stand



125

**Peak Valet Operations**

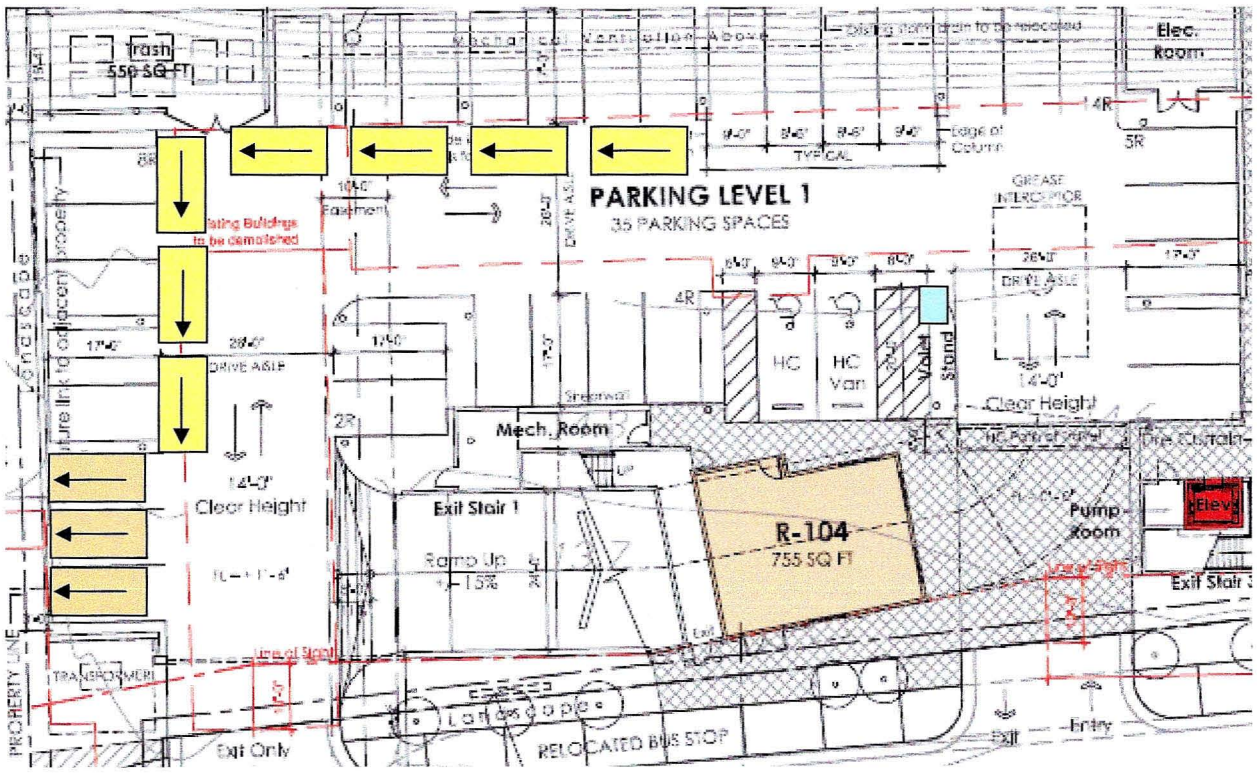
5pm – 1am Friday - Saturday (October – March) or until restaurants close

5pm – 1am Wednesday – Saturday (April – September) or until restaurants close

Traffic would become one way on Level 1, going east to west while operating in this configuration.

**Arrival:** Vehicles would be greeted in-line in the lane, stacking from the west lane before the ramp and following back along the north and east walls all the way to the entrance. 7 vehicles could be greeted at one time.

**Departure:** Departing guests' vehicles would be pulled up in the three stalls at the southwest corner of the garage, as seen below. A traffic director/exit greeter would be stationed in the lane at peak times to coordinate the movement of vehicles out of the garage.




**Roll Away Valet Podium Example for Use on Level 1**

20" deep x 29" wide x 47" high

# Attachment No. PC 8

Traffic Study

# MARINER'S POINTE
# TRAFFIC IMPACT ANALYSIS

Prepared for

**CITY OF NEWPORT BEACH**

Prepared by

RBF CONSULTING

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**February 17, 2011**

JN 10-107807

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## EXECUTIVE SUMMARY

This study analyzes the forecast traffic conditions associated with the proposed Mariner's Pointe Project in the City of Newport Beach. The proposed project site is located at the northwest corner of the West Coast Highway (SR-1)/Dover Drive intersection. The project applicant proposes to construct a 23,015 square foot commercial center that includes a 7,293 square foot specialty retail component, a 12,722 square foot quality restaurant component, and a 3,000 square foot medical office component. The proposed project includes a three-story parking structure that will provide both self parking and valet parking. Project site access is planned via one right-in/right-out driveway and one right-turn out only driveway on West Coast Highway (SR-1).

The proposed project is expected to open in 2012; therefore, in accordance with the City of Newport Beach Traffic Phasing Ordinance (TPO), traffic conditions are measured during forecast year 2013 conditions.

The proposed project is forecast to generate approximately 1,292 net new daily trips, which includes approximately 16 net new a.m. peak hour trips and approximately 70 net new p.m. peak hour trips as analyzed in the TPO analysis. The proposed project is forecast to generate approximately 1,533 daily trips, which includes approximately 48 a.m. peak hour trips and approximately 84 p.m. peak hour trips as analyzed in the cumulative analysis.

Based on City of Newport Beach established thresholds of significance, the addition of project-generated trips is forecast to result in no significant TPO impacts at the study intersections for forecast year 2013 with project conditions.

Also, based on City established thresholds of significance, the addition of project-generated trips to the study intersections is forecast to result in no significant impacts for forecast existing plus project conditions or forecast cumulative with project conditions.

No traffic mitigation measures are required for the proposed project since no significant traffic impacts are forecast to occur based on agency thresholds of significance.

## INTRODUCTION

This study analyzes the forecast traffic conditions associated with the proposed Mariner's Pointe Project in the City of Newport Beach. The proposed project site is located at the northwest corner of the West Coast Highway (SR-1)/Dover Drive intersection. The project applicant proposes to construct a 23,015 square foot commercial center that includes a 7,293 square foot specialty retail component, a 12,722 square foot quality restaurant component, and a 3,000 square foot medical office component. The proposed project includes a three-story parking structure that will provide both self parking and valet parking. Project site access is planned via one right-in/right-out driveway and one right-turn out only driveway on West Coast Highway (SR-1).

The proposed project is expected to open in 2012; therefore, in accordance with the City of Newport Beach Traffic Phasing Ordinance (TPO), traffic conditions are measured during forecast year 2013 conditions.

Exhibit 1 shows the regional project location. Exhibit 2 shows the project site location.

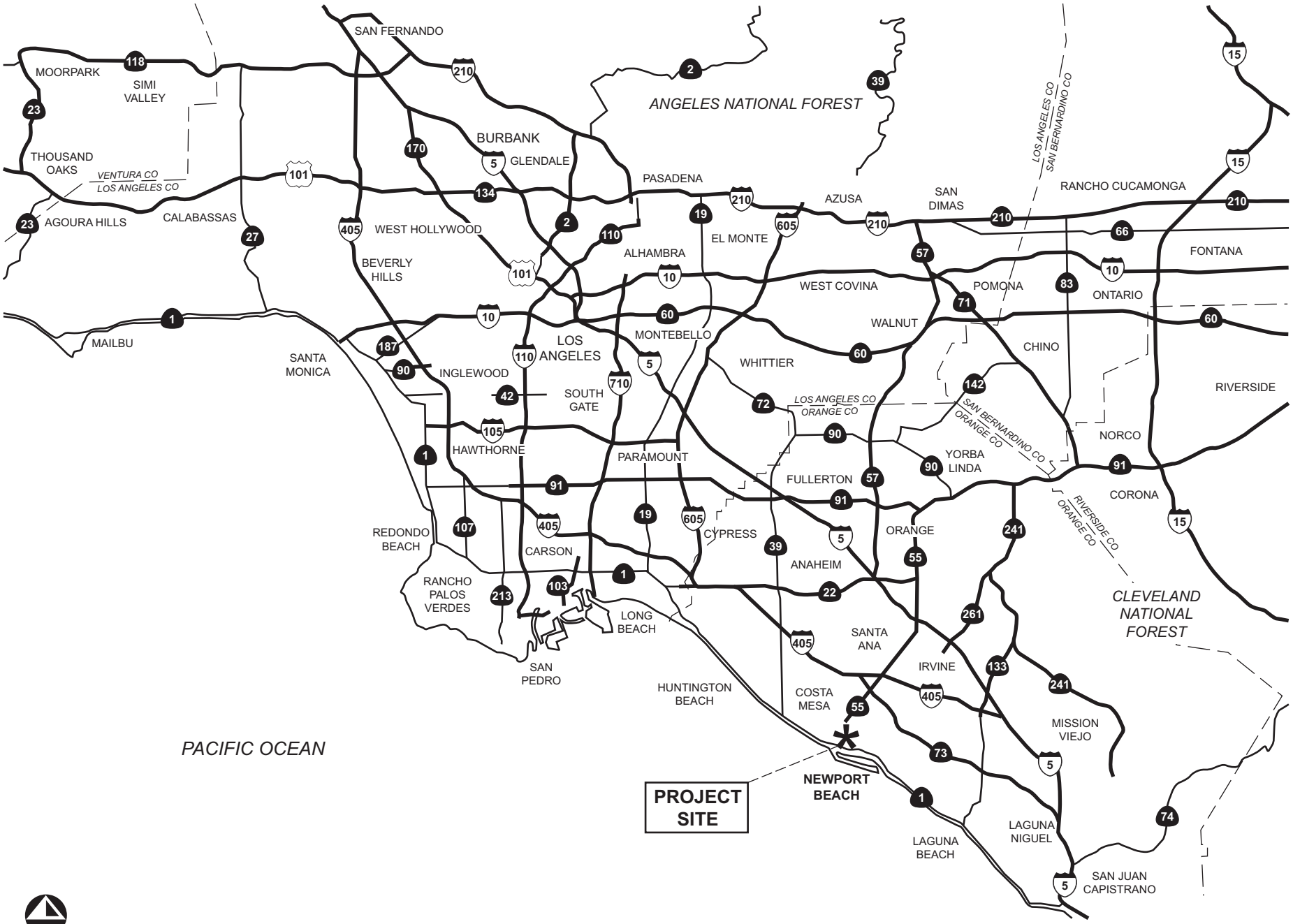
### Study Area

City of Newport Beach staff identified the following twelve signalized intersections for analysis in this study:

1. Newport Boulevard (SR-55) Southbound Off-Ramp/West Coast Highway (SR-1);
2. Riverside Avenue/West Coast Highway (SR-1);
3. Tustin Avenue/West Coast Highway (SR-1);
4. Balboa Bay Club Driveway/West Coast Highway (SR-1);
5. Irvine Avenue/Seventeenth Street;
6. Irvine Avenue/Dover Drive;
7. Dover Drive/Westcliff Drive;
8. Dover Drive/Sixteenth Street;
9. Dover Drive/Cliff Drive;
10. Dover Drive/West Coast Highway (SR-1);
11. Bayside Drive/East Coast Highway (SR-1); and
12. Jamboree Road/East Coast Highway (SR-1).

Exhibit 3 shows the location of the study intersections, which are analyzed for the following study scenarios:

- Existing Conditions;
- Forecast Existing Plus Project Conditions;
- Forecast Year 2013 Without Project Conditions; and
- Forecast Year 2013 With Project Conditions.

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# Regional Project Location

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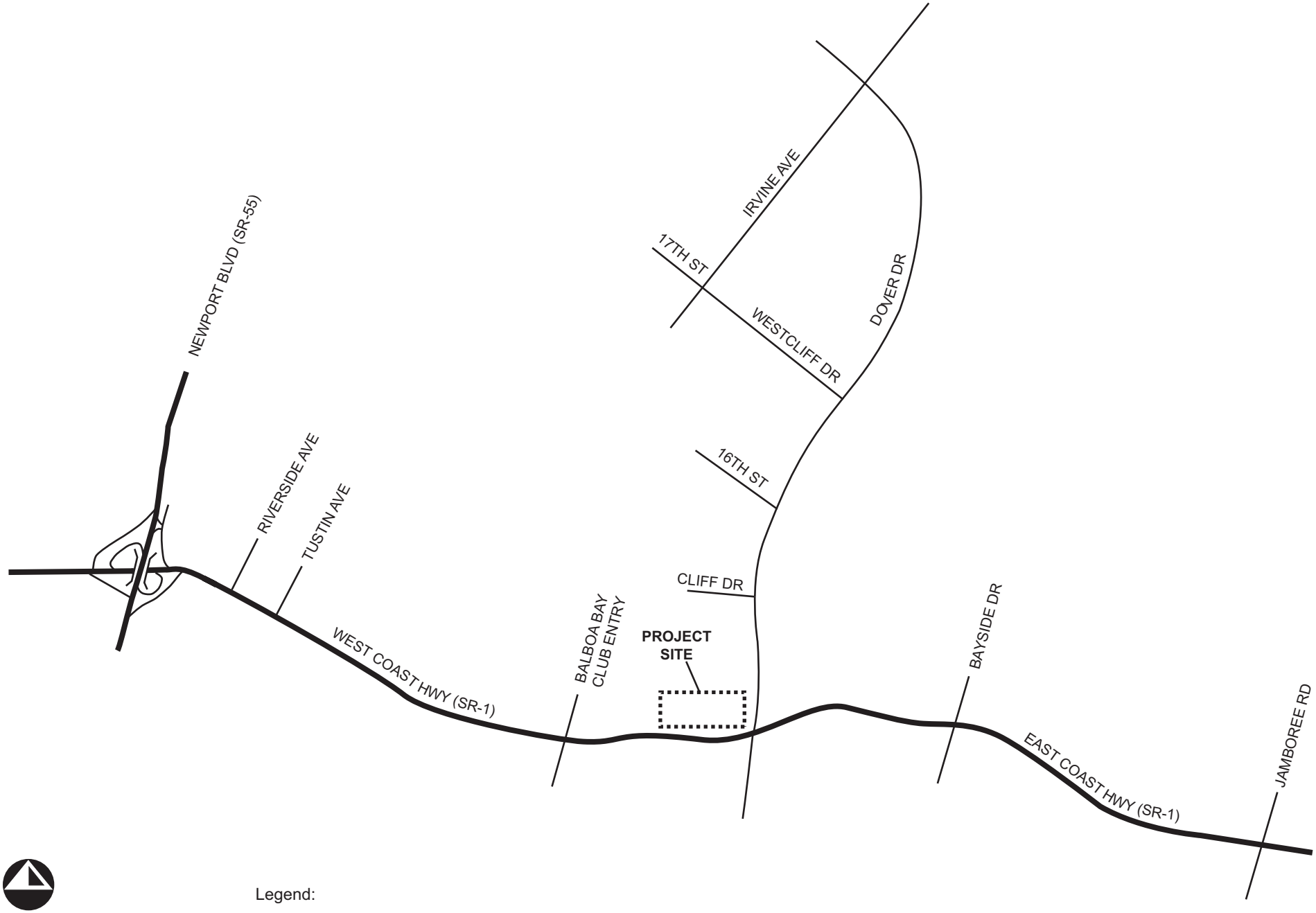
Exhibit 1

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Legend:

Project Site Boundary

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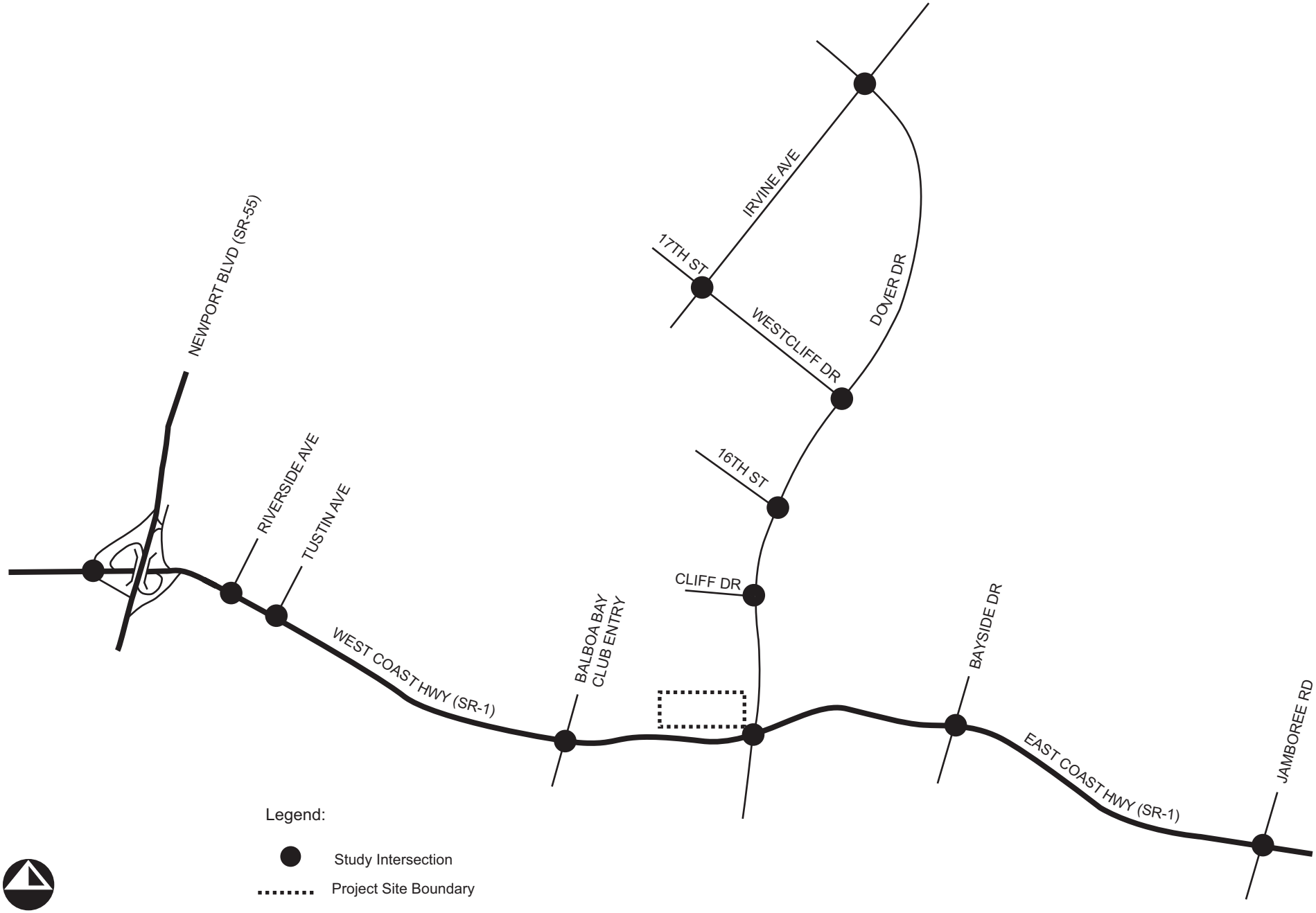
**Project Site Location**

136 Exhibit 2

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# Study Intersection Locations

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Exhibit 3

- Forecast Cumulative Without Project Conditions; and
- Forecast Cumulative With Project Conditions.

**Analysis Methodology**

Level of service (LOS) is commonly used as a qualitative description of intersection operation and is based on the capacity of the intersection and the volume of traffic using the intersection. The Intersection Capacity Utilization (ICU) analysis method is utilized by the City of Newport Beach and in the Orange County Congestion Management Program (CMP) to determine the operating LOS of signalized intersections. The ICU analysis methodology describes the operation of an intersection using a range of LOS from LOS A (free-flow conditions) to LOS F (severely congested conditions), based on the corresponding Volume/Capacity (V/C) ratios shown in Table 1.

**Table 1**
**V/C & LOS Ranges**

| Signalized Intersections | |
|---|---|
| **V/C Ratio** | **LOS** |
| ≤ 0.60 | A |
| 0.61 to ≤ 0.70 | B |
| 0.71 to ≤ 0.80 | C |
| 0.81 to ≤ 0.90 | D |
| 0.91 to ≤ 1.00 | E |
| > 1.00 | F |

**Source**: *City of Newport Beach Traffic Phasing Ordinance, Chapter 15.40.*

In accordance with the City of Newport Beach Traffic Phasing Ordinance (TPO), the ICU analysis assumes a capacity of 1,600 vehicles per hour (vph) for each travel lane (including turn lanes) through an intersection, with no factor for yellow time included in the lane capacity assumptions. The City of Newport Beach TPO methodology calculates the ICU value to three decimal places, and then reports the resulting ICU value rounded down to two decimal places.

**City of Newport Beach Performance Criteria**

The City of Newport Beach target for peak hour intersection operation as stated in the Circulation Element of the General Plan is LOS D or better except at the following locations where LOS E or better is considered acceptable:

- Intersections in the John Wayne Airport Area shared with the City of Irvine;
- Dover Drive/West Coast Highway (SR-1);
- Riverside Avenue/West Coast Highway (SR-1);
- Goldenrod Avenue/East Coast Highway (SR-1); and
- Marguerite Avenue/East Coast Highway (SR-1).

The criteria for assessing a proposed project, as defined in the City's Traffic Phasing Ordinance, is to achieve LOS D or better at any impacted primary intersection within the City.

**City of Newport Beach Threshold of Significance**

To determine whether the addition of project-generated trips at a signalized study intersection results in a significant impact, the City of Newport Beach has established the following threshold of significance:

- A significant impact occurs when the addition of project-generated trips causes the level of service at a study intersection to deteriorate from an acceptable LOS (LOS D or better in most cases) to a deficient LOS (LOS E or F); or
- A significant impact occurs when the addition of project-generated trips increases the intersection capacity utilization at a study intersection by one percent or more of capacity ($V/C \geq 0.010$), worsening a projected baseline condition of LOS E or LOS F.

## EXISTING CONDITIONS

### Roadway Description

The characteristics of the roadway system in the vicinity of the project site are described below:

**West Coast Highway (SR-1)** in the project vicinity trends in an east-west direction, and is designated State Route 1. East of Dover Drive, West Coast Highway (SR-1) changes names to East Coast Highway (SR-1). Between Balboa Bay Club Entry and Dover Drive, West Coast Highway (SR-1) is a four-lane divided roadway, with a continuous left-turn lane and some non-metered on-street parking permitted. From Tustin Avenue to Balboa Bay Club Entry, West Coast Highway (SR-1) transitions from a four-lane to five-lane divided roadway (three lanes in the westbound direction and two in the eastbound direction), with a continuous left-turn lane and both metered and non-metered on-street parking are permitted. Between Riverside Avenue and Tustin Avenue, West Coast Highway (SR-1) is a five-lane divided roadway (three lanes in the westbound direction and two in the eastbound direction), with a raised median and metered on-street parking permitted. From Newport Boulevard (SR-55) Southbound Off-Ramp to Riverside Avenue, West Coast Highway (SR-1) is a five-lane divided roadway (three lanes in the westbound direction and two in the eastbound direction) with a continuous left-turn lane and metered on-street parking permitted on the north side only. The posted speed limit on West Coast Highway (SR-1) ranges from 40 to 45 miles per hour.

**East Coast Highway (SR-1)** is designated State Route 1. Between Dover Drive and Bayside Drive, East Coast Highway (SR-1) is a seven-lane undivided roadway (four lanes in the westbound direction and three lanes in the eastbound direction) with on-street parking prohibited. Between Bayside Drive and Jamboree Road, East Coast Highway (SR-1) is an eight-lane roadway, with a raised, landscaped median and on-street parking prohibited. The posted speed limit on West Coast Highway (SR-1) in the study area ranges from 35 to 45 miles per hour, with a posted speed limit of 40 miles per hour adjacent the project site.

**Riverside Avenue** between West Coast Highway and Avon Street is a four-lane undivided roadway, trending in a north-south direction, with on-street parking prohibited. North of Avon Street, Riverside Avenue is a two-lane undivided roadway. The posted speed limit on Riverside Avenue is 30 miles per hour.

**Tustin Avenue** is a two-lane undivided roadway trending in a north-south direction that terminates on the south at West Coast Highway (SR-1). Metered on-street parking is permitted on Tustin Avenue.

**Dover Drive** is a four-lane divided roadway with a raised landscaped median, trending in a north-south direction with on-street parking prohibited between West Coast Highway (SR-1) and Westcliff Drive. Between Westcliff Drive and Irvine Avenue, Dover Drive is a two-lane undivided roadway. On-street parking is permitted on Dover Drive, east of Irvine Avenue. South of West Coast Highway (SR-1), Dover Drive changes name to Bayshore Drive. Bayshore Drive is a two-lane undivided roadway with on-street parking prohibited. The posted speed limit on Dover Drive ranges in the study area from 25 to 40 miles per hour.

**Bayside Drive** is a two-lane undivided roadway trending in a north-south direction, north of East Coast Highway (SR-1), with on-street parking permitted. The posted speed limit on Bayside Drive north of East Coast Highway is 25 miles per hour. South of East Coast Highway (SR-1), Bayside Drive is a four-lane divided roadway with a continuous left-turn lane and on-street parking prohibited from West Coast Highway (SR-1) to Harbor Island Drive. The posted speed limit on Bayside Drive is 40 miles per hour.

**Jamboree Road** north of East Coast Highway (SR-1) is a six-lane divided roadway trending in a north-south direction with a raised landscaped median and on-street parking prohibited. South of East Coast Highway (SR-1), Jamboree Road is a four-lane undivided roadway with a painted median and on-street parking prohibited. The posted speed limit on Jamboree Road is 50 miles per hour.

**Cliff Drive** is a two-lane, undivided roadway trending in an east-west direction with on-street parking prohibited. The posted speed limit on Cliff Drive is 30 miles per hour.

**Sixteenth Street** is a two-lane undivided roadway trending in an east-west direction with on-street parking prohibited from Dover Drive to Seagull Lane. The posted speed limit on Sixteenth Street is 35 miles per hour.

**Westcliff Drive** is a four-lane divided roadway trending in an east-west direction with a raised median and on-street parking prohibited. The posted speed limit on Westcliff Drive is 35 miles per hour.

**Seventeenth Street** is a four-lane undivided roadway trending in an east-west direction with a continuous left-turn lane and on-street parking prohibited. The posted speed limit on Seventeenth Street is 35 miles per hour.

**Irvine Avenue** is a four-lane divided roadway trending in a north-south direction with a raised median and on-street parking prohibited between Seventeenth Street and Dover Drive. The posted speed limit on Irvine Avenue is 35 miles per hour.

### Existing Conditions Peak Hour Traffic Volumes

To determine the existing operation of the study intersections, this study utilizes 2009/2010 a.m. and p.m. peak hour intersection movement counts provided by City of Newport Beach staff. Additionally, a.m. and p.m. peak hour intersection movement counts were collected at the following two study intersections:

- Dover Drive/Cliff Drive; and
- Balboa Bay Club Driveway/West Coast Highway (SR-1).

An annual growth factor of 1.00% on primary roadways, based on the City of Newport Beach TPO, was applied to 2009 traffic counts as appropriate to reflect growth from the count year to year 2010 conditions. The counts used in this analysis were taken from the highest hour within the peak period counted. Detailed traffic count data is contained in Appendix A.

Exhibit 4 shows existing conditions a.m. and p.m. peak hour volumes at the study intersections. Exhibit 5 shows existing study intersection geometry.

### Existing Conditions Peak Hour Level of Service

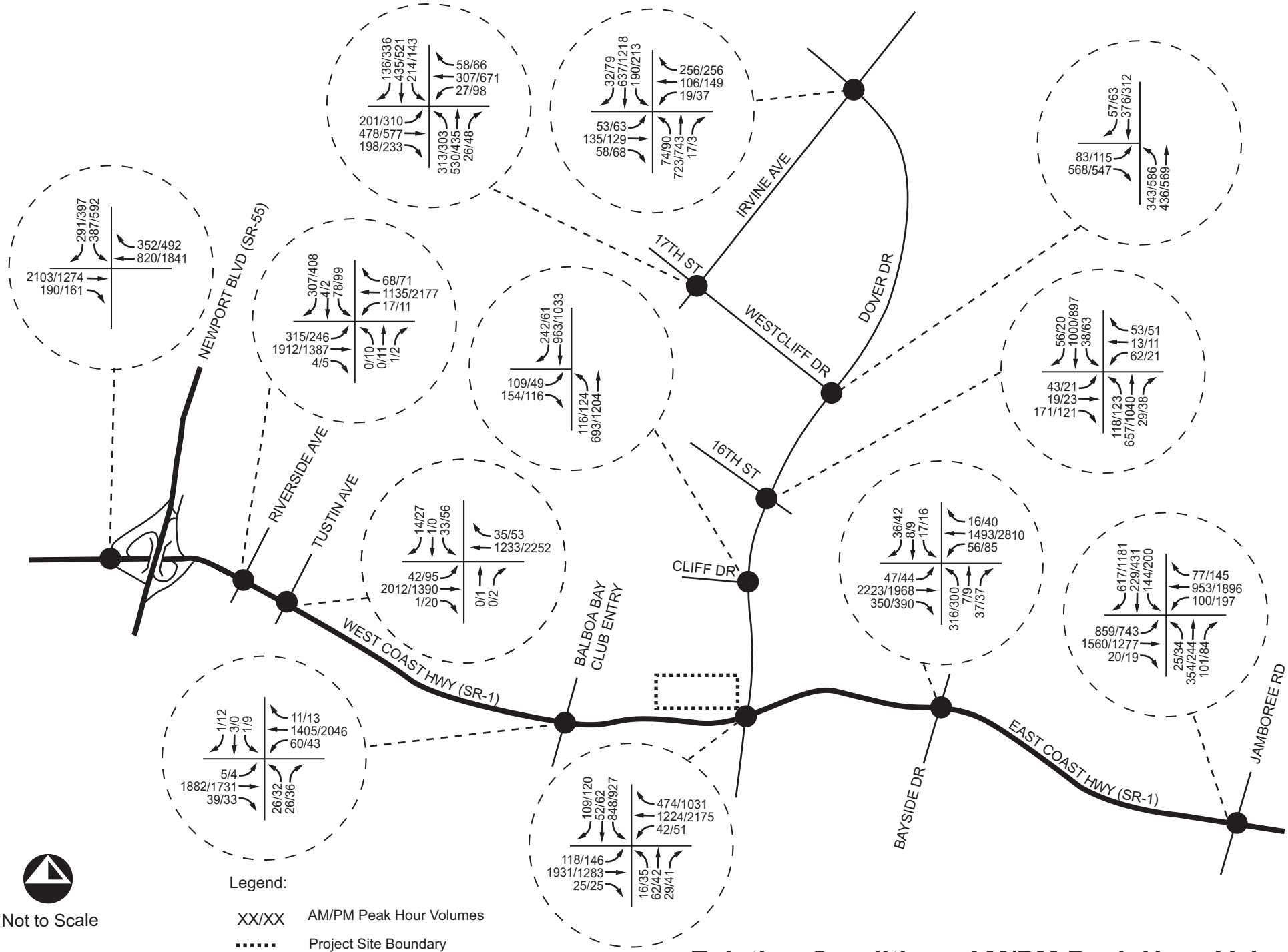
Table 2 summarizes existing conditions a.m. and p.m. peak hour LOS of the study intersections; detailed LOS analysis sheets are contained in Appendix B.

**Table 2**
**Existing Conditions AM/PM Peak Hour Intersection LOS**

| Int. No. | Study Intersection | AM Peak Hour | PM Peak Hour |
|---|---|---|---|
| | | V/C – LOS | V/C – LOS |
| 1 | Irvine Ave/Dover Dr | 0.543 – A | 0.661 – B |
| 2 | Irvine Ave/17th St | 0.496 – A | 0.690 – B |
| 3 | Dover Dr/Westcliff Dr | 0.368 – A | 0.414 – A |
| 4 | Dover Dr/16th St | 0.588 – A | 0.493 – A |
| 5 | Dover Dr/Cliff Dr | 0.545 – A | 0.492 – A |
| 6 | Newport Blvd SB Ramps/W. Coast Hwy (SR-1) | 0.839 – D | 0.646 – B |
| 7 | Riverside Ave/W. Coast Hwy (SR-1) | 0.658 – B | 0.715 – C |
| 8 | Tustin Ave/W. Coast Hwy (SR-1) | 0.660 – B | 0.580 – A |
| 9 | Balboa Bay Club Dwy/W. Coast Hwy (SR-1) | 0.659 – B | 0.694 – B |
| 10 | Dover Dr/W. Coast Hwy (SR-1) | 0.639 – B | 0.718 – C |
| 11 | Bayside Dr/E. Coast Hwy (SR-1) | 0.601 – B | 0.571 – A |
| 12 | Jamboree Rd/E. Coast Hwy (SR-1) | 0.560 – A | 0.679 – B |

**Note**: V/C = volume to capacity ratio; SB = southbound.

As shown in Table 2, the study intersections are currently operating at an acceptable LOS (LOS D or better) according to City of Newport Beach performance criteria.




# Existing Conditions AM/PM Peak Hour Volumes

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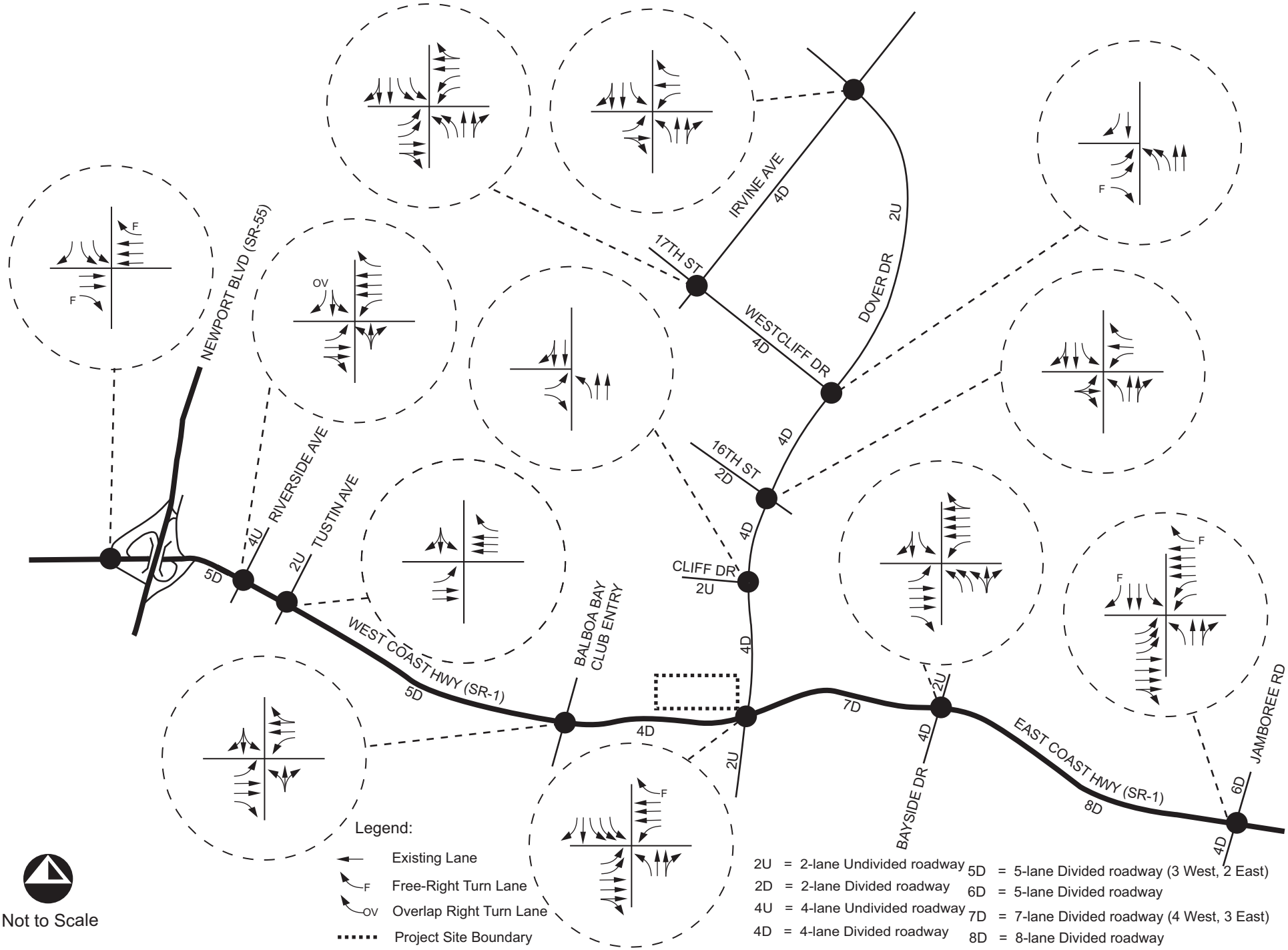


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# Existing Study Area Geometry

143 Exhibit 5

## PROPOSED PROJECT

The proposed project site is located at the northwest corner of the West Coast Highway (SR-1)/Dover Drive intersection. The project applicant proposes to construct a 23,015 square foot commercial center that includes a 7,293 square foot specialty retail component, 12,722 square foot quality restaurant component, and a 3,000 square foot medical office component. The proposed project includes a three-story parking structure that will provide both self parking and valet parking. Project site access is planned via one right-in/right-out driveway and one right-turn out driveway on West Coast Highway (SR-1).

The proposed project is expected to open in 2012; therefore, in accordance with the City of Newport Beach Traffic Phasing Ordinance (TPO) traffic conditions are measured during forecast year 2013 conditions.

Exhibit 6 shows the proposed project site plan.

### Project Trip Generation

To calculate trips forecast to be generated by the proposed project, *Institute of Transportation Engineers (ITE)* trip generation rates were utilized. Table 3 summarizes the *ITE* trip generation rates used to calculate the number of trips forecast to be generated by the proposed project.

**Table 3**
**Proposed Project Trip Rates**

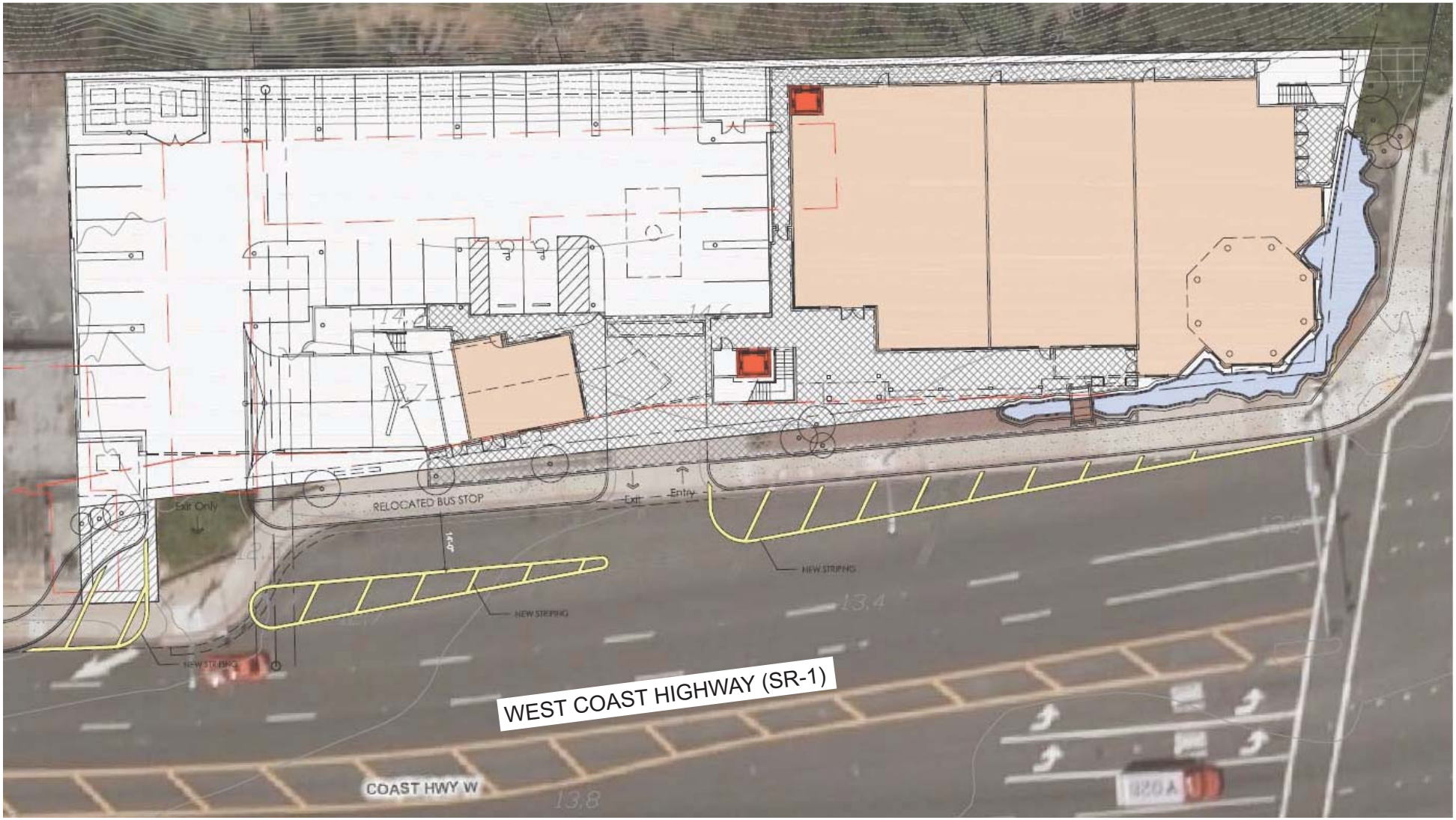
| Land Use | Units | AM Peak Hour Rates | | | PM Peak Hour Rates | | | Daily Trip Rate |
|---|---|---|---|---|---|---|---|---|
| | | In | Out | Total | In | Out | Total | |
| Specialty Retail | tsf | 0.0 | 0.0 | 0.0 | 1.19 | 1.52 | 2.71 | 44.32 |
| Quality Restaurant | tsf | 0.66 | 0.15 | 0.81 | 5.02 | 2.47 | 7.49 | 89.95 |
| Medical Office | tsf | 1.82 | 0.48 | 2.30 | 0.93 | 2.53 | 3.46 | 36.13 |

**Source**: *ITE Trip Generation Manual, 8th Edition*
**Note:** tsf = thousand square feet

The *ITE* trip rates shown in Table 3 do not account for applicable trip reduction factors such as pass-by trips, and hence present a conservative condition for trip generation. Therefore, adjustment to trip generation estimates were made to the proposed project as appropriate in accordance with *ITE* trip reduction rates.

*Pass-by Trip Reduction*

A pass-by trip reduction is applicable to some retail and restaurant land uses located along busy arterial highways attracting vehicle trips already on the roadway; this is particularly the case when the roadway is experiencing peak operating conditions. For example, during the p.m. peak hour, a motorist already traveling along West Coast Highway (SR-1) between work and home could stop at the restaurant component of the proposed project. A pass-by discount diverts an existing through trip into and out of the project site. While the total project site trip numbers are not reduced, the new trips generated off-site on the surrounding roadway system

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# Proposed Project Site Plan

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145 Exhibit 6

by the project site, or the net project trips, are reduced. Pass-by trips are always included in the site driveway movements.

For the project site land use assumptions contained in this analysis, a pass-by discount is only applicable for the restaurant land use component of the proposed project in the p.m. peak hour according to *ITE* published research data.

Table 4 summarizes the trips forecast to be generated by the proposed project utilizing the *ITE* trip rates shown in Table 3.

**Table 4**
**Proposed Project Trip Generation**

| Land Use | AM Peak Hour Trips | | | PM Peak Hour Trips | | | Daily Trips |
|---|---|---|---|---|---|---|---|
| | In | Out | Total | In | Out | Total | |
| 7.293 tsf - Specialty Retail | 0 | 0 | 0 | 9 | 11 | 20 | 323 |
| 12.722 tsf - Quality Restaurant | 8 | 2 | 10 | 64 | 31 | 95 | 1,144 |
| *Pass-by Discount (44% in p.m.)* | *0* | *0* | *0* | *- 28* | *- 14* | *- 42* | *- 42** |
| 3.000 tsf - Medical Office | 5 | 1 | 6 | 3 | 8 | 11 | 108 |
| **TOTAL** | **13** | **3** | **16** | **48** | **36** | **84** | **1,533** |

**Source**: Pass-by discount determined using *ITE Trip Generation Manual, 2nd Edition*
**Note:** tsf = thousand square feet; *Daily trip reduction assumes total p.m. peak hour trip reduction.

As shown in Table 4, the proposed project is forecast to generate approximately 1,533 daily trips, which includes approximately 48 a.m. peak hour trips and approximately 84 p.m. peak hour trips.

Since the project site is currently occupied by 5,447 square feet of specialty retail planned to be displaced by the proposed project, trips associated with the displaced land use are subtracted from the project site trip generation forecast shown in Table 4 to determine the number of net new trips forecast to be generated by the proposed project. In accordance with City analysis methodology, the net trip generation accounting for the displaced land use is only utilized for the TPO traffic analysis (forecast year 2013 with project conditions), not for forecast existing plus project conditions or forecast cumulative with project conditions.

Table 5 summarizes the existing project site trips forecast to be displaced by the proposed project utilizing the *ITE* trip rates shown in Table 3.

**Table 5**
**Existing Project Site Trip Generation Displaced by Proposed Project**

| Land Use | AM Peak Hour Trips | | | PM Peak Hour Trips | | | Daily Trips |
|---|---|---|---|---|---|---|---|
| | In | Out | Total | In | Out | Total | |
| 5.447 tsf – Specialty Retail | 0 | 0 | 0 | 6 | 8 | 14 | 241 |

**Note:** tsf = thousand square feet

As shown in Table 5, the existing project site land use that will be displaced by the proposed project is estimated to generate 241 daily trips, which include approximately 0 a.m. peak hour trips and approximately 14 p.m. peak hour trips.

Table 6 shows the net new trips forecast to be generated by the proposed project utilized in the TPO analysis (forecast year 2013 with project conditions).

**Table 6**
**Net Forecast Project Trip Generation Utilized in TPO Analysis**

| Land Use | AM Peak Hour Trips | | | PM Peak Hour Trips | | | Daily Trips |
|---|---|---|---|---|---|---|---|
| | In | Out | Total | In | Out | Total | |
| Existing Site (displaced) | 0 | 0 | 0 | -6 | -8 | -14 | -241 |
| Proposed Mariner's Pointe Project | 13 | 3 | 16 | 48 | 36 | 84 | 1,533 |
| **TOTAL** | **13** | **3** | **16** | **42** | **28** | **70** | **1,292** |

As shown in Table 6, the proposed project is forecast to generate approximately 1,292 net new daily trips, which includes approximately 16 net new a.m. peak hour trips and approximately 70 net new p.m. peak hour trips as analyzed in the TPO analysis.

### Project Trip Distribution

Exhibit 7 shows the forecast trip percent distribution of project-generated peak hour trips.

### Project Trip Assignment

Exhibit 8 shows the forecast assignment of project-generated a.m. and p.m. peak hour trips utilized for both forecast existing plus project conditions and forecast cumulative with project conditions assuming the trip percent distribution shown in Exhibit 7.

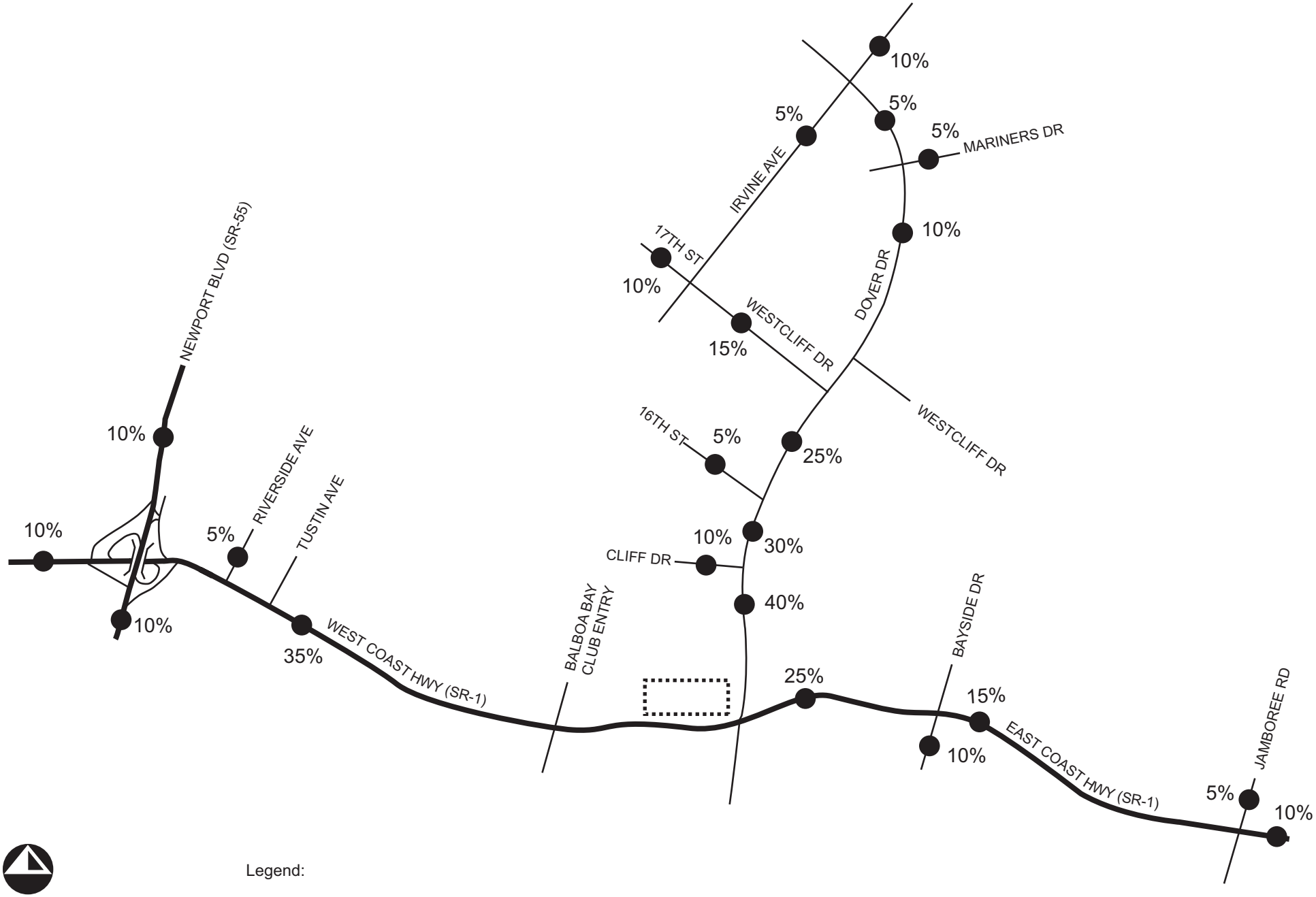
Exhibit 9 shows the forecast assignment of net project-generated a.m. and p.m. peak hour trips utilized for the TPO analysis (forecast year 2013 with project conditions) assuming the trip percent distribution shown in Exhibit 7.

## FORECAST EXISTING PLUS PROJECT CONDITIONS

Forecast existing plus project conditions a.m. and p.m. peak hour volumes were derived by adding forecast project-generated trips to existing conditions traffic volumes.

### Forecast Existing Plus Project Traffic Volumes

Exhibit 10 shows forecast existing plus project conditions a.m. and p.m. peak hour volumes at the study intersections.




Not to Scale

Legend:

XX% Trip Percent Distribution

Project Site Boundary

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# Forecast Proposed Project Trip Distribution

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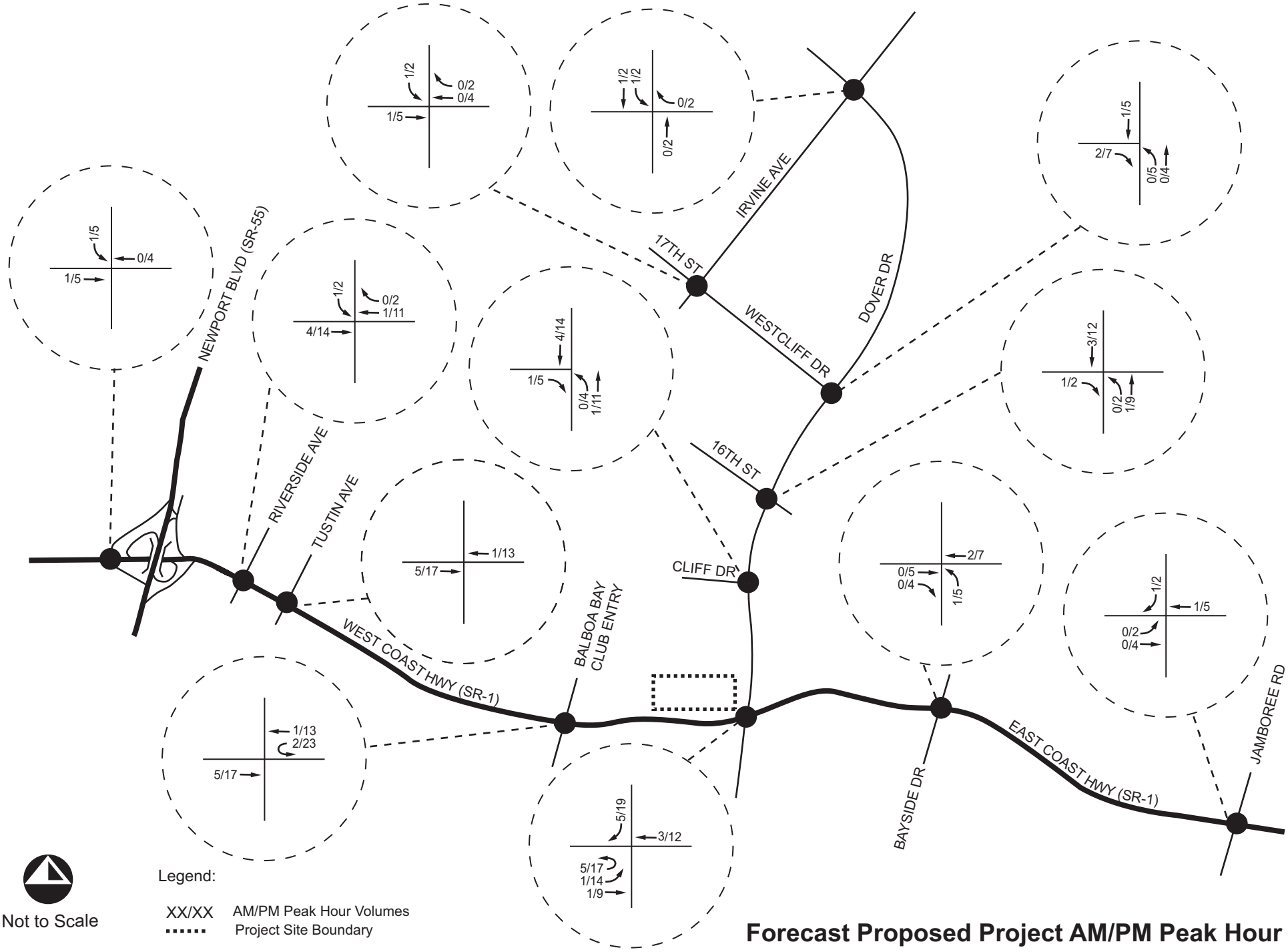


**Forecast Proposed Project AM/PM Peak Hour Trip Assignment Utilized for Forecast Existing Plus Project & Forecast Cumulative With Project Analysis**

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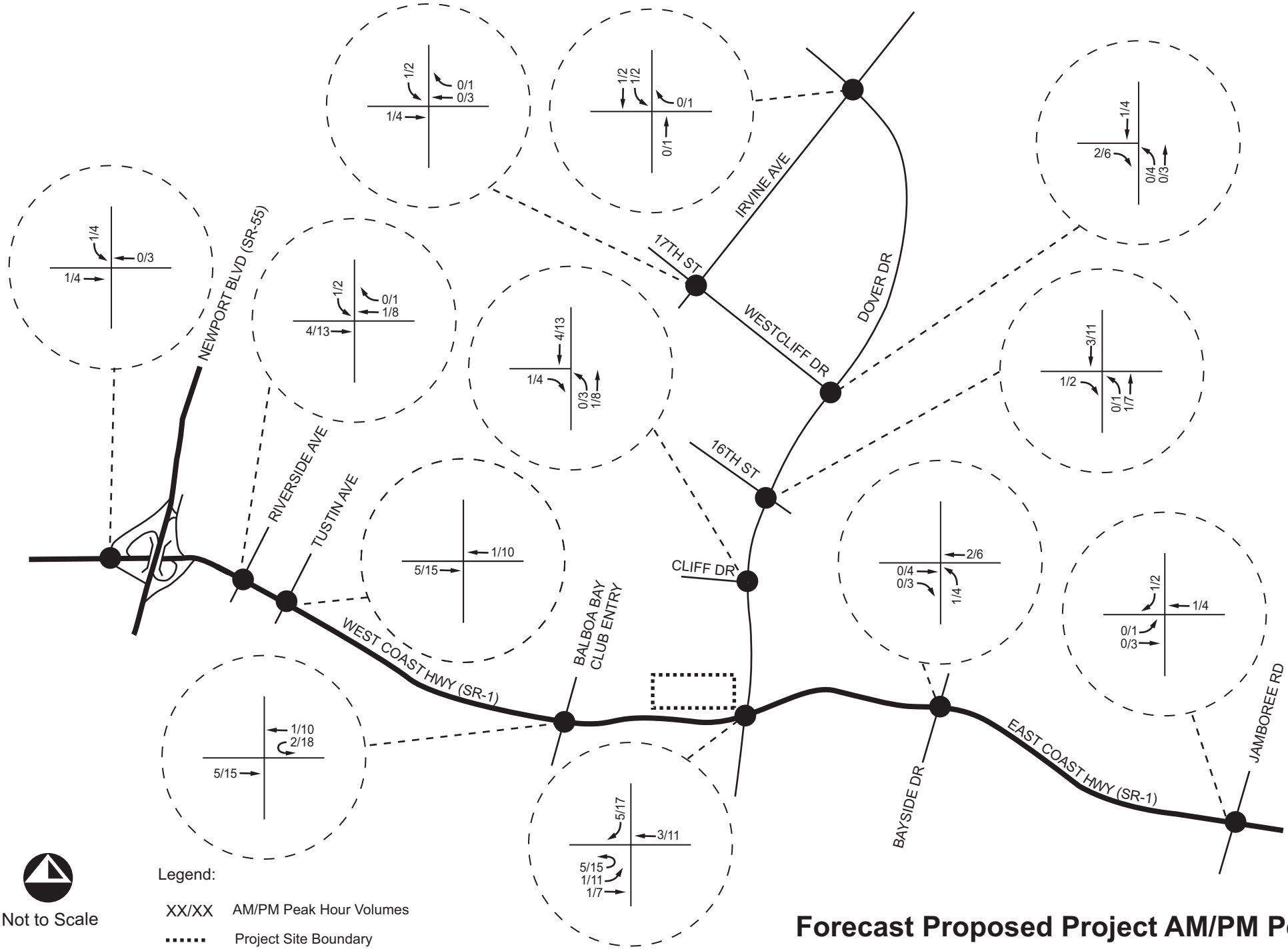


# Forecast Proposed Project AM/PM Peak Hour Net Trip Assignment Utilized for TPO Analysis

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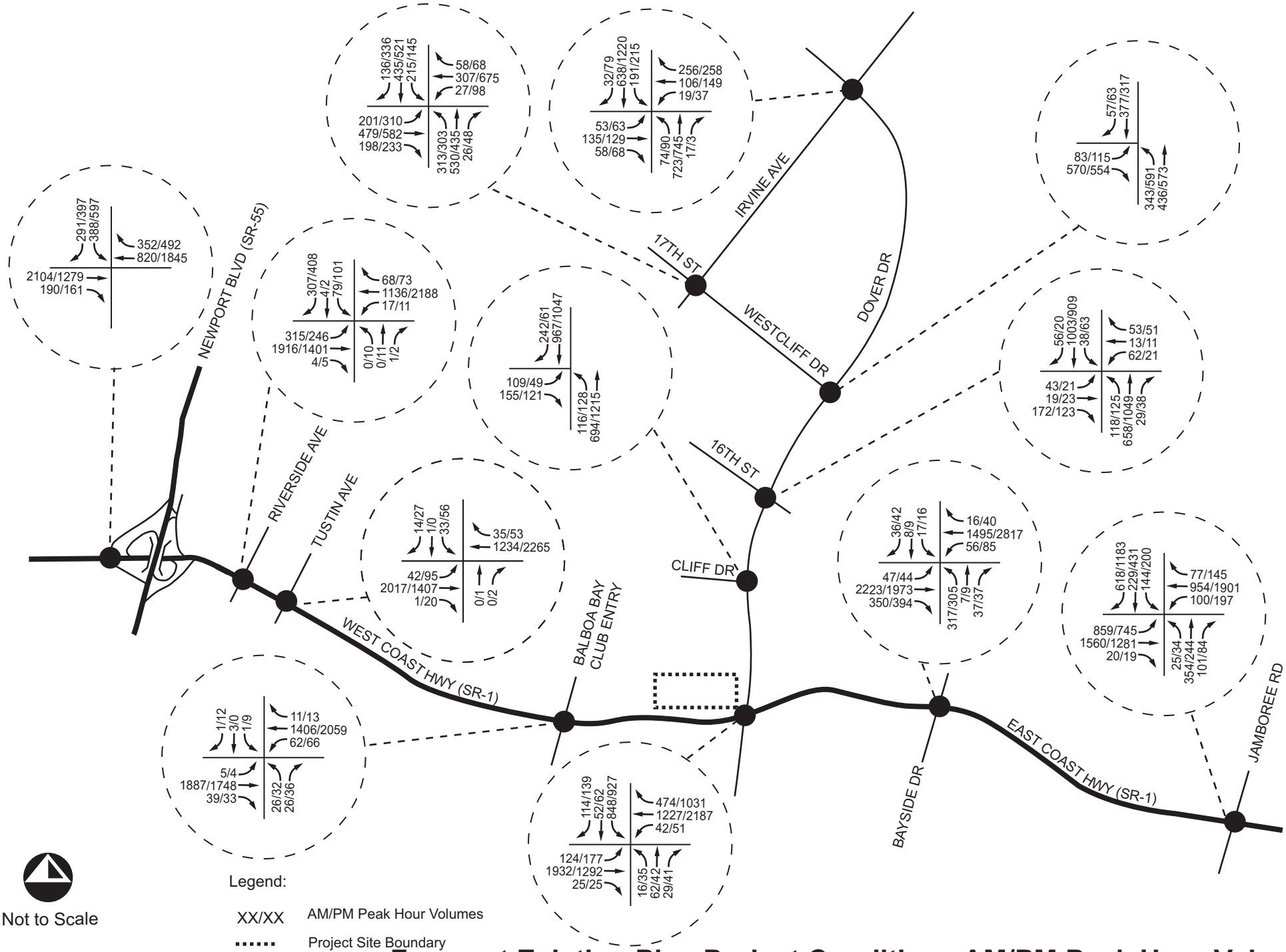


# Forecast Existing Plus Project Conditions AM/PM Peak Hour Volumes

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### Forecast Existing Plus Project Conditions Level of Service

Table 7 summarizes forecast existing plus project conditions a.m. peak hour and p.m. peak hour LOS of the study intersections; detailed LOS analysis sheets are contained in Appendix B.

**Table 7**
**Forecast Existing Plus Project Conditions AM & PM Peak Hour LOS**

| Int. No. | Study Intersection | Existing Conditions | | Forecast Existing Plus Project Conditions | | Increase in V/C | | Significant Impact? |
|---|---|---|---|---|---|---|---|---|
| | | AM Peak Hour | PM Peak Hour | AM Peak Hour | PM Peak Hour | | | |
| | | V/C – LOS | V/C – LOS | V/C – LOS | V/C – LOS | AM | PM | |
| 1 | Irvine Ave/Dover Dr | 0.543 – A | 0.661 – B | 0.544 – A | 0.663 – B | 0.001 | 0.002 | No |
| 2 | Irvine Ave/17th St | 0.496 – A | 0.690 – B | 0.496 – A | 0.692 – B | 0.000 | 0.002 | No |
| 3 | Dover Dr/Westcliff Dr | 0.368 – A | 0.414 – A | 0.369 – A | 0.419 – A | 0.001 | 0.005 | No |
| 4 | Dover Dr/16th St | 0.588 – A | 0.493 – A | 0.590 – A | 0.497 – A | 0.002 | 0.004 | No |
| 5 | Dover Dr/Cliff Dr | 0.545 – A | 0.492 – A | 0.547 – A | 0.502 – A | 0.002 | 0.010 | No |
| 6 | Newport Blvd SB Ramps/W. Coast Hwy (SR-1) | 0.839 – D | 0.646 – B | 0.839 – D | 0.648 – B | 0.000 | 0.002 | No |
| 7 | Riverside Ave/W. Coast Hwy (SR-1) | 0.658 – B | 0.715 – C | 0.660 – B | 0.717 – C | 0.002 | 0.002 | No |
| 8 | Tustin Ave/W. Coast Hwy (SR-1) | 0.660 – B | 0.580 – A | 0.661 – B | 0.583 – A | 0.001 | 0.003 | No |
| 9 | Balboa Bay Club Dwy/W. Coast Hwy (SR-1) | 0.659 – B | 0.694 – B | 0.662 – B | 0.698 – B | 0.003 | 0.004 | No |
| 10 | Dover Dr/W. Coast Hwy (SR-1) | 0.639 – B | 0.718 – C | 0.639 – B | 0.730 – C | 0.000 | 0.012 | No |
| 11 | Bayside Dr/E. Coast Hwy (SR-1) | 0.601 – B | 0.571 – A | 0.601 – B | 0.573 – A | 0.000 | 0.002 | No |
| 12 | Jamboree Rd/E. Coast Hwy (SR-1) | 0.560 – A | 0.679 – B | 0.560 – A | 0.680 – B | 0.000 | 0.001 | No |

**Note**: V/C = volume to capacity ratio; SB = southbound; Deficient intersection operation shown in **bold**.

As shown in Table 7, with the addition of project-generated trips, the study intersections are forecast to continue to operate at an acceptable LOS (LOS D or better) for forecast existing plus project conditions according to City of Newport Beach performance criteria.

As also shown in Table 7, based on City-established thresholds of significance, the addition of project-generated trips to the study intersections is forecast to result in no significant impacts for forecast existing plus project conditions.

## FORECAST YEAR 2013 WITHOUT PROJECT CONDITIONS

The proposed Mariner's Pointe Project is planned to open in 2012. In accordance with the City of Newport Beach Traffic Phasing Ordinance (TPO), the analysis year is 2013. Forecast year 2013 without project conditions are analyzed first to measure potential project impacts against.

Forecast year 2013 without project traffic volumes were increased by an annual growth factor of one percent per year as directed by City staff to account for ambient traffic growth in the project vicinity at study intersections.

Additionally, trips were added from sixteen (16) approved projects in the project vicinity identified by City staff, which have already been approved, but have not yet been constructed. These approved projects are expected to be built and generating trips by year 2013. Approved project trip generation and assignment data was provided by the City of Newport Beach and is contained in Appendix C.

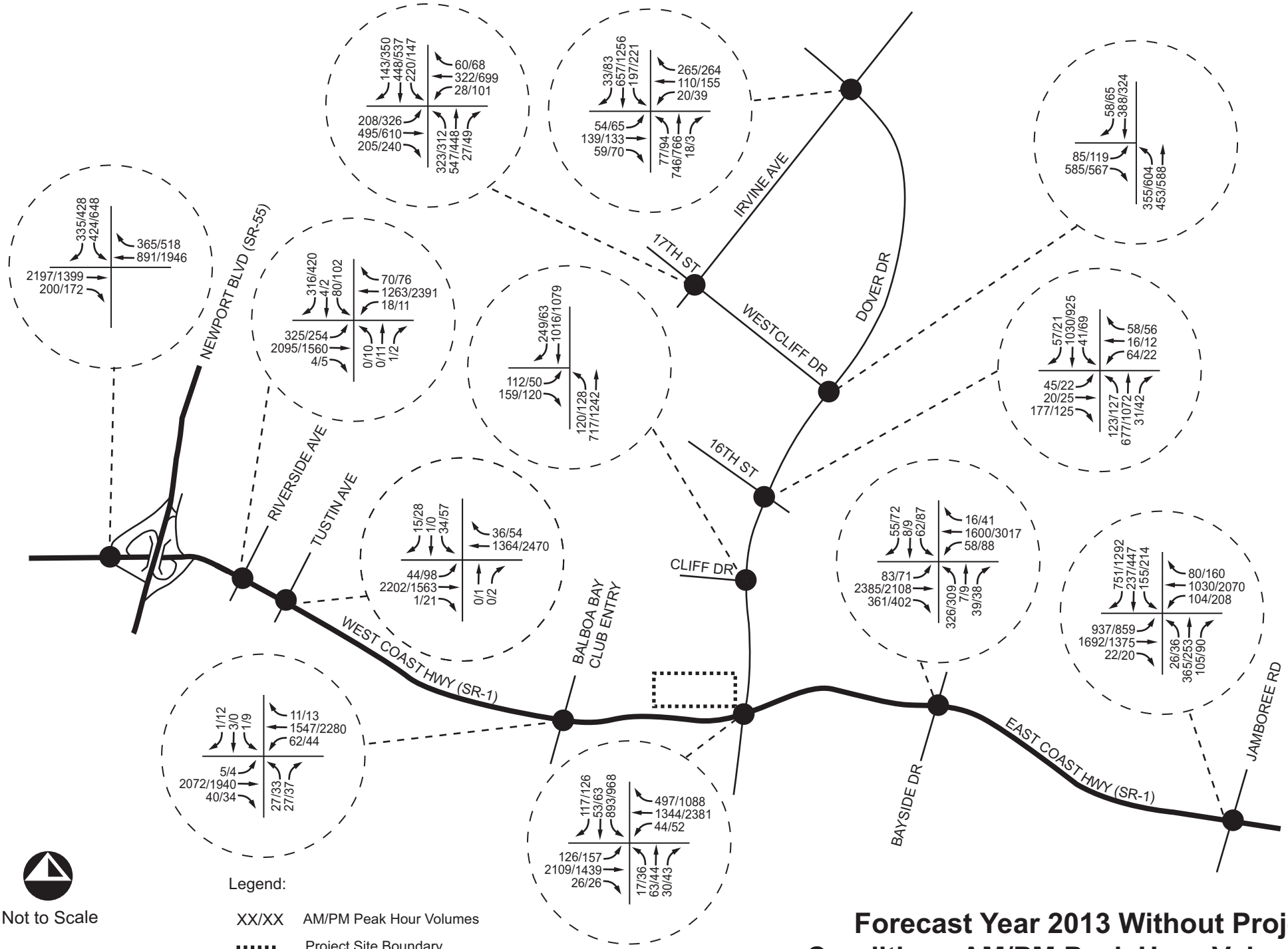
The sixteen (16) approved projects identified by City staff consist of:

- Fashion Island Expansion;
- Temple Bat Yahm Expansion;
- Ciosa-Irvine Project;
- Newport Dunes;
- Hoag Hospital Phase III;
- St. Marks Presbyterian Church;
- OLQA Church Expansion;
- 2300 Newport Boulevard;
- Newport Executive Court;
- Hoag Health Center;
- North Newport Center
- Santa Barbara Condo;
- Newport Beach City Hall;
- 328 Old Newport Medical Office;
- Coastline Community College; and
- Bayview Medical Office.

Exhibit 11 shows forecast year 2013 without project conditions a.m. and p.m. peak hour volumes at the study intersections.

The initial stage of the TPO analysis consists of a one percent analysis at each study intersection. The one percent analysis compares proposed project traffic with the projected forecast year 2013 without project peak hour traffic volumes. If forecast peak hour traffic from the proposed project is less than one percent of the projected background traffic on each leg of the intersection then further ICU analysis is not required. If the proposed project is forecast to add more than one percent of the background traffic on any leg of the intersection then ICU analysis is required.

Table 8 summarizes the results of the one percent analysis for forecast year 2013 with projects conditions. Detailed one percent analysis worksheets are contained in Appendix D.




# Forecast Year 2013 Without Project Conditions AM/PM Peak Hour Volumes

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**Table 8**
**One Percent Volume Analysis Forecast Year 2013 With Projects**

| Int. No. | Study Intersection | AM Peak Hour | | | | PM Peak Hour | | | |
|---|---|---|---|---|---|---|---|---|---|
| | | NB | SB | EB | WB | NB | SB | EB | WB |
| 1 | Irvine Ave/Dover Dr | | | | | | | | |
| 2 | Irvine Ave/17th St | | | | | | | | |
| 3 | Dover Dr/Westcliff Dr | | | | | | X | | |
| 4 | Dover Dr/16th St | | | | | | X | X | |
| 5 | Dover Dr/Cliff Dr | | | | | | X | X | |
| 6 | Newport Blvd SB Ramps/W. Coast Hwy (SR-1) | | | | | | | | |
| 7 | Riverside Ave/W. Coast Hwy (SR-1) | | | | | | | | |
| 8 | Tustin Ave/W. Coast Hwy (SR-1) | | | | | | | | |
| 9 | Balboa Bay Club Dwy/W. Coast Hwy (SR-1) | | | | | | | | X |
| 10 | Dover Dr/W. Coast Hwy (SR-1) | | | | | | X | X | |
| 11 | Bayside Dr/E. Coast Hwy (SR-1) | | | | | X | | | |
| 12 | Jamboree Rd/E. Coast Hwy (SR-1) | | | | | | | | |

**Note:** NB = Northbound, SB = Southbound, EB = Eastbound, WB = Westbound.
X = Project peak hour traffic volume greater than one percent of projected background traffic.

As shown in Table 8, the following City of Newport Beach intersections exceed the one percent test and thus require further ICU analysis for forecast year 2013 with projects conditions:

- Dover Drive/Westcliff Drive;
- Dover Drive/16th Street;
- Dover Drive/Cliff Drive;
- Balboa Bay Club Driveway/West Coast Highway (SR-1);
- Dover Drive/West Coast Highway (SR-1); and
- Bayside Drive/East Coast Highway (SR-1).

### Forecast Year 2013 Without Project Conditions Level of Service

Table 9 summarizes forecast year 2013 without project conditions a.m. and p.m. peak hour LOS of the study intersections. Detailed LOS analysis sheets are contained in Appendix B.

**Table 9**
**Forecast Year 2013 Without Project Conditions**
**AM/PM Peak Hour Intersection LOS**

| Int. No. | Study Intersection | AM Peak Hour | PM Peak Hour |
|---|---|---|---|
| | | V/C – LOS | V/C – LOS |
| 3 | Dover Dr/Westcliff Dr | 0.38 – A | 0.43 – A |
| 4 | Dover Dr/16th St | 0.61 – B | 0.51 – A |
| 5 | Dover Dr/Cliff Dr | 0.57 – A | 0.51 – A |
| 9 | Balboa Bay Club Dwy/W. Coast Hwy (SR-1) | 0.72 – C | 0.77 – C |
| 10 | Dover Dr/W. Coast Hwy (SR-1) | 0.69 – B | 0.77 – C |
| 11 | Bayside Dr/E. Coast Hwy (SR-1) | 0.65 – B | 0.64 – B |

**Note**: V/C = volume to capacity ratio.

As shown in Table 9, with the addition of trips forecast to be generated by the approved projects, the TPO study intersections are forecast to operate at an acceptable LOS (LOS D or better) for forecast year 2013 without project conditions according to City of Newport Beach performance criteria.

## FORECAST YEAR 2013 WITH PROJECT CONDITIONS

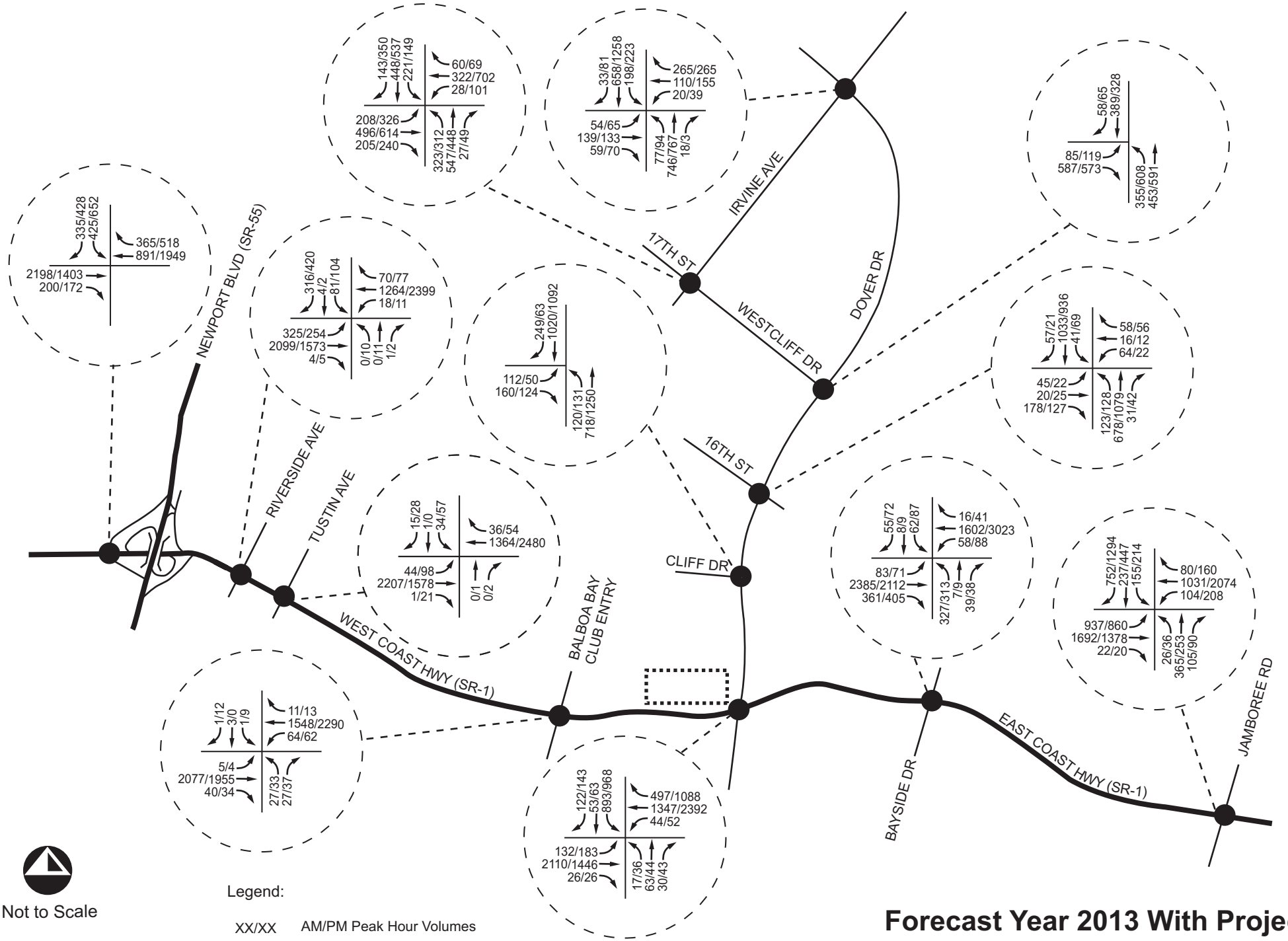
Forecast year 2013 with project conditions were derived by adding the proposed project-generated trips to forecast year 2013 without project conditions.

### Forecast Year 2013 With Project Conditions Peak Hour Traffic Volumes

Exhibit 12 shows forecast year 2013 with project conditions a.m. and p.m. peak hour traffic volumes at the study intersections.

### Forecast Year 2013 With Project Conditions Level of Service

Table 10 summarizes the forecast year 2013 with project conditions a.m. and p.m. peak hour LOS of the study intersections; detailed LOS analysis sheets are contained in Appendix B.




# Forecast Year 2013 With Project Conditions AM/PM Peak Hour Volumes

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**Table 10**
**Forecast Year 2013 With Project Conditions AM/PM Peak Hour Intersection LOS**

| Int. No. | Study Intersection | Forecast Year 2013 Without Project Conditions | | Forecast Year 2013 With Project Conditions | | Increase in V/C | | Significant Impact? |
|---|---|---|---|---|---|---|---|---|
| | | AM Peak Hour | PM Peak Hour | AM Peak Hour | PM Peak Hour | | | |
| | | V/C – LOS | V/C – LOS | V/C – LOS | V/C – LOS | AM | PM | |
| 3 | Dover Dr/Westcliff Dr | 0.38 – A | 0.43 – A | 0.38 – A | 0.43 – A | 0.00 | 0.00 | No |
| 4 | Dover Dr/16th St | 0.61 – B | 0.51 – A | 0.61 – B | 0.52 – A | 0.00 | 0.01 | No |
| 5 | Dover Dr/Cliff Dr | 0.57 – A | 0.51 – A | 0.57 – A | 0.52 – A | 0.00 | 0.01 | No |
| 9 | Balboa Bay Club Dwy/W. Coast Hwy (SR-1) | 0.72 – C | 0.77 – C | 0.72 – C | 0.77 – C | 0.00 | 0.00 | No |
| 10 | Dover Dr/W. Coast Hwy (SR-1) | 0.69 – B | 0.77 – C | 0.69 – B | 0.78 – C | 0.00 | 0.01 | No |
| 11 | Bayside Dr/E. Coast Hwy (SR-1) | 0.65 – B | 0.64 – B | 0.65 – B | 0.65 – B | 0.00 | 0.01 | No |

**Note**: V/C = volume to capacity ratio.

As shown in Table 10, with the addition of project-generated trips, the TPO study intersections are forecast to continue to operate at an acceptable LOS (LOS D or better) for forecast year 2013 with project conditions according to City of Newport Beach performance criteria.

As also shown in Table 10, based on City of Newport Beach established thresholds of significance, the addition of project-generated trips is forecast to result in no significant TPO impacts at the study intersections for forecast year 2013 with project conditions.

## FORECAST CUMULATIVE WITHOUT PROJECT CONDITIONS

Forecast cumulative without project conditions were derived by adding cumulative projects identified by the City of Newport Beach to forecast year 2013 without project conditions.

Cumulative project trips were added from twelve (12) other projects in the project vicinity identified by City staff that are considered foreseeable, but have not yet been constructed and therefore are not currently generating trips. This section analyzes the impact of adding trips forecast to be generated by these nine cumulative projects to forecast year 2013 without project conditions to reflect cumulative without project conditions. Cumulative project trip generation and trip distribution data was provided by the City of Newport Beach for use in this analysis and is contained in Appendix F.

The City of Newport Beach provided data for the following twelve (12) forecast cumulative projects:

- Newport Beach Country Club;
- Mariner's Medical Arts;
- WPI-Newport, LLC;
- Banning Ranch;
- Sunset Ridge Park;

- Marina Park;
- Pres Office Building;
- Conexant;
- Koll Conceptual Plan;
- Aerie;
- Dolphin Striker; and
- Newport Coast.

**Forecast Cumulative Without Project Conditions Peak Hour Traffic Volumes**

Exhibit 13 shows forecast cumulative without project conditions a.m. and p.m. peak hour volumes at the study intersections.

**Forecast Cumulative Without Project Conditions Level of Service**

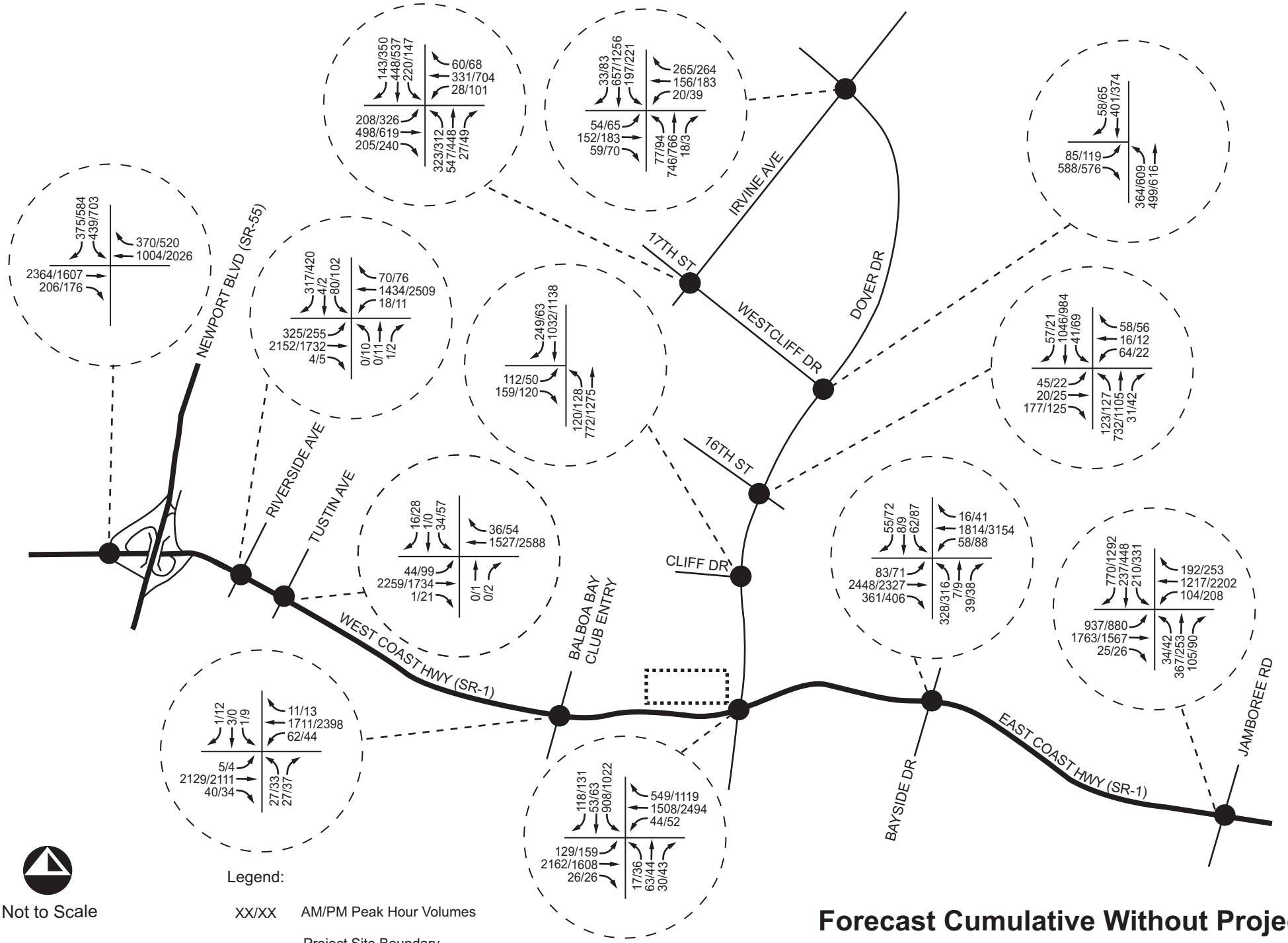
Table 11 summarizes forecast cumulative without project conditions a.m. and p.m. peak hour LOS of the study intersections; detailed LOS analysis sheets are contained in Appendix B.

**Table 11**
**Forecast Cumulative Without Project Conditions**
**AM/PM Peak Hour Intersection LOS**

| Int. No. | Study Intersection | AM Peak Hour | PM Peak Hour |
|---|---|---|---|
| | | V/C – LOS | V/C – LOS |
| 1 | Irvine Ave/Dover Dr | 0.561 – A | 0.682 – B |
| 2 | Irvine Ave/17th St | 0.514 – A | 0.718 – C |
| 3 | Dover Dr/Westcliff Dr | 0.391 – A | 0.461 – A |
| 4 | Dover Dr/16th St | 0.613 – B | 0.523 – A |
| 5 | Dover Dr/Cliff Dr | 0.575 – A | 0.530 – A |
| 6 | Newport Blvd SB Ramps/W. Coast Hwy (SR-1) | **0.973 – E** | 0.867 – D |
| 7 | Riverside Ave/W. Coast Hwy (SR-1) | 0.735 – C | 0.791 – C |
| 8 | Tustin Ave/W. Coast Hwy (SR-1) | 0.739 – C | 0.654 – B |
| 9 | Balboa Bay Club Dwy/W. Coast Hwy (SR-1) | 0.738 – C | 0.805 – D |
| 10 | Dover Dr/W. Coast Hwy (SR-1) | 0.702 – C | 0.809 – D |
| 11 | Bayside Dr/E. Coast Hwy (SR-1) | 0.664 – B | 0.670 – B |
| 12 | Jamboree Rd/E. Coast Hwy (SR-1) | 0.664 – B | 0.841 – D |

**Note**: V/C = volume to capacity ratio; SB = southbound; Deficient intersection operation shown in **bold**.

As shown in Table 11, with the addition of cumulative project-generated trips, the study intersections are forecast to operate at an acceptable LOS (LOS D or better) for forecast cumulative without project conditions according to City of Newport Beach performance criteria with the exception the Newport Boulevard Southbound Ramps/West Coast Highway (SR-1) study intersection during the a.m. peak hour which is forecast to operate at LOS E.




# Forecast Cumulative Without Project Conditions AM/PM Peak Hour Volumes

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## FORECAST CUMULATIVE WITH PROJECT CONDITIONS

Forecast cumulative with project conditions traffic volumes were derived by adding proposed project generated trips to forecast cumulative without project conditions scenario. As previously noted, forecast cumulative with project conditions do not account for the displaced existing specialty retail land use as assumed in the TPO analysis.

### Forecast Cumulative With Project Conditions Peak Hour Traffic Volumes

Exhibit 14 shows forecast cumulative with project conditions a.m. and p.m. peak hour volumes at the study intersections.

### Forecast Cumulative With Project Conditions Level of Service

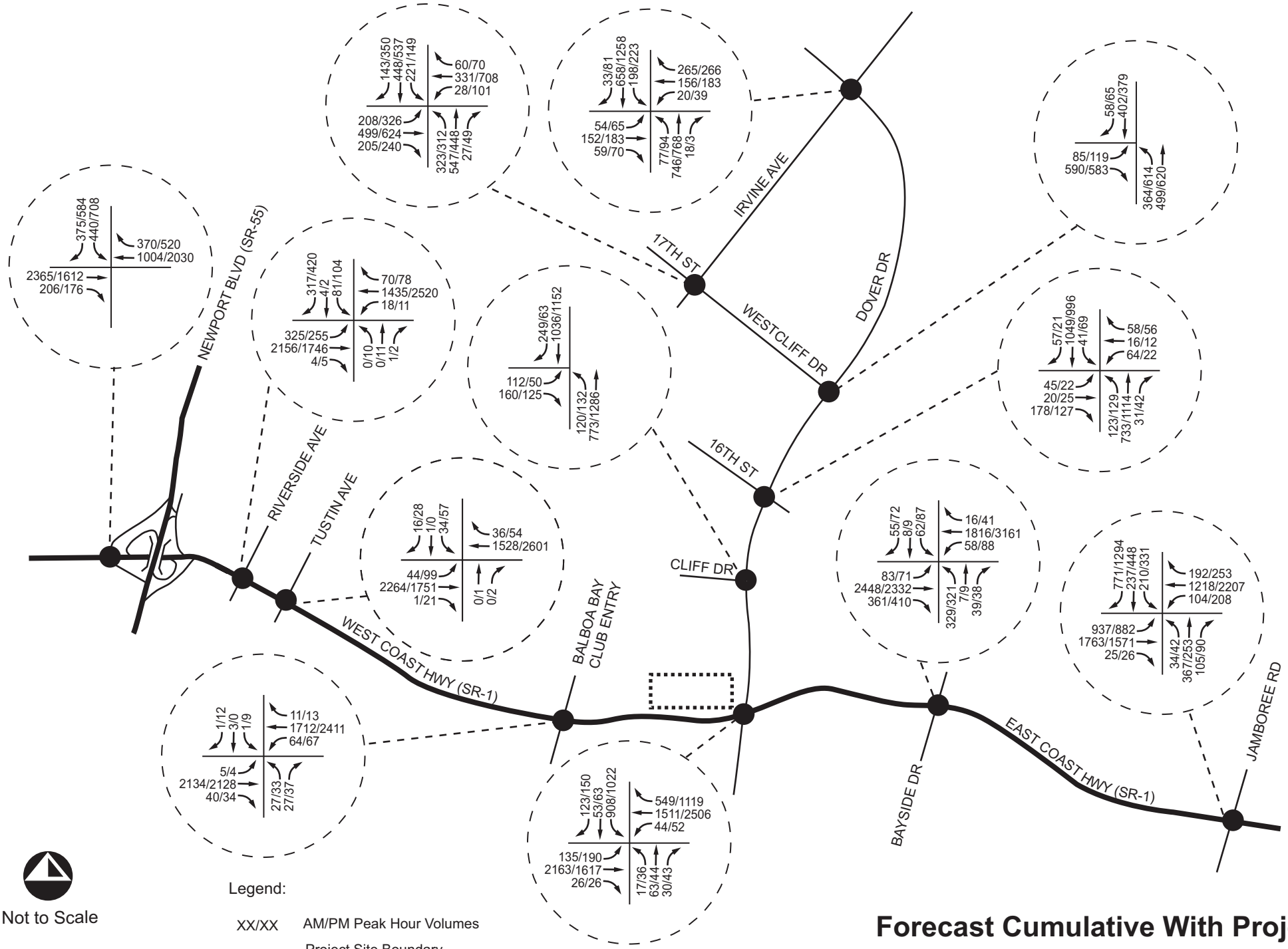
Table 12 summarizes forecast cumulative with project conditions a.m. and p.m. peak hour LOS of the study intersections; detailed LOS analysis sheets are contained in Appendix B.

**Table 12**
**Forecast Cumulative With Project Conditions AM/PM Peak Hour Intersection LOS**

| Int. No. | Study Intersection | Forecast Cumulative Without Project Conditions | | Forecast Cumulative With Project Conditions | | Increase in V/C | | Significant Impact? |
|---|---|---|---|---|---|---|---|---|
| | | AM Peak Hour | PM Peak Hour | AM Peak Hour | PM Peak Hour | | | |
| | | V/C – LOS | V/C – LOS | V/C – LOS | V/C – LOS | AM | PM | |
| 1 | Irvine Ave/Dover Dr | 0.561 – A | 0.682 – B | 0.562 – A | 0.684 – B | 0.001 | 0.002 | No |
| 2 | Irvine Ave/17th St | 0.514 – A | 0.718 – C | 0.514 – A | 0.720 – C | 0.000 | 0.002 | No |
| 3 | Dover Dr/Westcliff Dr | 0.391 – A | 0.461 – A | 0.392 – A | 0.466 – A | 0.001 | 0.005 | No |
| 4 | Dover Dr/16th St | 0.613 – B | 0.523 – A | 0.614 – B | 0.521 – A | 0.001 | -0.002 | No |
| 5 | Dover Dr/Cliff Dr | 0.575 – A | 0.530 – A | 0.577 – A | 0.540 – A | 0.002 | 0.010 | No |
| 6 | Newport Blvd SB Ramps/W. Coast Hwy (SR-1) | **0.973 – E** | 0.867 – D | **0.973 – E** | 0.869 – D | 0.000 | 0.002 | No |
| 7 | Riverside Ave/W. Coast Hwy (SR-1) | 0.735 – C | 0.791 – C | 0.737 – C | 0.794 – C | 0.002 | 0.003 | No |
| 8 | Tustin Ave/W. Coast Hwy (SR-1) | 0.739 – C | 0.654 – B | 0.740 – C | 0.657 – B | 0.001 | 0.003 | No |
| 9 | Balboa Bay Club Dwy/W. Coast Hwy (SR-1) | 0.738 – C | 0.805 – D | 0.741 – C | 0.809 – D | 0.003 | 0.004 | No |
| 10 | Dover Dr/W. Coast Hwy (SR-1) | 0.702 – C | 0.809 – D | 0.702 – C | 0.822 – D | 0.000 | 0.013 | No |
| 11 | Bayside Dr/E. Coast Hwy (SR-1) | 0.664 – B | 0.670 – B | 0.664 – B | 0.672 – B | 0.000 | 0.002 | No |
| 12 | Jamboree Rd/E. Coast Hwy (SR-1) | 0.664 – B | 0.841 – D | 0.664 – B | 0.843 – D | 0.000 | 0.002 | No |

**Note**: V/C = volume to capacity ratio; SB = southbound; Deficient intersection operation shown in **bold**.

As shown in Table 12, with the addition of proposed project-generated trips, the study intersections are forecast to continue to operate at an acceptable LOS (LOS D or better) for forecast cumulative with project conditions according to City of Newport Beach performance criteria with the exception of the Newport Boulevard Southbound Ramps/West Coast Highway (SR-1) study intersection during the a.m. peak hour which is forecast to continue to operate at LOS E.




# Forecast Cumulative With Project Conditions AM/PM Peak Hour Volumes

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162 Exhibit 14

As also shown in Table 12, based on City-established thresholds of significance, the addition of project-generated trips to the study intersections is forecast to result in no significant impacts for forecast cumulative with project conditions.

## GENERAL PLAN AMENDMENT TRIP GENERATION ANALYSIS

The project site currently permits a 0.50 Floor Area Ratio (FAR) maximum. The project proposes to increase the maximum FAR on the project site to 0.68. This section calculates the proposed incremental increase in trips associated with the proposed increase in FAR at the project site.

Table 13 summarizes the incremental increase in square footage based on the proposed 0.68 FAR and the permitted 0.50 FAR.

**Table 13**
**Incremental Increase in Square Footage Per Proposed Project Site FAR Increase**

| Land Use | Floor Area Ratio (FAR) | Land Use Square Footage Based on FAR |
|---|---|---|
| Proposed | 0.68 | 23,015 square feet |
| Permitted | 0.50 | 16,923 square feet |
| **Proposed Net Incremental Square Footage Increase** | | **6,092 square feet** |

As shown in Table 13, the total net incremental square footage increase associated with the increase of 0.18 in FAR at the project site to accommodate the proposed project is 6,092 square feet.

To calculate trips forecast to be generated by the net incremental square footage increase, *Institute of Transportation Engineers (ITE)* trip generation rates were utilized. Table 14 summarizes the *ITE* trip generation rates used to calculate the number of trips forecast to be generated by the net incremental square footage increase.

**Table 14**
**Proposed Project Trip Rates**

| Land Use | Units | AM Peak Hour Rates | | | PM Peak Hour Rates | | | Daily Trip Rate |
|---|---|---|---|---|---|---|---|---|
| | | In | Out | Total | In | Out | Total | |
| Specialty Retail | tsf | 0.0 | 0.0 | 0.0 | 1.19 | 1.52 | 2.71 | 44.32 |

**Source**: *ITE Trip Generation Manual, 8th Edition*
**Note:** tsf = thousand square feet

Table 15 shows the incremental increase of trips forecast to be generated by the proposed project assuming the proposed increase in FAR of 0.18 at the project site.

**Table 15**
**Incremental Increase in Trips Per Proposed Project Site FAR Increase**

| Land Use | AM Peak Hour Trips | | | PM Peak Hour Trips | | | Daily Trips |
|---|---|---|---|---|---|---|---|
| | In | Out | Total | In | Out | Total | |
| 6.092 tsf – Proposed Specialty Retail Square Footage Increase | 0* | 0* | 0* | 7 | 9 | 16 | 270 |
| **Proposed Incremental Trip Increase** | **0*** | **0*** | **0*** | **7** | **9** | **16** | **270** |

**Note:** tsf = thousand square feet; *Zero a.m. peak hour trips since *ITE* a.m. peak hour rate for specialty retail is zero.

As shown in Table 15, based on the trip generation rates contained in Table 14, an increase in FAR of 0.18 at the project site is forecast to generate approximately 270 new daily trips, which includes approximately 0 new a.m. peak hour trips and approximately 16 new p.m. peak hour trips.

Therefore, the proposed increase in FAR of 0.18 at the project site to accommodate the proposed project is not anticipated to cause any significant traffic impacts due to the small incremental increase in daily and peak hour trips.

## SITE ACCESS

The proposed project plans to consolidate the project access locations at West Coast Highway (SR-1) from the three current right-in/right-out access locations to one proposed right-in/right-out driveway access location and one right-turn out only driveway access location. Striping is also proposed along West Coast Highway (SR-1) to guide westbound through traffic away from the project access locations and to provide a refuge for buses at the relocated bus stop between the two project access locations. Exhibit 15 shows recommendations for the proposed site access to further reinforce one access location is for entering/exiting and one location is for exiting only.

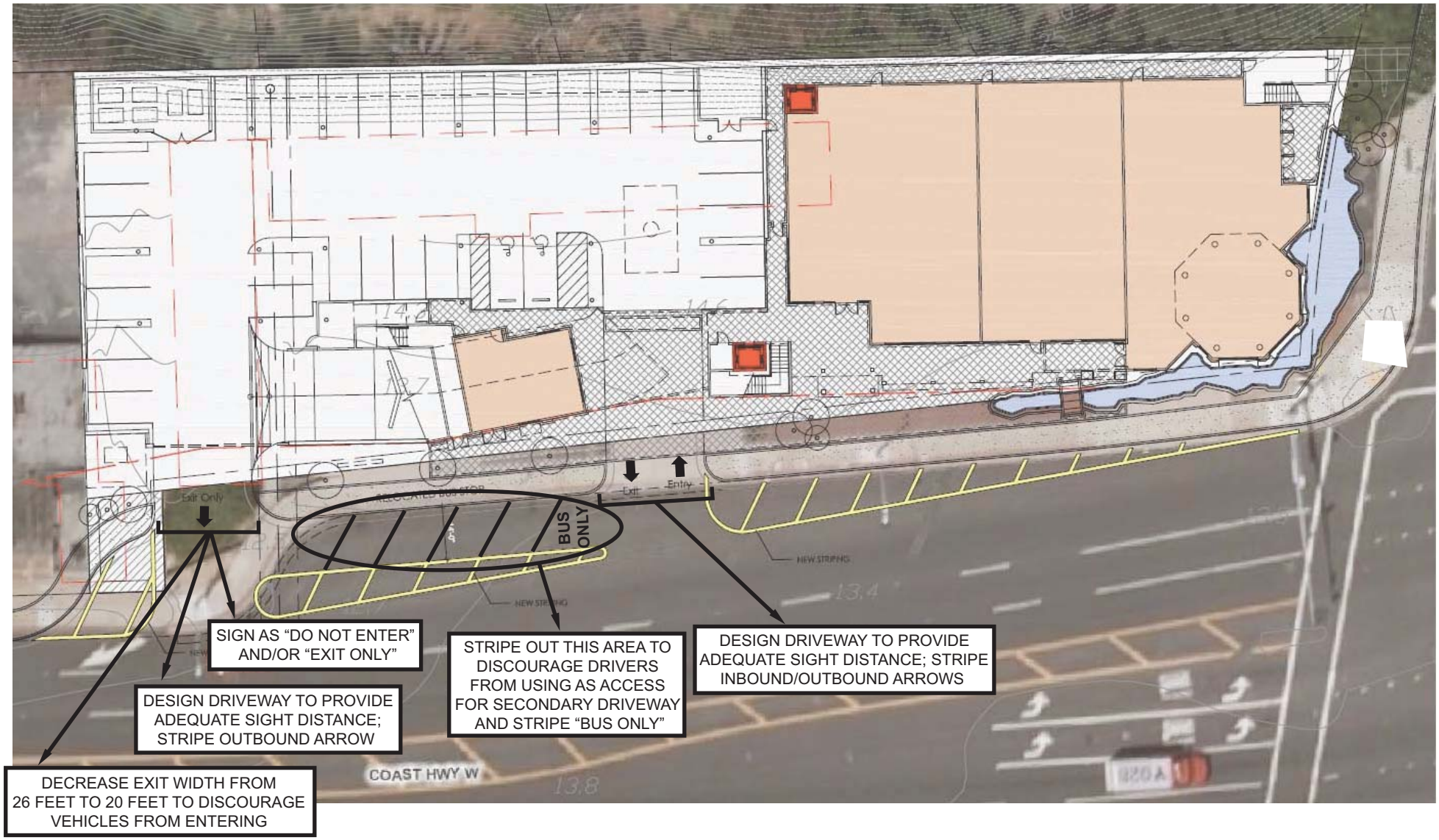
## ORANGE COUNTY CONGESTION MANAGEMENT PROGRAM

The Orange County Congestion Management Program (CMP) states that if a project generating 1,600 or more trips/day will directly access, or is in close proximity to, a CMP Highway System link, a CMP traffic impact analysis is required. The proposed project is forecast to generate 1,533 trips per day; therefore, no CMP traffic impact analysis is required for the proposed project.

## STATE HIGHWAY INTERSECTION ANALYSIS

This section evaluates the forecast impact of project-generated trips at the following State Highway study intersections:

- Newport Boulevard Southbound Ramps/West Coast Highway (SR-1);
- Riverside Avenue/West Coast Highway (SR-1);




Not to Scale

RBF

# Proposed Project Site Access Recommendations

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FEB/2011

165 Exhibit 15

- Tustin Avenue/West Coast Highway (SR-1);
- Balboa Bay Club Entrance/West Coast Highway (SR-1);
- Dover Drive/West Coast Highway (SR-1); and
- Bayside Drive/East Coast Highway (SR-1).

**State Highway Intersection Analysis Methodology**

Caltrans advocates use of Highway Capacity Manual (HCM) intersection analysis methodology to analyze the operation of signalized intersections. The HCM analysis methodology describes the operation of an intersection using a range of LOS from LOS A (free-flow conditions) to LOS F (severely congested conditions), based on the corresponding stopped delay experienced per vehicle as shown in Table 16.

**Table 16**
**State Highway Intersection LOS & Delay Ranges**

| LOS | Delay (in seconds) |
|---|---|
| | Signalized Intersections |
| A | ≤ 10.0 |
| B | > 10.0 to ≤ 20.0 |
| C | > 20.0 to ≤ 35.0 |
| D | > 35.0 to ≤ 55.0 |
| E | > 55.0 to ≤ 80.0 |
| F | > 80.0 |

**Source:** Transportation Research Board, *Highway Capacity Manual*, HCM 2000 Edition (Washington D.C., 2000).

Level of service is based on the average stopped delay per vehicle for all movements of signalized intersections. The Caltrans target for peak hour intersection operation is LOS C or better.

**State Highway Intersection Thresholds of Significance**

While Caltrans has not established traffic thresholds of significance at State Highway intersections, this traffic analysis utilizes the following traffic threshold of significance:

- A significant project impact occurs at a State Highway study intersection when the addition of project-generated trips causes the peak hour level of service of the study intersection to change from acceptable operation (LOS A, B, or C) to deficient operation (LOS D, E or F).

**Existing Conditions**

Table 17 summarizes existing a.m. peak hour and p.m. peak hour LOS of the State Highway study intersections; detailed LOS analysis sheets are contained in Appendix B.

**Table 17**
**State Highway**
**Existing Conditions AM & PM Peak Hour Intersection LOS**

| Int. No. | Study Intersection | AM Peak Hour | PM Peak Hour |
|---|---|---|---|
| | | Delay – LOS | Delay – LOS |
| 6 | Newport Blvd SB Ramps/W. Coast Hwy (SR-1) | 15.6 – B | 18.0 – B |
| 7 | Riverside Ave/W. Coast Hwy (SR-1) | 12.3 – B | 16.0 – B |
| 8 | Tustin Ave/W. Coast Hwy (SR-1) | 3.4 – A | 6.4 – A |
| 9 | Balboa Bay Dwy/W. Coast Hwy (SR-1) | 4.5 – A | 4.8 – A |
| 10 | Dover Dr/W. Coast Hwy (SR-1) | 20.6 – C | 22.1 – C |
| 11 | Bayside Dr/E. Coast Hwy (SR-1) | 12.2 – B | 12.6 – B |
| 12 | Jamboree Rd/E. Coast Hwy (SR-1) | 27.3 – C | 28.2 – C |

**Note:** SB = southbound.

As shown in Table 17, the State Highway study intersections are currently operating at a acceptable LOS (LOS C or better) according to Caltrans performance criteria.

**Forecast Existing Plus Project Conditions**

Table 18 summarizes forecast existing plus project conditions a.m. peak hour and p.m. peak hour LOS of the State Highway study intersections; detailed LOS analysis sheets are contained in Appendix B.

**Table 18**
**State Highway Forecast Existing Plus Project**
**Conditions AM & PM Peak Intersection Hour LOS**

| Int. No. | Study Intersection | Existing Conditions | | Forecast Existing Plus Project Conditions | | Significant Impact? |
|---|---|---|---|---|---|---|
| | | AM Peak Hour | PM Peak Hour | AM Peak Hour | PM Peak Hour | |
| | | Delay – LOS | Delay – LOS | Delay – LOS | Delay – LOS | |
| 6 | Newport Blvd SB Ramps/W. Coast Hwy (SR-1) | 15.6 – B | 18.0 – B | 15.6 – B | 18.0 – B | No |
| 7 | Riverside Ave/W. Coast Hwy (SR-1) | 12.3 – B | 16.0 – B | 12.3 – B | 16.0 – B | No |
| 8 | Tustin Ave/W. Coast Hwy (SR-1) | 3.4 – A | 6.4 – A | 3.4 – A | 6.4 – A | No |
| 9 | Balboa Bay Dwy/W. Coast Hwy (SR-1) | 4.5 – A | 4.8 – A | 4.6 – A | 5.3 – A | No |
| 10 | Dover Dr/W. Coast Hwy (SR-1) | 20.6 – C | 22.1 – C | 20.7 – C | 22.7 – C | No |
| 11 | Bayside Dr/E. Coast Hwy (SR-1) | 12.2 – B | 12.6 – B | 12.3 – B | 12.7 – B | No |
| 12 | Jamboree Rd/E. Coast Hwy (SR-1) | 27.3 – C | 28.2 – C | 27.3 – C | 28.2 – C | No |

**Note:** SB = southbound.

As shown in Table 18, with the addition of project-generated trips, the State Highway study intersections are forecast to operate at an acceptable LOS (LOS C or better) according to Caltrans performance criteria for forecast existing plus project conditions.

As also shown in Table 18, the addition of project-generated trips is forecast to result in no significant impacts at the State Highway study intersections for forecast existing plus project conditions.

**Forecast Cumulative Without Project Conditions**

Table 19 summarizes forecast cumulative without project conditions a.m. peak hour and p.m. peak hour LOS of the State Highway study intersections; detailed LOS analysis sheets are contained in Appendix B.

**Table 19**
**State Highway Forecast Cumulative Without Project Conditions AM & PM Peak Hour Intersection LOS**

| Int. No. | Study Intersection | AM Peak Hour | PM Peak Hour |
|---|---|---|---|
| | | Delay – LOS | Delay – LOS |
| 6 | Newport Blvd SB Ramps/W. Coast Hwy (SR-1) | 23.3 – C | 23.9 – C |
| 7 | Riverside Ave/W. Coast Hwy (SR-1) | 12.7 – B | 16.6 – B |
| 8 | Tustin Ave/W. Coast Hwy (SR-1) | 3.7 – A | 6.5 – A |
| 9 | Balboa Bay Dwy/W. Coast Hwy (SR-1) | 5.0 – A | 5.7 – A |
| 10 | Dover Dr/W. Coast Hwy (SR-1) | 21.0 – C | 23.7 – C |
| 11 | Bayside Dr/E. Coast Hwy (SR-1) | 14.1 – B | 15.1 – B |
| 12 | Jamboree Rd/E. Coast Hwy (SR-1) | 29.0 – C | 32.6 – C |

**Note:** SB = southbound.

As shown in Table 19, the State Highway study intersections are forecast to operate at an acceptable LOS (LOS C or better) according to Caltrans performance criteria for forecast cumulative without project conditions.

**Forecast Cumulative With Project Conditions**

Table 20 summarizes forecast cumulative with project conditions a.m. peak hour and p.m. peak hour LOS of the State Highway study intersections; detailed LOS analysis sheets are contained in Appendix B.

**Table 20**
**State Highway Forecast Cumulative With Project Conditions AM & PM Peak Intersection Hour LOS**

| Int. No. | Study Intersection | Forecast Cumulative Without Project Conditions | | Forecast Cumulative With Project Conditions | | Significant Impact? |
|---|---|---|---|---|---|---|
| | | AM Peak Hour | PM Peak Hour | AM Peak Hour | PM Peak Hour | |
| | | Delay – LOS | Delay – LOS | Delay – LOS | Delay – LOS | |
| 6 | Newport Blvd SB Ramps/W. Coast Hwy (SR-1) | 23.3 – C | 23.9 – C | 23.3 – C | 24.0 – C | No |
| 7 | Riverside Ave/W. Coast Hwy (SR-1) | 12.7 – B | 16.6 – B | 12.7 – B | 16.6 – B | No |
| 8 | Tustin Ave/W. Coast Hwy (SR-1) | 3.7 – A | 6.5 – A | 3.7 – A | 6.5 – A | No |
| 9 | Balboa Bay Dwy/W. Coast Hwy (SR-1) | 5.0 – A | 5.7 – A | 5.0 – A | 6.3 – A | No |
| 10 | Dover Dr/W. Coast Hwy (SR-1) | 21.0 – C | 23.7 – C | 21.1 – C | 24.4 – C | No |
| 11 | Bayside Dr/E. Coast Hwy (SR-1) | 14.1 – B | 15.1 – B | 14.2 – B | 15.2 – B | No |
| 12 | Jamboree Rd/E. Coast Hwy (SR-1) | 29.0 – C | 32.6 – C | 29.0 – C | 32.6 – C | No |

**Note:** SB = southbound.

As shown in Table 20, with the addition of project-generated trips, the State Highway study intersections are forecast to operate at an acceptable LOS (LOS C or better) according to Caltrans performance criteria for forecast cumulative with project conditions.

As also shown in Table 20, the addition of project-generated trips is forecast to result in no significant impacts at the State Highway study intersections for forecast cumulative with project conditions.

## MITIGATION MEASURES

No traffic mitigation measures are required for the proposed project since no significant traffic impacts are forecast to occur based on agency thresholds of significance.

## CONCLUSIONS

The proposed project is forecast to generate approximately 1,292 net new daily trips, which includes approximately 16 net new a.m. peak hour trips and approximately 70 net new p.m. peak hour trips as analyzed in the TPO analysis. The proposed project is also forecast to generate approximately 1,533 daily trips, which includes approximately 48 a.m. peak hour trips and approximately 84 p.m. peak hour trips as analyzed in the cumulative analysis.

Based on City of Newport Beach established thresholds of significance, the addition of project-generated trips is forecast to result in no significant TPO impacts at the study intersections for forecast year 2013 with project conditions.

Also, based on City established thresholds of significance, the addition of project-generated trips to the study intersections is forecast to result in no significant impacts for forecast existing plus project conditions or forecast cumulative with project conditions.

No traffic mitigation measures are required for the proposed project since no significant traffic impacts are forecast to occur based on agency thresholds of significance.

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# Attachment No. PC 9

Draft Mitigated Negative Declaration
(Distributed Separately Due to Bulk)

Draft Mitigated Negative Declaration is available the City's Projects / Environmental Documents Download Page http://www.newportbeachca.gov/index.aspx?page=1347

# Attachment No. PC 10

Comments and Responses

# RESPONSE TO COMMENTS

## MARINER'S POINTE

## PROJECT

*prepared for:*

**CITY OF NEWPORT BEACH**

*Contact:*
*Jaime Murillo*
*Associate Planner*

*prepared by:*

**THE PLANNING CENTER|DC&E**

*Contact:*
*JoAnn C. Hadfield*
*Director, Environmental Services*

**JUNE 2011**

# RESPONSE TO COMMENTS

## MARINER'S POINTE

## PROJECT

*prepared for:*

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*Contact:*
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*Contact:*
*JoAnn C. Hadfield*
*Director, Environmental Services*

**CNB-11.0E**

**JUNE 2011**

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# 1. Introduction

## 1.1 PROJECT SUMMARY

The project applicant proposes to construct a two-story building that would provide 23,015 square feet of high end retail and restaurants in addition to office uses on an approximately 0.76-acre site in the City of Newport Beach. A new three-story parking structure would provide up to 136 parking spaces with valet service. The proposed use is consistent with the General Plan designation of General Commercial (CG) for the project site. However, development of the proposed project would require a General Plan Amendment to allow for the floor area ratio (FAR; building floor area divided by land area) to be increased. As described in this Response to Comments document, minor modifications to the project description have been proposed subsequent to public circulation of the Initial Study/Mitigated Negative Declaration (IS/MND) and are disclosed in this document.

The project site is in the northwest corner of the intersection of Dover Drive and West Coast Highway in the City of Newport Beach, Orange County, California. The project site is surrounded by single- and multifamily residences to the north and south. Single-family homes abut the project site to the north, and single- and multifamily land uses are south of the project site across West Coast Highway. One-story commercial buildings are adjacent to the west of the project site. East of the project site is Newport Bay and undeveloped open space to the northeast.

## 1.2 PURPOSE OF DOCUMENT

As lead agency for the project, the City of Newport Beach has prepared and circulated an IS/MND for the Mariner's Pointe project. The IS/MND was forwarded to the State Clearinghouse on April 11, 2011, for distribution to responsible and trustee agencies for a 30-day public review period. Notice was sent to the Orange County Clerks Office for posting and also mailed to owners and occupants of the surrounding area in addition to other stakeholders. The posted and mailed notices indicated that the 30-day review period would begin on April 11, 2011, and end on May 11, 2011. However, because the Orange County Clerk's Office did not post the notice until April 12, 2011, comment letters were accepted through at least May 12, 2011.

In accordance with the California Environmental Quality Act (CEQA), Section 15074(b):

> "*Prior to approving a project, the decision-making body of the lead agency shall consider the proposed negative declaration or mitigated negative declaration together with any comments received during the public review process…..*"

Although not required by CEQA, this document includes a formal response to comments received on the IS/MND.

This document also provides a description of modifications to the project proposed by the applicant subsequent to public circulation of the IS/MND. To assure that none of the proposed changes would result in environmental impacts that would warrant recirculation of the IS/MND, an analysis of the potential impacts resulting from the project modifications is provided.

### 1.3 ORGANIZATION OF DOCUMENT

This Response to Comments document has been organized as follows:

**Section 1. Introduction.** This section provides a brief summary of the project and the CEQA process to-date. It also describes the purpose, contents and organization of this document.

**Section 2**. **Proposed Modifications to the Project.** This section provides a brief narrative and exhibit to describe the proposed changes to the project subsequent to public circulation of the IS/MND and includes a topic-by-topic review of potential environmental impacts associated with those changes.

**Section 3. Response to Comments.** This section includes a copy of each comment letter received on the IS/MND and a response to each comment.

# 2. Proposed Project Modifications

## 2.1 PROJECT MODIFICATIONS

This section outlines changes to the project as proposed in the IS/MND submitted for public review. Proposed modifications include:

- A partial roof over the parking structure. The applicant is proposing this improvement to further minimize potential aesthetic and noise impacts per the concern of neighboring residents. These impacts, however, determined to be less than significant in the IS/MND would remain less than significant with or without this improvement.

- Height reduction in cupola and tower features. The original project includes these features at a maximum height of 44 feet. Based upon City staff review of the application, it was determined that the appropriate findings to approve a Modification Permit to exceed the allowed 40 foot height could not be made. Therefore, the applicant has agreed to reduce the height of these elements to a maximum 40 feet and withdrew their request for a Modification Permit.

Figure 1, *Upper Roof Plan*, shows the proposed partial enclosure of the rooftop parking level as submitted by the project applicant. The partial enclosure would cover approximately the rear two-thirds portion of the rooftop parking level and would be setback 37.5 feet from the face of the parking structure. As shown in Figure 2, the top of the rooftop enclosure would be approximately 35 feet in height.

Figure 2, *Revised South Elevation,* has been updated to reflect the parking structure roof and the lowered maximum height of the cupola and tower elements from 44 feet to 40 feet.

## 2.2 ENVIRONMENTAL ANALYSIS

This section has been prepared to review the potential environmental impacts associated with the proposed project modifications and to substantiate that the changes do not warrant recirculation of the IS/MND. According to CEQA Guidelines Section 15073.5, *Recirculations of a Negative Declaration Prior to Adoption*, a lead agency must recirculate a negative declaration when the document must be substantially revised after public notice of its availability, but prior to its adoption. In accordance with Section 15073.5(b):

*(b) A "substantial revisions" of the negative declaration shall mean:*

*(1) A new, avoidable significant effect is identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance, or,*

*(2) The lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effect to less than significance and new measures or revisions must be required.*

In accordance with Section 15073.5(c), recirculation is not required under the following circumstances:

*(1) Mitigation measures are replaced with equal or more effective measures pursuant to Section 15074.1.*

*(2) New project revisions are added in response to written or verbal comments on the project's effects identified in the proposed negative declaration which are not new avoidable significant effects.*

*(3) Measures or conditions of project approval are added after circulation of the negative declaration which are not required by CEQA, which do not create new significant environmental effects and are not necessary to mitigate an avoidable significant effect.*

*(4) New information is added to the negative declaration which merely clarifies, amplifies, or makes insignificant modifications to the negative declaration.*

The new changes to the project as proposed in the IS/MND meet CEQA Guidelines Sections 15073.5(c)(2) and 15073.5(c)(3). Inclusion of the rooftop parking level enclosure was in response to concerns of the surrounding residents regarding potential lighting and noise impacts from operation of the proposed parking structure. As discussed in Sections 3.3 and 3.12 of the IS/MND, lighting and noise impacts were determined to be less than significant. Therefore, the rooftop enclosure and lowering of the cupola and tower are not required by CEQA. Furthermore, as described below, the proposed project changes would not result in new avoidable significant effects on the environment.

**Aesthetics**

Project modifications would be limited to the partial rooftop parking level enclosure and lowering of the cupola and tower elements As shown in Figure 2, the rooftop addition would not result in major changes to the aesthetics of the proposed parking structure. The height of the parking structure would be increased in comparison to the previous plan, but it would not exceed the height of the commercial building. The change would not alter the view from Dover Drive, and the view of the roof over the parking structure to the south would be limited due to the 37.5-foot roof setback. The height reduction of the cupola and tower would reduce potential view impacts. Therefore, no new significant impacts on a scenic vista or scenic resources would occur. The overall project design including the rooftop enclosure would still be subject to review by the City's Planning Commission and City Council. Additionally, the partial rooftop enclosure would eliminate some of the rooftop lighting fixtures and would further minimize any light and glare from the rooftop parking level. Therefore, no new significant aesthetic impacts would occur and no new or additional mitigation measures are required.

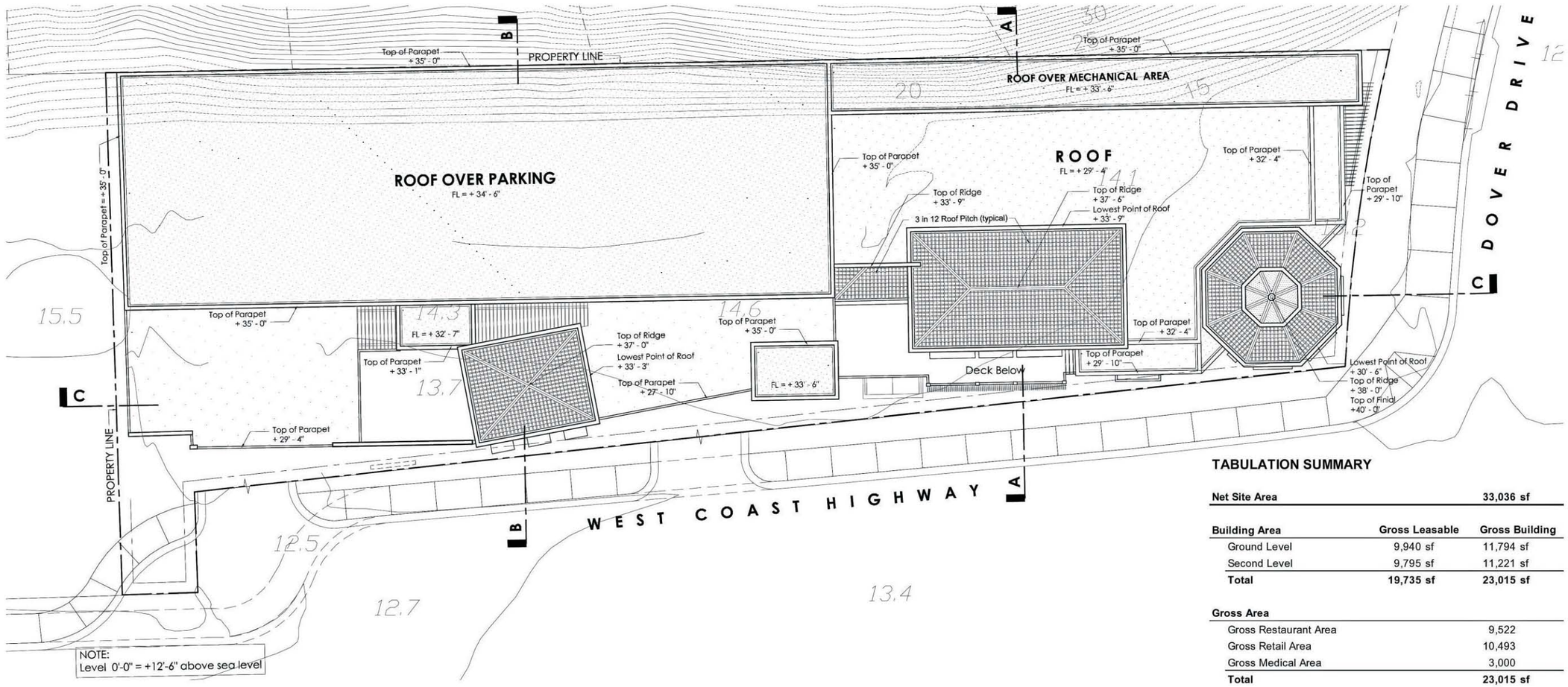
**Agricultural and Forest Resources**

Aside from the addition of the partial rooftop parking level enclosure and lowering of the cupola and tower elements, the remainder of the project would be the same compared to the project as proposed in the IS/MND. Therefore, no new significant impacts to agricultural and forest resources would occur and no new or additional mitigation measures are required.

**Air Quality**

Inclusion of the partial rooftop parking level enclosure and lowering of the cupola and tower elements would not result in use of additional heavy construction equipment or additional construction or operation phase vehicle trips generated compared to the project as proposed in the IS/MND that would affect daily emissions. A nominal increase in material delivery and construction time would not result insignificant construction- or operation-related air quality impacts. No new or additional mitigation measures are required.

# Upper Roof Plan



Location Map

Not to Scale

## TABULATION SUMMARY

| Net Site Area | | 33,036 sf |
|---|---|---|

| Building Area | Gross Leasable | Gross Building |
|---|---|---|
| Ground Level | 9,940 sf | 11,794 sf |
| Second Level | 9,795 sf | 11,221 sf |
| **Total** | **19,735 sf** | **23,015 sf** |

| Gross Area | |
|---|---|
| Gross Restaurant Area | 9,522 |
| Gross Retail Area | 10,493 |
| Gross Medical Area | 3,000 |
| **Total** | **23,015 sf** |

**Parking Provided On-Site**

| Level | | HC Stalls | Standard Stalls | Tandem Stalls | Valet Only | Total |
|---|---|---|---|---|---|---|
| Ground Level | P1 | 2 | 33 | 0 | 0 | **35** |
| Second Level | P2 | 1 | 24 | 16 | 5 | **46** |
| Third Level | P3 | 2 | 18 | 30 | 5 | **55** |
| **Total** | | **5** | **75** | **46** | **10** | **136** |

0 30
Scale (Feet)

*Source: Stoutenbourough Architects and Planners 2011*

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# Revised South Building Elevation

South Elevation - West Coast Highway

Partial Ground Level Plan on Site

Source: Stoutenbourough Architects and Planners 2011

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**Biological Resources**

Aside from the addition of the partial rooftop parking level enclosure and lowering of the cupola and tower elements, the remainder of the project in regards to both construction and operation would be the same compared to the project as evaluated in the IS/MND. The site disturbance area and proposed landscaping plan would not be modified. No new significant impacts to biological resources would occur and no new or additional mitigation measures are required.

**Cultural Resources**

Aside from the addition of the partial rooftop parking level enclosure and lowering of the cupola and tower elements, the remainder of the project in regards to both construction and operation would be the same compared to the project as evaluated in the IS/MND. The site disturbance area and ultimate footprint of the project would be the same. No new significant impacts to cultural resources would occur and no new or additional mitigation measures are required.

**Geology and Soils**

The partial rooftop parking level enclosure would be designed and built to comply with the seismic design criteria contained in the California Building Code as with the rest of the proposed parking structure and commercial building. In addition, the proposed development would still be subject to Mitigation Measure 5, which would require the project to be designed and built to comply with the recommendations of the project geotechnical report(s). No new significant geological impacts would occur and no new or additional mitigation measures are required.

**Greenhouse Gas Emissions**

As with Air Quality, inclusion of the partial rooftop parking level enclosure and lowering of the cupola and tower elements would not result in use of additional heavy construction equipment or additional construction or operational phase vehicle trips in comparison to the project as evaluated in the IS/MND. Any GHG emissions related to these changes would be negligible and no new significant GHG impacts would occur and no new or additional mitigation measures are required.

**Hazards and Hazardous Materials**

Addition of the partial rooftop parking level enclosure would not change the commercial/retail nature or operation of the proposed project. The remainder of the project would remain unchanged to the project as proposed in the IS/MND. Therefore, no new significant hazard impacts would occur and no new or additional mitigation measures are required.

**Hydrology and Water Quality**

Aside from the addition of the partial rooftop parking level enclosure and lowering of the cupola and tower elements, the remainder of the project in regards to both construction and operation would be the same compared to the project as evaluated in the IS/MND. In addition, the parking enclosure may reduce the amount of oil and grease from motor vehicles in the project's stormwater runoff as vehicles and the area underneath would be better protected from rain. Therefore, proposed project modifications are anticipated to result in beneficial impacts to water quality. No new significant impacts to hydrology and water quality would occur and no new or additional mitigation measures are required.

**Land Use and Planning**

Land use and planning impacts were determined to be less than significant in Section 3.10 of the IS/MND. Aside from the addition of the partial rooftop parking level enclosure and lowering of the cupola and tower elements, the design of the remainder of the project would be the same compared to the project as evaluated in the IS/MND. The partial rooftop parking level enclosure has been designed in coordination with City staff to ensure compliance with City's design standards. Furthermore, lowering of the cupola feature from 44 feet to 40 feet would eliminate the need for a Modification Permit. Therefore, no new significant land use and planning impacts would occur and no new or additional mitigation measures are required.

**Mineral Resources**

Addition of the partial rooftop parking level enclosure would not change the location of the proposed project. The remainder of the project would be the same compared to the project as proposed in the IS/MND. Therefore, no new significant impacts to mineral resources would occur and no new or additional mitigation measures are required.

**Noise**

Construction noise and vibration impacts in addition to operation-related noise impacts were determined to be less than significant in Section 3.12 of the IS/MND. The addition of the partial rooftop parking level enclosure would not introduce any new construction noise or vibration impacts different from the project as proposed in the IS/MND. The rooftop enclosure would not result in additional vehicle trip generation relative to the project as evaluated in the IS/MND., The partial rooftop parking level enclosure is anticipated to further minimize noise impacts, and therefore result in a beneficial impact. No new significant noise impacts would occur and no new or additional mitigation measures are required.

**Population and Housing**

Aside from the addition of the partial rooftop parking level enclosure and lowering of the cupola and tower elements, the remainder of the project would be the same compared to the project as evaluated in the IS/MND. No new significant impacts to population and housing would occur and no new or additional mitigation measures are required.

**Public Services**

Addition of the partial rooftop parking level enclosure would not increase the need for additional fire or police services compared to the project as proposed. The remainder of the project would be the same compared to the project as evaluated in the IS/MND. No new significant impacts to public services would occur and no new or additional mitigation measures are required.

**Recreation**

Addition of the partial rooftop parking level enclosure would not change the nature of the project and the remainder of the project would be the same compared to the project as evaluated in the IS/MND. No new significant impacts to recreational facilities would occur and no new or additional mitigation measures are required.

**Transportation and Traffic**

Addition of the partial rooftop parking level enclosure would not result in additional vehicle trip generation compared to the project as evaluated in the IS/MND. The partial rooftop parking level enclosure has been designed in coordination with City staff to ensure compliance with the City's design standards. Therefore, no new significant traffic impacts would occur and no new or additional mitigation measures are required.

**Utilities and Service Systems**

Addition of the partial rooftop parking level enclosure would not result in additional water demand or generation of solid waste. Therefore, no new significant impacts to utilities and service systems would occur and no new or additional mitigation measures are required.

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# 3. Response to Comments

This section provides written responses received on the Initial Study prepared for the Mariner's Pointe Project and the City's responses to each comment. Comment letters and specific comments are given letters and numbers for reference purposes. Where sections of the Initial Study are excerpted in this document, the sections are shown indented. Changes to the Initial Study text are shown in **bold and double underline** for additions and ~~strikeout~~ for deletions.

The following is a list of agencies and persons that submitted comments on the Initial Study during the public review period.

| Number Reference | Commenting Person/Agency | Date of Comment | Page No. |
|---|---|---|---|
| A1 | Orange County Sanitation District | April 15, 2011 | 3-3 |
| A2 | California Department of Toxic Substances Control | May 6, 2011 | 3-7 |
| A3 | California Department of Transportation | May 10, 2011 | 3-13 |
| A4 | State Clearinghouse and Planning Unit | May 16, 2011 | 3-17 |
| A5 | Orange County Transportation Authority | May 11, 2011 | 3-21 |
| O1 | California Cultural Resource Preservation Alliance | April 26, 2011 | 3-25 |
| R1 | Neighborhood Letter | May 3, 2011 | 3-29 |
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A: Agency
O: Organization
R: Resident

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LETTER A1 – Orange County Sanitation District (2 pages)

# ORANGE COUNTY SANITATION DISTRICT

We protect public health and the environment by providing effective wastewater collection, treatment, and recycling.

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PLANNING DEPARTMENT
APR 21 2011
CITY OF NEWPORT BEACH

April 15, 2011

Jamie Murillo, Associate Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658

SUBJECT: Notice of Intent to Adopt Mitigated Declaration for Mariner's Pointe Project City of Newport Beach

Serving
Anaheim
Brea
Buena Park
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Fountain Valley
Fullerton
Garden Grove
Huntington Beach
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La Habra
La Palma
Los Alamitos
Newport Beach
Orange
Placentia
Santa Ana
Seal Beach
Stanton
Tustin
Villa Park
Yorba Linda
Costa Mesa Sanitary District
Midway City Sanitary District
Irvine Ranch Water District
County of Orange

This letter is in response to the above referenced Notice of Intent to Adopt Mitigated Declaration for Mariner's Pointe Project City of Newport Beach (NOI), for a project within the City of Newport Beach (City). The project site is located near the intersection of Dover and West Coast Highway, within the City. A1-1

The proposed project involves the construction of 50,274 square feet of commercial/retail space with a parking structure. The project site is within the jurisdiction of the Orange County Sanitation District (OCSD). The density of development is higher than current OCSD planning projections.

OCSD records show that this area has a sewer system that eventually connects to an OCSD sewer in West Coast Highway, near the project site. This is a 30-inch sewer that will collect the project's sanitary sewer flows. Please indicate if the project will require any modifications to city sewers, or provide corrected information about our records on the city sewers. This could be done by a figure to display how wastewater will be routed to the OCSD system. It should also be noted that OCSD anticipates the lower two floors of the parking structure may need to be connected to the sanitary sewer system. OCSD has a fee structure for these types of facilities and they should be included in the sanitary sewer flow analysis. A1-2

Also, please note that any construction dewatering operations that involve discharges to the local or regional sanitary sewer system must be permitted by OCSD prior to discharges. OCSD staff will need to review/approve the water quality of any discharges and the measures necessary to eliminate materials like sands, silts, and other regulated compounds prior to discharge to the sanitary sewer system. A1-3

recycled paper

10844 Ellis Avenue • Fountain Valley, CA 92708-7018 • (714) 962-2411 • www.ocsd.com

Jamie Murillo
Page 2
April 15, 2011

Thank you for the opportunity to comment on the proposed development. If you have any questions regarding sewer connection fees, please contact Wendy Smith at (714) 593-7880. For planning issues regarding this project, please contact me at (714) 593-7335.

James L Burror, Jr. P.E.
Engineering Supervisor

JB:sa
EDMS:003935156/1.12a

**A1 Response to Comments from James L Burror, Engineering Supervisor, Orange County Sanitation District, dated April 15, 2011.**

A1-1 The project applicant will coordinate with the Orange County Sanitation District (OCSD) to verify to verify adequate sewer capacity for the project prior to issuance of grading permits.

A1-2 The project site has three existing 6-inch sewer laterals that feed into the existing 8-inch main in West Coast Highway. This existing 8-inch main flows into a manhole located on the western end of the project site that feeds into the 30-inch main that runs along West Coast Highway. Commenter is correct in noting that the two lower floors of the parking structure would be connected to the sanitary sewer system. The project applicant will coordinate with Orange County Sanitation District in preparing the sewer flow analysis to include the calculation of applicable fees.

A1-3 Comment acknowledged.

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LETTER A2 – California Department of Toxic Substances Control (4 pages)

Department of Toxic Substances Control

Linda S. Adams
Acting Secretary for
Environmental Protection

Leonard E. Robinson
Acting Director
5796 Corporate Avenue
Cypress, California 90630

Edmund G. Brown Jr.
Governor

CITY OF NEWPORT BEACH
MAY 10 2011
PLANNING DEPARTMENT
RECEIVED BY

May 6, 2011

Mr. Jaime Murillo, Associate Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, California 92658

NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION FOR THE MARINER'S POINTE PROJECT, (SCH#2011041038), ORANGE COUNTY

Dear Mr. Murillo:

The Department of Toxic Substances Control (DTSC) has received your submitted draft Initial Study (IS) and a draft Mitigated Negative Declaration (MND) for the above-mentioned project. The following project description is stated in your document: " The project applicant proposes to construct a two-story commercial/retail building totaling 23,015 gross building square feet and a three-level parking structure totaling 50,274 gross building square feet on the 0.76-acre project site in the northwest quadrant of the intersection at Dover Drive and West Coast Highway. The development would include various commercial/retail uses such as restaurants, specialty retail and medical office. The project site is surrounded by single-family and multifamily residences to the north and south. One-story commercial buildings are adjacent to the west of the project site. East of the project site is Newport Bay and undeveloped open space to the northeast. The project site is located at the northwest corner of the intersection at Dover Drive and West Coast Highway in the City of Newport Beach. The project site consists of six legal lots. The site is currently enclosed by a chain-link fence and includes two vacant buildings on the western portion of the site and a paved surface parking lot".

Based on the review of the submitted document DTSC has the following comments:

1) The MND should evaluate whether conditions within the Project area may pose a threat to human health or the environment. Following are the databases of some of the regulatory agencies: A2-1

Mr. Jaime Murillo
May 6, 2011
Page 2

- National Priorities List (NPL): A list maintained by the United States Environmental Protection Agency (U.S.EPA).
- Envirostor (formerly CalSites): A Database primarily used by the California Department of Toxic Substances Control, accessible through DTSC's website (see below).
- Resource Conservation and Recovery Information System (RCRIS): A database of RCRA facilities that is maintained by U.S. EPA.
- Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS): A database of CERCLA sites that is maintained by U.S.EPA.
- Solid Waste Information System (SWIS): A database provided by the California Integrated Waste Management Board which consists of both open as well as closed and inactive solid waste disposal facilities and transfer stations. A2-1 cont'd.
- GeoTracker: A List that is maintained by Regional Water Quality Control Boards.
- Local Counties and Cities maintain lists for hazardous substances cleanup sites and leaking underground storage tanks.
- The United States Army Corps of Engineers, 911 Wilshire Boulevard, Los Angeles, California, 90017, (213) 452-3908, maintains a list of Formerly Used Defense Sites (FUDS).

2) The MND should identify the mechanism to initiate any required investigation and/or remediation for any site within the proposed Project area that may be contaminated, and the government agency to provide appropriate regulatory oversight. If necessary, DTSC would require an oversight agreement in order to review such documents. A2-2

3) Any environmental investigations, sampling and/or remediation for a site should be conducted under a Workplan approved and overseen by a regulatory agency that has jurisdiction to oversee hazardous substance cleanup. The findings of any investigations, including any Phase I or II Environmental Site Assessment Investigations should be summarized in the document. All sampling results in which hazardous substances were found above regulatory standards should be A2-3

Mr. Jaime Murillo
May 6, 2011
Page 3

clearly summarized in a table. All closure, certification or remediation approval reports by regulatory agencies should be included in the MND. A2-3 cont'd.

4) If buildings, other structures, asphalt or concrete-paved surface areas are being planned to be demolished, an investigation should also be conducted for the presence of other hazardous chemicals, mercury, and asbestos containing materials (ACMs). If other hazardous chemicals, lead-based paints (LPB) or products, mercury or ACMs are identified, proper precautions should be taken during demolition activities. Additionally, the contaminants should be remediated in compliance with California environmental regulations and policies. A2-4

5) Future project construction may require soil excavation or filling in certain areas. Sampling may be required. If soil is contaminated, it must be properly disposed and not simply placed in another location onsite. Land Disposal Restrictions (LDRs) may be applicable to such soils. Also, if the project proposes to import soil to backfill the areas excavated, sampling should be conducted to ensure that the imported soil is free of contamination. A2-5

6) Human health and the environment of sensitive receptors should be protected during any construction or demolition activities. If necessary, a health risk assessment overseen and approved by the appropriate government agency should be conducted by a qualified health risk assessor to determine if there are, have been, or will be, any releases of hazardous materials that may pose a risk to human health or the environment. A2-6

7) If the site was used for agricultural, livestock or related activities, onsite soils and groundwater might contain pesticides, agricultural chemical, organic waste or other related residue. Proper investigation, and remedial actions, if necessary, should be conducted under the oversight of and approved by a government agency at the site prior to construction of the project. A2-7

8) If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, Chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5). If it is determined that hazardous wastes will be generated, the facility should also obtain a United States Environmental Protection Agency Identification Number by contacting (800) 618-6942. Certain hazardous waste treatment processes or hazardous materials, handling, storage or uses may require authorization from the local Certified Unified Program Agency (CUPA). Information about the requirement for authorization can be obtained by contacting your local CUPA. A2-8

Mr. Jaime Murillo
May 6, 2011
Page 4

9) DTSC can provide cleanup oversight through an Environmental Oversight Agreement (EOA) for government agencies that are not responsible parties, or a Voluntary Cleanup Agreement (VCA) for private parties. For additional information on the EOA or VCA, please see www.dtsc.ca.gov/SiteCleanup/Brownfields, or contact Ms. Maryam Tasnif-Abbasi, DTSC's Voluntary Cleanup Coordinator, at (714) 484-5489. A2-9

10) Also, in future CEQA document, please provide your e-mail address, so DTSC can send you the comments both electronically and by mail. A2-10

If you have any questions regarding this letter, please contact Rafiq Ahmed, Project Manager, at rahmed@dtsc.ca.gov, or by phone at (714) 484-5491.

Sincerely,

Greg Holmes
Unit Chief
Brownfields and Environmental Restoration Program

cc: Governor's Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, California 95812-3044
state.clearinghouse@opr.ca.gov.

CEQA Tracking Center
Department of Toxic Substances Control
Office of Environmental Planning and Analysis
P.O. Box 806
Sacramento, California 95812
ADelacr1@dtsc.ca.gov

CEQA # 3195

**A2 Response to Comments from Greg Holmes, Unit Chief, Department of Toxic Substances Control, dated May 6, 2011.**

A2-1 Potential project impacts related to hazards and hazardous materials were analyzed in Section 3.8, *Hazards and Hazardous Materials*, of the IS/MND. This section was based on the Phase I report (a copy is available with the City for viewing) prepared for the proposed project which utilized the databases listed by the commenter, such as Geotracker, RCRIS, and CERCLIS.

A2-2 The Phase I report identified a former Arco service station onsite. However, the former use is considered a historical recognized environmental condition (HREC) because records indicate the underground storage tanks have been removed and the case was closed on May 11, 1998. Therefore, the Phase I report does not recommend any further action.

A2-3 See response A2-2. The Phase I report does not recommend any further action.

A2-4 The proposed project would result in demolition of the existing buildings onsite. As discussed in Section 3.8(b) of the IS/MND, the Phase I report prepared for the project identified the presence of asbestos-containing material (ACM) in the existing buildings. Removal of ACM would be conducted in accordance with SCAQMD Rule 1403. The existing buildings were also observed to contain lead-based paint (LBP). However, the suspected LBP is considered to be a *de minimis* environmental condition and no further action is recommended.

A2-5 See response A2-2. If contaminated soil were encountered during grading and construction activities, the soil would be profiled and shipped to an appropriate permitted disposal facility. Should the need for imported soil arise, care would be taken to ensure that the soil is not contaminated with hazardous substances.

A2-6 See response A2-4. Removal of ACM would be conducted to comply with SCAQMD Rule 1403, which would minimize any potential health impacts. Suspected LBP is considered to be a *de minimis* environmental condition and no further action is recommended. Furthermore, as discussed in Section 3.9(a), *Hydrology and Water Quality*, of the IS/MND, best management practices as required under the federal Clean Water Act would be implemented to eliminate sediment and construction debris runoff into area storm drains during the construction period.

A2-7 The project site has not been used for agricultural, livestock, or related activities. There are no agricultural resources on the site, and the site is not listed on any of the State Farmland maps. Therefore, it is not anticipated that the soil or groundwater would contain pesticides, agricultural, chemical, organic waste, or other related residue.

A2-8 As the project would consist of restaurants, office, and retail use, long-term operations of the proposed project would not involve routine transport, storage, use, and disposal of substantial amounts of hazardous materials.

A2-9 Comment acknowledged.

A2-10 Comment acknowledged.

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LETTER A3 – California Department of Transportation (1 page)

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor

**DEPARTMENT OF TRANSPORTATION**
District 12
3337 Michelson Drive, Suite 380
Irvine, CA 92612-8894
Tel: (949) 724-2267
Fax: (949) 724-2592

*Flex your power!*
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| Post-it® Fax Note 7671 | Date 5-10-11 | # of pages ▸ 1 |
|---|---|---|
| To Jaime Murillo | From D. Davis | |
| Co./Dept. Planning | Co. CALTRANS | |
| Phone # | Phone # 949 440-3487 | |
| Fax # 949 644-3229 | Fax # 949 756-4962 | |

**May 10, 2011**

Jaime Murillo
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658

File: IGR/CEQA
SCH#: 2011041038
Log #: 2704
SR-1

**Subject: Mariner's Point Project**

Dear Mr. Murillo

Thank you for the opportunity to review and comment on the **Mitigated Negative Declaration for the Mariner's Pointe Project.** The project proposes to demolish the existing building and construct the proposed two-story commercial/retail building and three-level parking lot. The gross square footage of the proposed project would be 23,015. The uses would consist 10,493 gross square feet of restaurants, 9,522 gross square feet of retail, and 3,000 gross square feet of medical/office. Additionally, the project would construct a three-level parking structure that would provide 136 valet and self parking stalls. The nearest State route to the project site is SR-1.

The California Department of Transportation (Department), District 12 is a commenting agency on this project and we have no comment at this time. However, in the event of any activity within the Department's right-of-way, an encroachment permit will be required. A3-1

Please continue to keep us informed of this project and any future developments, which could potentially impact State transportation facilities. If you have any questions or need to contact us, please do not hesitate to call Damon Davis at (949) 440-3487.

Sincerely,

Chris Herre, Branch Chief
Local Development/Intergovernmental Review

C: Terry Roberts, Office of Planning and Research

*"Caltrans improves mobility across California"*

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**A3 Response to Comments from Chris Herre, Branch Chief, Caltrans, dated May 10, 2011.**

A3-1 Comment acknowledged. The proposed water feature would encroach upon Caltrans right-of-way along West Coast Highway. The project applicant will coordinate with Caltrans to obtain an encroachment permit.

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LETTER A4 – State Clearinghouse (1 page)

STATE OF CALIFORNIA

GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH

STATE CLEARINGHOUSE AND PLANNING UNIT

JERRY BROWN
GOVERNOR

RECEIVED BY
PLANNING DEPARTMENT

MAY 16 2011

CITY OF NEWPORT BEACH

Jaime Murillo
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92663

Subject: Mariner's Pointe Project
SCH#: 2011041038

Dear Jaime Murillo:

The State Clearinghouse submitted the above named Mitigated Negative Declaration to selected state agencies for review. The review period closed on May 10, 2011, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. A4-1

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Scott Morgan
Director, State Clearinghouse

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

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**A4 Response to Comments from Scott Morgan, Director, State Clearinghouse, dated May 16, 2011.**

A4-1 Comment acknowledged.

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LETTER A5 – Orange County Transportation Authority (2 pages)

OCTA

BOARD OF DIRECTORS
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Cindy Quon Governor's Ex-Officio Member

CHIEF EXECUTIVE OFFICE
Will Kempton Chief Executive Officer

RECEIVED BY
PLANNING DEPARTMENT
MAY 17 2011
CITY OF NEWPORT BEACH

May 11, 2011

Mr. Jaime Murillo
Associate Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658

**Subject: Mitigated Negative Declaration for the Mariner's Pointe Project**

Dear Mr. Jaime Murillo:

The Orange County Transportation Authority (OCTA) has reviewed the above referenced document. The following comments are provided for your consideration:

- On Page 132, it is suggested that an existing bus stop would be relocated to an area slightly west of its current location on the north side of Pacific Coast Highway, west of Dover Drive. Please note that a 12' by 80' concrete bus pad should be placed adjacent to the proposed relocation area.
- Place a shelter at the proposed bus stop boarding area. This will give passengers a centralized location in which to wait for the bus and would minimize any potential impacts to adjacent businesses if passengers were to use the building awnings during inclement weather.

A5-1

- The developer will need to work with OCTA staff to identify an alternate bus stop location to be used during the construction project.
- Provide OCTA with a 14-day advance notice prior to the start of the project by calling the Detour Coordinator at (714) 265-4359 or Field Operations at (714) 265-4497.

A5-2

If you have any questions or comments, please contact Carolyn Mamaradlo by phone at (714) 560-5748 or by email at cmamaradlo@octa.net.

Orange County Transportation Authority
550 South Main Street / P.O. Box 14184 / Orange / California 92863-1584 / (714) 560-OCTA (6282)

OCTA

BOARD OF DIRECTORS

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Tom Tait
Director

Greg Winterbottom
Director

Cindy Quon
Governor's
Ex-Officio Member

CHIEF EXECUTIVE OFFICE

Will Kempton
Chief Executive Officer

Sincerely,

Charles Larwood
Manager, Transportation Planning
c: Bill Batory, OCTA

Orange County Transportation Authority
550 South Main Street / P.O. Box 14184 / Orange / California 92863-1584 / (714) 560-OCTA (6282)

**A5 Response to Comments from Charles Larwood, Manager, Transportation Planning, Orange County Transportation Authority, dated May 11, 2011.**

A5-1 Comment acknowledged. Project applicant will coordinate with the Orange County Transportation Authority (OCTA) regarding the configuration of the relocated bus stop.

A5-2 Mitigation Measure No. 11 requires the applicant to contact and coordinate with OCTA to modify or relocate the Coast-Dover bus stop during construction activities. This mitigation also specifies that such plans as negotiated with OCTA shall be submitted to the City for review and approval prior to issuance of grading permits. In response to this comment, Mitigation Measure No. 11 is supplemented as follows:

11. The applicant shall contact OCTA and coordinate operation of the Coast-Dover bus stop along the project's West Coast Highway frontage during project construction. Mitigation as required to suspend operation, or modify or temporarily relocate the bus stop during project construction activities shall be negotiated with OCTA. The applicant shall provide the plans/mitigation to the City as negotiated with OCTA for review and approval by the City of Newport Beach's Planning Department and Public Works Department prior to issuance of grading permits. **The applicant shall provide OCTA with a minimum 14-day advance notice prior to the start of construction activities by contacting either the Detour Coordinator or Field Operations.**

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LETTER O1 – California Cultural Resources Preservation Alliance (1 page)

CCRPA
California Cultural Resource Preservation Alliance, Inc.
P.O. Box 54132
Irvine, CA 92619-4132
An alliance of American Indian and scientific communities working for the preservation of archaeological sites and other cultural resources.

RECEIVED BY
PLANNING DEPARTMENT
APR 28 2011
CITY OF NEWPORT BEACH

April 26, 2011

Jaime Murillo, Associate Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658

Dear Jaime Murillo,

Thank you for the opportunity to review the Mitigated Negative Declaration for the Mariner's Pointe Project. We agree that the proposed project has a high probability for the presence of prehistoric cultural deposits beneath the current modern ground surface and that they may be impacted by earthmoving and demolition activities. The mitigation measures appear to be appropriate, however we would like to see a requirement that if significant cultural deposits such as intact midden or features and especially human remains are located during Phase II studies, rather than going directly to Phase III data recovery mitigation, a determination will be made as to whether preservation in place is a feasible option. This may be feasible if the cultural deposits are within areas designated for parking or landscaping. Site burial beneath parking lots and open spaces is recommended in California Public Resources Code 21083.2 (b) (3) and (4). This can also save the developer money as Phase III data recovery mitigation is labor intensive and expensive. O1-1

In addition, since the project involves a General Plan Amendment, SB 18 requires that prior to the adoption of an amendment of a city's general plan, the city conduct consultations with California Native American tribes. O1-2

Finally, the City of Newport Beach is to be commended for their diligence in addressing environmental concerns, including cultural resources. If you have any questions, please contact me at (949) 559-6490, or p.martz@cox.net.

Sincerely,

Patricia Martz

Patricia Martz, Ph.D.
President

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**O1. Response to Comments Patricia Martz, President, California Cultural Resource Preservation Alliance, dated April 26, 2011.**

O1-1 Comment acknowledged. Per the commenter's suggestion, Mitigation Measure 4 has been revised to the following:

The project applicant shall have a qualified archaeologist conduct a Phase II archaeological investigation and a Phase III investigation if warranted. The Phase II investigation, including trenching and analysis of any resources found, shall be completed before issuance of a grading permit by the City of Newport Beach. A Phase II archaeological testing program consists of a control subsurface investigation designed to extract a small sample of the subsurface deposits, but a sample large enough to draw a conclusion on the significance of the site (assuming the site is present). If intact features of an archaeological site, such as hearths, living surfaces, or middens, are discovered in the course of the Phase II investigation, then the project applicant shall have the archaeologist ~~conduct a Phase III investigation. A Phase III investigation, if required, shall be completed before issuance of a grading permit. A Phase III consists of extracting a larger sample of the site materials to document the function, age, and components of the site that would allow for interpretation and comparative analysis with respect to the larger area (e.g. occupation within the Newport Bay area).~~**:**

- **Conduct a feasibility investigation to preserve in place, any significant archaeological resource that is discovered. Feasibility can be based on but not limited to whether the significant archaeological resource is beneath open space that can incorporate preservation in place. If preservation in place is feasible, such preservation shall be documented with the City's Planning Division, and no further mitigation is necessary;**

- **If preservation in place is not feasible, the applicant's archaeologist shall conduct a Phase III investigation prior to the issuance of a grading permit. A Phase III consists of extracting a larger sample of the site materials to document the function, age, and components of the site, allowing for interpretation and comparative analysis with respect to the larger area (e.g., occupation within the Newport Bay area). The City's Planning Division shall approve the report and related actions prior to grading permit issuance.**

O1-2 Pursuant to SB 18 requirements, on October 13, 2010, the City of Newport Beach submitted a written request to the Native American Heritage Commission (NAHC) requesting a list of whom to consult. On October 19, 2010, the City received the Native American Tribal Consultation list of tribes with traditional lands or cultural places within the project planning area from the NAHC. The City sent out letters on October 20, 2010 to each of the tribes on the list inviting each to consult and declare the importance of their tribe's participation in the planning process of an amendment to the City's General Plan as required by Government Code Section 65352. The City did not receive any responses or requests for consultation. The Tribes listed on the NAHC's consultation list were also included on the distribution list for the Notice of Intent for the IS/MND and will be provided Planning Commission and City Council public hearing notices.

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LETTER R1 – Neighborhood Resident Letter (4 pages)

May 3, 2011

City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658

RECEIVED BY
PLANNING DEPARTMENT
MAY 10 2011
CITY OF NEWPORT BEACH

Attention: Jaime Murillo, Associate Planner

Subject: Mariner's Pointe Project
City of Newport Beach

Reference is made to your Notice of Intent to Adopt Mitigated Declaration for Mariner's Pointe Project, a copy of which is attached hereto. We note the City Staff has concluded that the project would not have a significant impact on the environment and therefore has recommended a negative declaration.

However, we homeowners in Newport Beach, mainly on the ocean side of Kings Road, are strongly opposed to the project as presented. It is way overbuilt for the size of the property! The existing zoning, and the requirements therein, are presently fair to the homes on the rim and to the business properties below. As far as we can tell, all other businesses along the North side of the highway have complied. Why should there be an exception in this case? R1-1

We are most concerned about the Parking Structure: massive size, way over the 31 foot height limit, parking on the roof., lights on the roof, noise from car doors shutting, horn sounds, etc. Of even more concern is the fact that the entrance and exit are close to the corner of Dover and PCH. There have been many accidents on this corner and in the vicinity thereof. The ingress and egress to the Parking Structure are in an area where three traffic lanes merge into two. Traffic going East on PCH would have to make a U-turn at the corner to enter the parking structure. R1-2

Furthermore, if you accept these radical changes to the zoning requirements for this project, you probably will set an unwanted precedent. Also, we believe such massive structures will reduce the property values of homes directly above PCH. The property in question warrants a more reasonable development which complies with existing zoning and is more compatible with the neighborhood. R1-3

| HOMEOWNERS | ADDRESSES |
|---|---|
| Henry J. Geerlings | 711 Kings Road |
| Nancy W. Geerlings | 421 Kings Road |
| Evelyn Collins | 511 Kings Rd |
| M. H. Hafford | 108 KINGS PLACE |
| Roy Lee | |
| Marvin A Walker | 717 Kings Rd |
| Helen Walker | 717 Kings Rd |

| HOMEOWNERS | ADDRESSES |
| --- | --- |
| Frank Perkut | 811 Kings Rd. |
| Mary Perkut | 811 Kings Rd |
| Carol Louise Orr | 403 Kings Rd. |
| Richard D. Pam | 321 Kings Rd. |
| C.C. Pam | ✓ ✓ |
| Harry DeWald | 303 KINGS RD |
| Carolyn K DeWald | ✓ ✓ |
| Cameron Mengel | 100 Kings Road. |
| Doug Hill | 503 Kings Rd |
| Laura Jambox, trustee | 104 Kings Place |

## Notice of Intent to Adopt
## Mitigated Declaration for Mariner's Pointe Project
## City of Newport Beach

Notice is hereby given that the City of Newport Beach has completed a Mitigated Negative Declaration for the construction of a new commercial building at 100 - 300 West Coast Highway at the intersection of West Coast Highway and Dover Drive, Newport Beach, California. The 0.76 acre project site consists of two existing connected one-story buildings and a surface lot. The project applicant, Glenn Verdult, proposes to demolish the existing structures and pavement onsite and construct a two-story commercial structure of 23,015 gross building square feet and a three-story parking structure. The development would include various commercial/retail uses such as restaurants (10,493 sf), specialty retail (9,522 sf), and medical office (3,000 sf).

Development of the proposed project would require the following entitlements from the City of Newport Beach.

- **General Plan Amendment**: increase the allowable floor area to land area ratio (FAR) for the project site from 0.5 FAR to 0.68 FAR
- **Zoning Code Amendment**: change the specific floor area limitation for the project site on the Zoning Map from 0.3/0.5 FAR to 0.68 FAR
- **Site Development Review**: to allow the construction of a 23,015-square-foot, two-story building and a three-story parking structure that will exceed the 31-foot base height limit with a maximum height of 40 feet
- **Modification Permit**: to allow architectural feature (cupola and finial) to exceed the 40-foot maximum height limit (proposed height of 44 feet)
- **Conditional Use Permit**: to allow rooftop parking, to modify the off-street parking requirements, and to establish a parking management plan for the site
- **Variance**: to allow the building to encroach 5 feet into the 5-foot rear yard setback
- **Parcel Map**: to consolidate six lots into one parcel

On the basis of the Initial Study, City staff has concluded that the project would not have a significant impact on the environment and has therefore recommended preparation of a Mitigated Negative Declaration (MND). The MND reflects the independent judgment of City staff and recognizes project design features, previous environmental evaluations, and standard construction and engineering practices, requiring review and reevaluation of future projects as contributing to avoidance of potential impacts. The project site does not include any sites on an Environmental Protection Agency hazardous waste site list compiled pursuant to Government Code Section 65962.5.

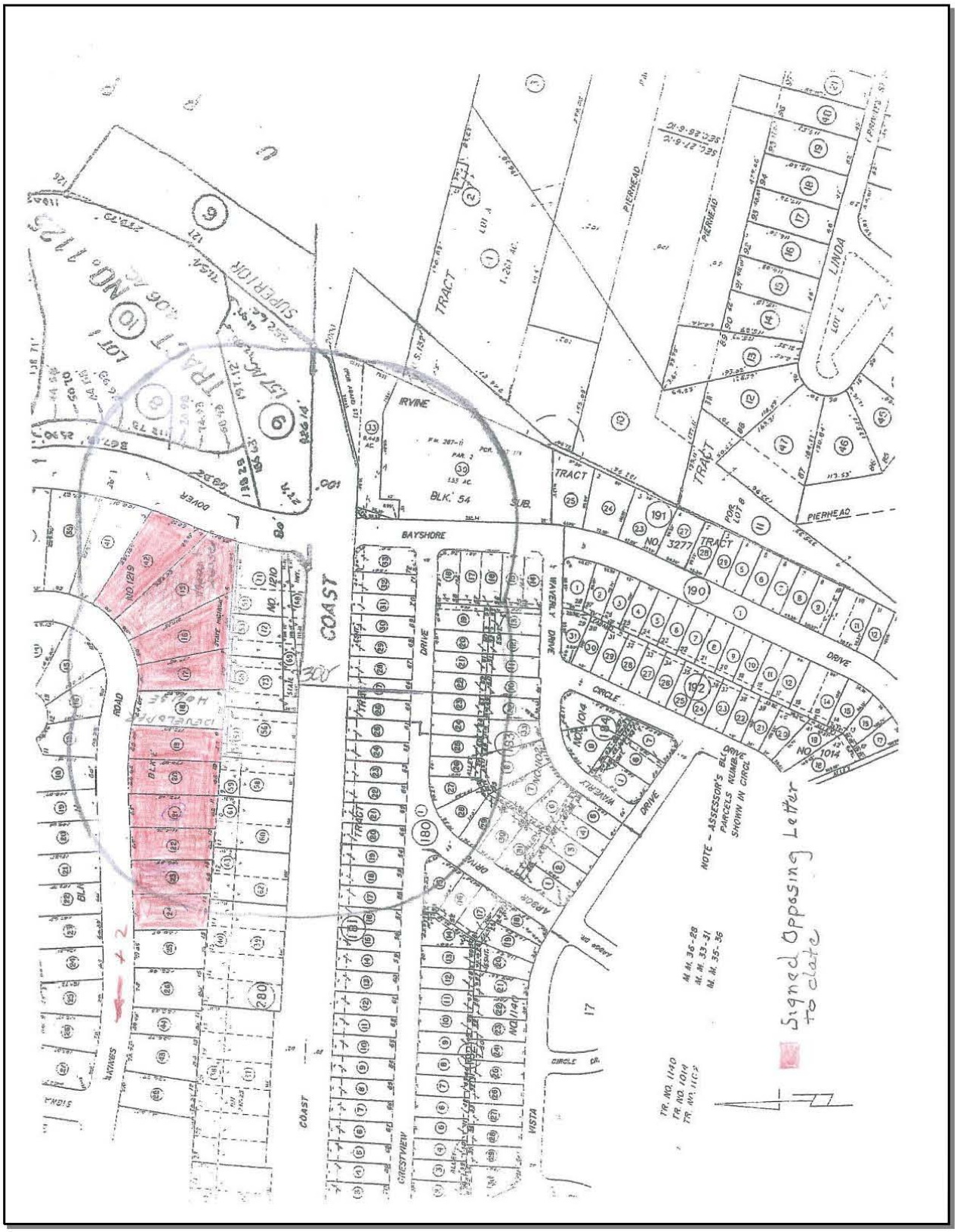
The MND is available for a 30-day public review period beginning April 11, 2011 and ending May 11, 2011. Copies of the document are available for review at 3300 Newport Boulevard, Newport Beach, CA 92658 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. The document can also be accessed online at: http://www.newportbeachca.gov/index.aspx?page=942. Additionally, copies of the document are also available for review at the following City public libraries:

Newport Beach Public Library
Corona del Mar Branch
420 Marigold Ave.
Corona Del Mar, CA 92625

Newport Beach Public Library
Mariners Branch
1300 Irvine Avenue
Newport Beach, CA 92660

Newport Beach Public Library
Balboa Branch
100 East Balboa Boulevard
Newport Beach, CA 92660

Newport Beach Public Library
Central Library
1000 Avocado Avenue
Newport Beach, CA 92660


COAST
BAYSHORE
IRVINE
TRACT
PIERHEAD
LINDA
DRIVE
CIRCLE
NOTE - ASSESSOR'S BLK. & PARCELS NUMBERS SHOWN IN CIRCLE
Signed Opposing Letter to date

**R1. Response to Comments Neighborhood Residents Letter, dated May 3, 2011.**

R1-1 The commenter's opposition to the project as proposed is acknowledged. As described in the IS/MND project description, project implementation as proposed would require a General Plan Amendment to increase the floor area ratio (FAR),and a Site Development Review to exceed the building height limitation of 31 feet. The Aesthetics section of the IS/MND provides a description and graphic representation of the project as proposed, and concludes that the development would improve visual and aesthetic conditions of the site and surrounding area, and would not result in significant impacts. Subsequent to the preparation of the IS/MND, the applicant has revised the project reducing the heights of the proposed cupola and tower elements, and has added a roof structure over the rear two-thirds portion of the parking structure to screen the vehicles and associated activity from the residents above (See Section 2.0 of this Response to Comments document). Aesthetic impacts, including the scale of the project, are, however, subjective by nature. The discretionary power to either grant or deny the requested entitlements lies wholly with the City. These comments will be forwarded to decision makers for their consideration.

R1-2 As summarized in the previous response, the scale of the project requires a General Plan Amendment as requested by the project applicant to increase the allowable FAR for the project site. Similarly a Site Development Review is required for the building to exceed the 31 foot height limit. The discretionary power to either grant or deny the requested entitlements lies wholly with the City. These comments will be forwarded to decision makers for their consideration.

The original project design included uncovered rooftop parking, access and lighting. The impact analysis for uncovered rooftop related impacts are analyzed in IS/MND sections 3.1, *Aesthetics*, and 3.12, *Noise*, respectively. Figure 9, *Third-Level Parking Structure Lighting Plan*, shows the various types of lighting that would be installed on the parking structure's rooftop level. As shown and noted on the figure and as discussed in Section 3.1(d), the design, arrangement, and orientation of the lighting fixtures would prevent light spillover into the areas beyond the parking structure. Additionally, as shown in Figure 10, *Third-Level Parking Lighting Analysis*, the lighting fixtures would be directed inward to the parking structure. Therefore, lighting impacts were concluded to be less than significant in the IS/MND.

Potential rooftop parking noise was analyzed in Section 3.12(a). As shown in Figure 15, *3rd Level Parking Structure – Generated Noise Contours*, noise generated from the rooftop parking level would be less than the City's nighttime exterior noise standard of 45 dBA $L_{eq}$. Therefore, in accordance with the CEQA significance threshold, noise impacts from the parking structure were concluded to be less than significant.

Subsequent to the preparation of the IS/MND, the applicant has revised the project reducing to add a roof structure over the rear two-thirds portion of the parking structure to screen the vehicles and associated activity from the residents above, which would further minimize noise and lighting impacts. The environmental analysis and conclusions related to the proposed project modifications are included in Section 2.0 of this Response to Comments document.

Regarding the commenter's concerns over potential traffic safety impacts, as discussed in Table 12, *General Plan Consistency Analysis*, of the IS/MND, the project would be consistent with policy CE 2.2.4, *Drive and Access Limitations*, of the City's General Plan. This policy states that driveways and local street access on arterials should be limited to maintain a desired quality of traffic flow and also that driveways should be consolidated wherever possible. The proposed project would eliminate the driveway access off of Dover Drive and would consolidate the four driveway accesses along West Coast Highway into two main access drives. The proposed plan and circulation has been reviewed by the City's traffic engineering department. The design, including ingress and egress to the parking structure meets City standards. The commenter is correct in noting that traffic going east on West Coast Highway would be required to make a U-turn at the West Coast Highway/Dover intersection. This turning movement has a dedicated left-turn light.

R1-3 Please see response to comment R1-1 regarding commenter's concern that approval of the proposed project and granting of the requested entitlements would set an unwanted precedent. Regarding the commenter's concern that property values of homes above the project site may be affected, per CEQA Guidelines Section 15382, "an economic or social change by itself shall not be considered a significant effect on the environment" and therefore is outside the purview of CEQA. These comments will be forwarded to the appropriate decision makers for their consideration.

LETTER R2 – Cameron Merage Letter (2 pages)

May 9, 2011

RECEIVED BY
PLANNING DEPARTMENT
MAY 09 2011
CITY OF NEWPORT BEACH

Jaime Murillo, Associate Planner
City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92658-8915

Subject: Comments on the Initial Study
Mariner's Pointe, West Coast Highway at Dover Drive
Newport Beach, California

As the owner of the residential property adjacent to the subject development site, this letter is submitted to state my concerns and objections in reference to this development's potential impacts to my property. I purchased my property, 100 Kings Place, which is located immediately north of the subject commercial development site years ago for its high value in terms of location and view in hopes of building a residence that, similar to my neighbors' homes, would enjoy the panoramic views of Balboa Island, Lido Isle, and the Pacific Ocean. However, upon review of the plans and per the Initial Study dated April 2011, my family and I are extremely concerned that the value of our property and quality of life would be significantly impacted by the proposed project, due to the following reasons:

1. Scenic View/Privacy: The height of the proposed two-story building and three-story parking structure, including the rotunda and cupola, would partly obstruct our views of Balboa Island, Lido Isle, and the Pacific Ocean. In addition, employees and customers parking, walking, and/or loitering on the rooftop parking structure would decrease the privacy of our backyard; R2-1
2. Aesthetics/Lighting: The rooftop parking and lights rising above the parapet walls would create an unpleasant view, with sunlight reflecting in the day through the parked cars and lights installed above the parapet wall generating night time glare; R2-2
3. Air Quality: The odor and fumes of food from the kitchen exhaust of two restaurants operating from 9:00AM to 1:00AM daily would constantly blow onto our property; R2-3
4. Native Vegetation: Aside from its unpleasant aesthetic, this project will create a significant shadow over the rear end of our property, making it nearly impossible for native vegetation and ground cover to grow and would result in an unusable area; R2-4
5. Zero Lot Variance: The developer proposes to encroach 5 feet into the 5-foot rear yard setback and build a retaining/shoring wall and 3-foot wide drainage swale on our property. Due to this we would lose 3' x 110' (330 Sq. Ft.) of our property. In addition, the retaining wall under-pining would extend about 40' to 50' into our property at 8' on center. This would limit the future development of our rear lot; and R2-5
6. Noise: There will be an increase in noise for a prolonged period of time due to the proposed project's commercial/retail uses including restaurants operating from 9:00AM until 1:00AM. Noise will originate from the restaurants' kitchens, dining patios, and bar areas, with music playing overhead and patrons talking, laughing, and yelling, especially while alcohol is being served. In addition, the noise source would R2-6

be 5 feet closer to our property due to the the proposed zero lot variance. Also, with the addition of rooftop parking, cars would be driving approximately 26 feet higher than on PCH, and furthermore the 15' wide x 140' long mechanical area located on the north end of the proposed rooftop along our property line at 35' height would significantly elevate the noise level. R2-6 cont'd.

As a good neighbor, I would like to offer the following suggestions:

1. The height of the building and parking structure shall be no taller than the permitted 31-foot base height limit, including any architectural features, as stated in the current zoning ordinance;
2. No roof top cars and associated structure lighting shall be exposed to the sky. A tiled roof over the parking structure (within the above stated height limit of 31') would be acceptable. This may reduce the noise, lighting, and privacy issues associated with parking as previously mentioned. Therefore, we request that the developer shall not receive a Conditional Use Permit to allow rooftop parking;
3. The restaurants' operation shall be limited to 10:00PM as most commercial businesses in the neighborhood close by then;
4. The retaining wall shall be built higher and include back fill to raise the grade to an appropriate level so the vegetation can grow to screen the noise and view of the structure and to prevent the ground cover vegetation from dying;
5. The structures shall not be built within the 5-foot rear yard setback; and
6. The current FAR of 0.3/0.5 for the project site as designated on the Zoning Map shall not be amended. This would decrease the number of cars and traffic congestion on and around the property.

R2-7

I appreciate your consideration of the above. If you have any questions, you can reach me at (714) 321-2668.

Cameron Merage, Owner
100 Kings Place
Newport Beach, CA 92663

**R2. Response to Comments Cameron Merage, Owner of 100 Kings Place, Newport Beach, California 92663, dated May 9, 2011.**

R2-1 The commenter currently owns the property at 100 Kings Place and is concerned that development of the proposed project would partly obstruct views of Balboa Island, Lido Isle, and the Pacific Ocean. As shown on Figure 6a, Figure 6c, and Figure 7 of the IS/MND, the majority of the proposed buildings' rooftop lines including the rotunda and cupola would be below the top of the bluff. Subsequent to the preparation of the IS/MND, the applicant has proposed modifications to the project including the addition of a partial parking structure rooftop and height reductions in the cupola and tower elements (See Section 2.0 of this Response to Comments document). The proposed rooftop would screen the vehicles and associated activity from the residents above. Any encroachment into the commenter's view would be minor and likely limited to landscaping (tall trees). Moreover, the City of Newport Beach view protection policies are limited to public views. Private, residential views are not protected. As discussed in Section 3.1(a) of the IS/MND, the proposed project would not result in significant impacts on public views.

The commenter believes that the rooftop parking level would decrease the privacy of his backyard. As shown on Figure 6a, the top of the bluff is at 60 feet, and the maximum height of any part of the structure is 56 feet. Employees and customers of the project would not be able to view the commenter's property and privacy would not be affected. However, with the addition of the partial enclosure over the rear two-thirds portion of the rooftop parking, resident's view of activities in the parking structure would be screened.

R2-2 Lighting related to the previously proposed uncovered rooftop parking was discussed in Section 1.3.1 and analyzed in Section 3.1, *Aesthetics*, of the IS/MND. Figure 9, *Third-Level Parking Structure Lighting Plan*, shows the various types of lighting that would be installed on the rooftop level of the proposed parking structure. As shown and noted on the figure and as discussed in Section 3.1(d), the design, arrangement, and orientation of the lighting fixtures would prevent light spillover into the areas beyond the parking structure. Additionally, as shown in Figure 10, *Third-Level Parking Lighting Analysis*, the lighting fixtures would be directed inward to the parking structure and shielded from view above. Therefore, the IS/MND determined nighttime glare to be less than significant. Regarding sunlight reflecting off of the vehicles on the rooftop level parking, as noted in the previous response, the parking structure is below the top of the bluff. There would not be a direct line of sight from the property to the proposed rooftop level parking. Note also that the project has been revised to enclose the rear two-thirds portion of the rooftop parking that would further minimize potential impacts associated with parking on the top level of the structure.

R2-3 Comment acknowledged. As discussed in Section 3.3(e) of the IS/MND, the proposed project would not develop the type of the facility that would be considered to have objectionable odors (e.g., wastewater treatment plants, dairy farms, chemical manufacturing, etc.), and odor impacts were determined to be less than significant. In response to commenter concerns, however, the applicant is proposing, and the project has been conditioned, to install a pollution control unit

that would filter odors generated from any restaurant kitchens. To report any future potential odor issues, the commenter should contact the South Coast Air Quality Management District (SCAQMD) at 1-800-288-7664.

R2-4 The proposed project would be built in an east/west orientation. The Commenter's property is directly north of the project site. As the path of the sun generally moves in an east to west direction, the slope face would still receive sunlight for portions of the day throughout the year.

R2-5 The swale is designed to capture runoff from the slope and help with slope stability. It is the applicant's preference to negotiate easements to accommodate minimal encroachments into adjacent properties as required to construct the retaining wall and facilitate site drainage. These improvements would ultimately require the approval of each adjacent property owners. If easements cannot be negotiated, alternative construction methods are feasible to avoid the encroachments.

R2-6 Any restaurants that operate within the proposed project would be mostly enclosed, which would attenuate interior-to-exterior noise transmission. The planned ground-floor outdoor patio areas along West Coast Highway and the patios along Dover Avenue would be shielded by the proposed commercial building. The outdoor patio areas would not have a direct line of sight to the northern residences above the project site, and the proposed commercial/retail building would provide noise attenuation. Operation of any uses at the project site would be subject to the City of Newport Beach noise ordinances and nuisance laws. Additionally, subsequent approval of a use permit will be required to permit the operation of any food uses within the project, at which time the specific operational characteristics, hours of operation, seating plans, etc, will be reviewed and conditioned.

The commenter is concerned that having the proposed project five feet closer in addition to rooftop parking and rooftop mechanical systems would significantly elevate noise. As shown in Figure 15, *3rd Level Parking Structure – Generated Noise Contours*, the noise from use of the rooftop parking level would be less than the City's nighttime exterior noise standard of 45 dBA $L_{eq}$. Therefore, the IS/MND determined lighting and noise impacts from the parking structure would be less than significant. Additionally, as discussed in section 3.12(a) of the IS/MND, all mechanical systems would be fully enclosed, any vents would be oriented toward the highway, and the systems would have to comply with Section 10.26.025 of the City's Municipal Code, which regulates noise. Therefore, noise impacts from mechanical systems were also determined to be less than significant. Although these impacts were determined to be less than significant in the IS/MND, the applicant has since designed a partial enclosure over the rear two-thirds portion of the rooftop parking that would further minimize impacts associated with the rooftop parking.

R2-7 See Comment R2-6. The commenter's suggestions have been noted and forwarded to decision-makers for consideration. As noted above, the applicant has designed a partial enclosure over the rear two-thirds portion of the rooftop parking level, which would reduce noise and lighting impacts from the rooftop parking level even further and shield the resident's view of activity within the parking structure.

LETTER R3 – Jack M. Langson Letter (1 page)

**From:** Jack Langson
**To:** Murillo, Jaime;
**Subject:** Mariner"s Point draft MND
**Date:** Monday, May 09, 2011 5:56:42 PM

Mr. Murillo,

Thank you for the opportunity to comment on the draft Mitigated Negative Declaration for the Mariner's Point project. As I understand it, City Staff is taking public comment into consideration in determining whether to recommend the currently proposed project without further mitigation and without a full EIR. R3-1

TRAFFIC IMPACT: It seems to me that the transportation/traffic impact has NOT been adequately mitigated to justify the requested scale of this project on such a small parcel. While the amount of traffic from this small parcel will be a tiny share of the traffic at this very busy intersection, I request that City Staff uphold the principle of adhering to the existing FAR specified in the General Plan regardless of the parcel size. Since there are 3 proposed building uses (i.e. restaurant, retail, and medical office), there apparently is no compelling need for the proposed exception to the General Plan specified FAR which will result in increased traffic at the site. R3-2

BUILDING MASS: The requested variance in allowable building height from the 31' existing zoning to 40' (plus 44' at the architectural cupola) will introduce a new standard for buildings so close to the highway in our neighborhood. Again, I request that City Staff adhere to the exiting zoning regulations. R3-3

PARKING STRUCTURE STALL COUNT: The parking structure has been "engineered" to the limit to meet the requested project size. There will definitely need to be a valet/garage traffic manager around whenever a delivery truck is parked on the ground floor given the tight turning radius of the driveway and the fact that the valet cannot take a car out to PCH to get back to the valet station due to wrong-way traffic flow. It will be interesting to see how the developer engineers the transition from the level parking stalls to the 15% grade on the ramp without scraping the bottoms of cars or encroaching on the level handicapped path of travel. Finally, counting "tandem" parking stalls as fully usable is optimistic. Hence, this awkward parking facility seems to need further review. R3-4

Again, thank you for the opportunity to have my comments considered.

Cordially,

Jack M. Langson, neighbor
2616 Bayshore Drive

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**R3. Response to Comments Jack M. Langson, Owner of 2616 Bayshore Drive, Newport Beach, California, dated May 9, 2011.**

R3-1 The commenter is correct. In accordance with CEQA Guidelines Section 15074 (b):

> (b) Prior to approving a project, the decision-making body of the lead agency shall consider the proposed negative declaration or mitigated negative declaration together with any comments received during the public review process. The decision-making body shall adopt the proposed negative declaration or mitigated negative declaration only if it finds on the basis of the whole record before it (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the negative declaration or mitigated negative declaration reflects the lead agency's independent judgment and analysis

R3-2 Based on the analysis included in the technical traffic study (IS/MND Appendix F) as summarized in Section 3.16(a), *Transportation/Traffic*, project-generated traffic in addition to forecast cumulative conditions would not significantly impact traffic. As shown in IS/MND Tables 23 and 24, area intersections would continue to operate at acceptable levels of service.

The commenter's request that the City uphold the existing FAR (not grant the General Plan Amendment) is acknowledged.

R3-3 As described in the IS/MND project description, project implementation as proposed would require a Site Development Review to exceed the building height limitation of 31 feet in addition to a General Plan Amendment to increase the floor area ratio (FAR). The Aesthetics section of the IS/MND provides a description and graphic representation of the project as proposed, and concludes that the development would improve visual and aesthetic conditions of the site and surrounding area, and would not result in significant impacts. Subsequent to the preparation of the IS/MND, the applicant has revised the project reducing the heights of the proposed cupola and tower elements, and has added a roof structure over the rear two-thirds portion of the parking structure to screen the vehicles and associated activity from the residents above (See Section 2.0 of this Response to Comments document). Aesthetic impacts, including the scale of the project, are, however, subjective by nature. The discretionary power to either grant or deny the requested entitlements lies wholly with the City. These comments will be forwarded to decision makers for their consideration.

R3-4 Delivery trucks would not be scheduled during the peak usage times of lunch and dinner. During peak usage, a valet/traffic director would be on the ground floor to direct traffic flow as necessary. Also, valet vehicles would not be taken onto West Coast Highway at any time. When returning vehicles to guests during daytime hours, two-way traffic flow would be maintained on Level 1 and vehicles would exit to the east. During the peak dinner hours, when there is one-way traffic flow on Level 1, vehicles would come down the ramp and be dropped off for guests in the spaces directly in front of the ramp so that traffic flow is maintained.

Regarding the 15 percent grade of the ramps, the design of the ramp would comply with City's Parking Layout Standard STD-805-L-A and STD-805-L-B, which allow a maximum ramp slope of 15 percent. As shown on Figure 7, *Site Plan Cross-Section*, of the IS/MND, the first and last five feet of the parking structure ramps have an 11 percent slope.

All of the tandem stalls would be utilized either by valet or by employees. The valet service would maximize all parking spaces (single and tandem) as needed. The tandem parking stalls reserved for employees would be assigned to specific tenants, which would prevent a scenario where employees would not park in a tandem parking stall for fear they would be closed in.

LETTER R4 – Mike Hilford Letter (1 page)

**From:** mhilford
**To:** Murillo, Jaime
**cc:** Mike Hilford
**Subject:** Mariner"s Pointe Project Variances
**Date:** Tuesday, May 10, 2011 2:02:19 PM

I find no mention of the Mariner's Pointe Project at the suggested website: http://www.newportbeachca.gov/index.aspx?page=942 . R4-1

Developers of the project, located at 100-300 PCH, have requested some code variances that includes building height & roof-top parking that will, if approved, set a precedent and standard for all PCH buildings in this area. It would be naive to believe that the variances, if allowed, will be limited to 100-300 PCH. R4-2

For example, years ago, building height limits at 530 Kings Rd., were increased, or ignored, and now the street is lined with three & four story high-mega-houses that are incompatible with the neighborhood's scale.

Noise & commotion related to parking on these high structures, built in close proximity to many residences on Kings Rd., will negatively impact home-owner's quality of life and property values. R4-3

Therefore, I recommend the requested variances be denied.

Thank you,

Mike Hilford
511 Kings. Rd.
949/548-1495

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**R4. Response to Comments Mike Hilford, Owner of 511 Kings Road, Newport Beach, California, dated May 10, 2011.**

R4-1 The Mariner's Pointe Project IS/MND can be accessed through the following website address: http://www.newportbeachca.gov/index.aspx?page=1347. Upon receiving this comment letter, staff called Mr. Hilford to assist him with accessing the document on the City website.

R4-2 The potential impacts for the proposed project, including requested entitlements have been analyzed in the IS/MND. The potential that granting such entitlements would set up a precedent is speculative and beyond the realm of environmental documentation for the project under the California Environmental Quality Act. The commenter's concerns are acknowledged, however, and will be forwarded to the appropriate City decision makers for their consideration.

R4-3 Noise related to the previously proposed uncovered rooftop parking was discussed in Section 3.12, *Noise*, of the IS/MND. As shown in Figure 15, *3rd Level Parking Structure – Generated Noise Contours*, the noise contours generated from use of the rooftop parking would be less than the City's nighttime exterior noise standard of 45 dBA $L_{eq}$. Therefore, the IS/MND determined that noise impacts from the parking structure would be less than significant. However, subsequent to the preparation of the IS/MND, the applicant has revised the project by adding a roof structure over the rear two-thirds portion of the parking structure to screen the vehicles and associated activity from the residents above (See Section 2.0 of this Response to Comments document), which would further minimize noise.

Regarding the commenter's concern that property values of homes above the project site may be affected, per CEQA Guidelines Section 15382, "an economic or social change by itself shall not be considered a significant effect on the environment" and therefore is outside the purview of CEQA. These comments will be forwarded to the appropriate City decision makers for their consideration.

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LETTER R5 – William L. Steel Letter (4 pages)

Scott R. Albrecht
Stephen S. Chang*
Loren A. Deters
Matthew A. Goldstein**
Philip W. Green
Jeffrey S. Grider
Megan G. Mayer
Jeanne V. McKee
Jennifer A. Needs
Anat Pieter
Herbert N. Samuels***
Hugh A. Sanders
William L. Steel
Martin J. Stein

*Also admitted in Colorado
**Also admitted in Arizona
***Also admitted in New York and Florida

SG&S LAWYERS | SAMUELS, GREEN & STEEL, LLP

Of Counsel
Orlando F. Cabanday
Ernest Mooney

May 11, 2011

File No.: 5657-001

VIA EMAIL JMurillo@newportbeachca.gov
Jaime Murillo, Associate Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658

RE: Notice of Intent to Adopt Mitigated Negative Declaration for Mariner's Pointe Project

Dear Mr. Murillo:

This law firm represents Laura Tarbox, Trustee of the Frank A. Eisendrath Trust, the owner of the home at 104 Kings Place, Newport Beach ("Home"). The Home is located directly above the proposed project. The owner believes the proposed project will have a significant impact on the environment and that the proposed Mitigated Negative Declaration ("MND") is insufficient and flawed in many respects.

The owner acknowledges the Home is located adjacent to a commercial zone and that development of the subject property for commercial uses is appropriate. However, the owner believes the proposed project is too massive for the subject property and that the requested amendments to the General Plan, Zoning Code, height limits and encroachment restrictions should not be granted.

The owner's principal environmental concerns are as follows:

1. Noise.

a. Rooftop Open-Air Parking Lot. The MND at Section 3.12 admits that noise will emanate from proposed rooftop open-air parking lot from slamming doors, car alarms and beeps, horns, loud talking, etc., but the MND offers no mitigating solutions other than a statement that only autos of employees and that are valet parked will be allowed on that level, which is no solution at all because all of the same noise issues are likely to occur even with that R5-1

19800 MacArthur Boulevard • Suite 1000 • Irvine, CA 92612-2433
Telephone: (949) 263-0004 • Facsimile: (949) 263-0005

Jaime Murillo, Associate Planner
City of Newport Beach
May 11, 2011
Page 2

restriction. Also, Section 3.12 says that there are only 20 rooftop parking spaces but the plans show 47 spaces. The owner also does not believe the applicant will limit rooftop parking only to employees and valet parking. The applicant's representative, Tod Ridgeway, told the owner and me yesterday that the applicant proposes at least two alcohol serving restaurants, at least one of which will only be accessible from the rooftop parking level. It seems unlikely patrons of such a restaurant would tolerate not being allowed to park on the same level as the restaurant's entry. The proposal for open-air parking for patrons of alcohol serving restaurants located below many residences is already in practice with disastrous consequences in Crystal Cove. The exiting patrons of Javier's and Maestro's restaurants and their cars are extremely loud and insensitive to the adjacent homes, and most if not all of those homeowners hate living there.

The owner requests that the City not allow open-air rooftop parking, and that if rooftop parking is allowed that the City require it to be totally covered with appropriate noise attenuation material, and that a gate system or other access barrier be required as a condition to restaurant use that allows access to the rooftop level only by valet parking attendants and employees. R5-1 cont'd.

b. Restaurant Outdoor Seating Areas. The applicant's plans currently call for outdoor restaurant seating areas on the east side of the project on both the ground level and the second level, directly below the Home. The likely noise from those areas is not addressed in the MND. The owner requests that the City not allow any outdoor restaurant seating areas, and that if such seating is allowed that the City restrict the hours of access to those areas to prevent their use after 10 pm, require screening walls or other appropriate noise attenuation solutions, and prohibit any music (live or otherwise) or other amplified noise within these areas.

2. Odors.

a. Food. The applicant intends to have at least two restaurants in the project, which will require cooking facilities with appropriate rooftop ventilation. The food odors appear likely to rise directly into the residential area including the Home. The MND is silent about the likelihood of food odors emanating from the restaurants and therefore offers no mitigating solutions. The owner requests that the City require the applicant to prevent food odors from emanating into the residential area as a condition to restaurant use.

b. Cigarettes and Cigars. The applicant intends to have at least two alcohol-serving restaurants, one on each level, and both of which have proposed outdoor seating areas. It can be expected that a significant number of patrons of these restaurants will be smokers, but the MND is silent about the likelihood of cigarette and cigar smoke and odors emanating from the project, including from the outdoor seating areas, the areas between the proposed elevator and the restaurant entrances, and the proposed open-air rooftop parking lot., and therefore offers no mitigating solutions. The owner requests that the City prohibit cigarette and cigar smoking everywhere within and around the project, including without limitation in any outdoor seating areas, walkways and parking areas. R5-2

Jaime Murillo, Associate Planner
City of Newport Beach
May 11, 2011
Page 3

3. Light Pollution. The applicant's plans provide for many lights in the rooftop open-air parking area and glass elevator area that will be located within the parking area's southern and western boundary walls, which will be shining in the Home's direction and therefore can reasonably be expected to have a material adverse impact on the Home's nighttime environment. The owner requests that the City require the top level of parking be covered to prevent such glare and if the City does not require such cover that the City require lighting that will not be shining in the Home's direction or will shine in that direction with minimal glare. R5-3

4. Views.

a. Project's Rooftop. The Home will look down directly onto the commercial structure's rooftop. Therefore, to minimize view degradation from the Home the owner requests that the City prohibit the placement of any vents, heating and air conditioning equipment, or similar fixtures or equipment on the roof and that the City require appropriate roofing materials.

b. Cupola. The proposed cupola will be the highest point of the structure and will be about 44 feet above the ground level (not including its proposed spire, which may extend several feet above that). This requires a modification permit because it will be located above the maximum allowable height. While it does not appear that the cupola will block the Home's view of Newport Bay, it will be the most visible part of the commercial building from the Home and the spire may interfere with the Home's view of Newport Bay. Therefore, the owner requests that the City not approve a modification permit and instead require that any cupola including its spire be built within the 40 foot maximum height limit. R5-4

c. Landscaping. The applicant's renderings of the project in the MND show about 10 proposed palm trees in the front of the project along Coast Highway, all of which are shown as extending substantially above the highest points of the proposed buildings. The owner believes that the height of these palm trees as shown in the drawing will extend into the Home's view corridor of the Newport Bay and ocean, and therefore the owner requests that the City require all landscaping within the project to at no time be higher than any of the buildings within the project.

In addition to the owner's environmental concerns, the owner has these aesthetic objections:

1. Rear Wall. The applicant's representative Tod Ridgeway indicated to the owner and me yesterday that the northern boundary of the project, which will be facing the Home, will be a long and very high solid block wall (which will be over 300 feet long and about 30 feet tall. The massiveness of this wall will be very unattractive in appearance from the Home and neighboring homes, and the Owner requests that the City require that the side of this wall facing the Home have an attractive design or other covering, and/or that the applicant be required to R5-5

Jaime Murillo, Associate Planner
City of Newport Beach
May 11, 2011
Page 4

place tall landscaping between the wall and the Home within the applicant's property (and not within the owner's property). R5-5 cont'd.

2. Privacy. The applicant proposes two outdoor restaurant seating areas on the east side of the project, both of which will be located directly below the home. In addition, the rooftop elevator's doors will open directly toward the Home. It appears likely that patrons in those areas will be able to look directly into the owner's rear yard and into the Home's proposed second floor. The owner requests that the City require appropriate view screening from the outdoor seating areas and from the elevator access area so that patrons cannot see into the Home's proposed second floor or its rear yard. R5-6

3. Overall Mass. The overall mass of the project appears to the owner to be too large for the available space and will be very out of character with existing commercial uses in the area and as will have too many negative impacts on the Home and adjacent homes. R5-7

Lastly, the owner believes the project as proposed will only be possible if the applicant is able to use adjacent property, including the owner's property and property owned by adjacent homeowners, because it appears the proposed project may require encroachments into the owner's property for retaining wall footings and/or tiebacks, drainage swales and/or landscaping. The owner does not intend to grant to the applicant any easements or other rights to use the owner's property for any purpose, and the owner therefore requests that the City require the project to be located entirely within the applicant's property and that no physical encroachments occur within any adjoining properties. R5-8

Sincerely,

William L. Steel

WLS:kl
cc: Client
5657\001\j. murillo ltr 5-11-11.docx

**R5. Response to comments by William L. Steel, Attorney, SG&S Lawyers, on behalf of Laura Tarbox, owner of 104 Kings Place, Newport Beach, California, dated May 11, 2011.**

R5-1 As analyzed in Section 3.12(a) of the IS/MND, noise impacts from the rooftop level parking lot was determined to be less than significant. Therefore, per CEQA, incorporation of mitigation is not required. The commenter's assertion that Section 3.12 of the IS/MND states there are only 20 rooftop parking spaces is incorrect. There is no reference to the exact page, but on page 113, the "20 spaces" is in reference to the existing offsite parking lot that would be utilized as an employee overflow lot.

Regarding potential noise issues from patrons accessing the rooftop level parking, these parking spaces would be marked "employee only." Additionally, valet service would begin at 10:00 AM until closing of all businesses, thus preventing patrons from parking on the rooftop level, which would minimize potential noise issues. Furthermore, the project has been revised to include a partial enclosure for the rear two-thirds of the rooftop parking, which would further minimize noise. Comments regarding the circumstances at the other restaurant establishments are acknowledged and will be forwarded to the appropriate City decision makers for their consideration.

Regarding noise from the proposed outdoor seating areas, the planned ground-floor outdoor patio areas along West Coast Highway and the patios along Dover Avenue would be shielded by the proposed commercial building and would be consistent with the commenter's suggestion of requiring screening walls. The outdoor patio areas would not have a direct line of sight to the northern residences above the project site, and the proposed commercial/retail building would provide noise attenuation. Furthermore, noise associated with the operation of the project is regulated through the City's Municipal Codes. These Codes include Chapter 10.26, Community Noise Control and Chapter 10.28.010, Loud and Unreasonable Noise. Project occupants and patrons would be required to comply with these municipal code limits, which would minimize noise generated by the proposed project to a level considered acceptable by the City, and consequently would not result in a significant noise impact. Additionally, subsequent approval of a use permit will be required to permit the operation of any food uses within the project, at which time the specific operational characteristics, hours of operation, seating plans, etc, will be reviewed and conditioned.

R5-2 As discussed in IS/MND Section 3.3(e), the proposed project would not be the type of the facility considered to have potentially significant objectionable odors (e.g., wastewater treatment plants, dairy farms, chemical manufacturing, etc.). Potential project-related odor impacts were therefore determined to be less than significant in the IS/MND. Moreover, the potential odor from patrons smoking in the outdoor patio areas would not meet the SCAQMD Rule 402 Nuisance threshold as reproduced in the IS/MND, page 64. Smoke odors would be anticipated to dissipate due to the horizontal and vertical separation between the project and residences at the top of bluff. Potential project-related odor impacts were therefore determined to be less than significant in the IS/MND.

The applicant is also proposing, and the project has been conditioned to require, the installation of a pollution control units to filter odors generated from any restaurant kitchens. To report any future potential odor issues, the commenter should contact the South Coast Air Quality Management District (SCAQMD) at 1-800-288-7664.

R5-3 Lighting related to the previously proposed uncovered rooftop parking was discussed in Section 1.3.1 and analyzed in Section 3.1, *Aesthetics*, of the IS/MND. Figure 9, *Third-Level Parking Structure Lighting Plan*, shows the various types of lighting that would be installed on the rooftop level of the proposed parking structure. As shown and noted on the figure and as discussed in Section 3.1(d), the design, arrangement, and orientation of the lighting fixtures would prevent light spillover into the areas beyond the parking structure. Additionally, as shown in Figure 10, *Third-Level Parking Lighting Analysis*, the lighting fixtures would be directed inward to the parking structure and shielded from view above. Therefore, the IS/MND determined nighttime glare to be less than significant. Note also that the project has been redesigned to enclose the rear two-thirds portion of the rooftop parking that would further minimize potential impacts associated with parking on the top level of the structure (See Section 2.0 of this Response to Comments document).

R5-4 Mechanical systems would be within enclosures that would be designed to be consistent with the architectural theme and style of the rest of the project. The project has been designed to be within the design guidelines of the City Zoning Code, General Plan, and Mariner's Mile Strategic Vision and Design Framework and would be reviewed by the City's Planning Commission for consistency and compliance.

Regarding the comment on the cupola and spire features and the planned palm trees along West Coast Highway, as shown on Figure 6a, Figure 6c, and Figure 7 of the IS/MND, the majority of the proposed buildings' rooftop lines including the cupola would be below the top of the bluff as noted by commenter. Any encroachment into the commenter's view would be extremely minor, and likely limited to landscaping (tall trees). Subsequent to the preparation of the IS/MND, the project applicant has revised the project design reducing the height of the cupola and tower by 4 feet, and thus eliminating the need for the Modification Permit (See Section 2.0 of this Response to Comments document). Moreover, the City of Newport Beach view protection policies are limited to public views. Private, residential views are not protected. As discussed in Section 3.1(a) of the IS/MND, the proposed project would not result in significant impacts on public views.

R5-5 The project has been designed to be within the design guidelines of the City Zoning Code, General Plan, and Mariner's Mile Strategic Vision and Design Framework and would be reviewed by the City's Planning Commission for consistency and compliance. This comment will be forwarded to the appropriate City decision makers for their consideration.

R5-6 As shown Figure 6a, Figure 6c, and Figure 7 of the IS/MND, while it may be possible for a person to have an unobstructed view of the face of the bluff from the rooftop

level of the parking structure, that person would not be able to see onto the plateau. Additionally, the project applicant has revised the design to include a partial enclosure over the rear two-thirds portion of the rooftop parking that would minimize the resident's view of activities in the parking structure.

The planned ground-floor outdoor patio areas along West Coast Highway and the patios along Dover Avenue would be shielded by the proposed commercial building. Therefore, the outdoor patio areas would not have a direct line of sight to the northern residences above the project site.

R5-7 As described in the IS/MND project description, project implementation as proposed would require a General Plan Amendment to increase the floor area ratio (FAR), a Site Development Review to exceed the building height limitation of 31 feet. Subsequent to the preparation of the IS/MND, the applicant has revised the project reducing the heights of the proposed cupola and tower elements, and has added a roof structure over the rear two-thirds portion of the parking structure to screen the vehicles and associated activity from the residents above . The Aesthetics section of the IS/MND provides a description and graphic representation of the project as proposed, and concludes that the development would improve visual and aesthetic conditions of the site and surrounding area, and would not result in significant impacts. Aesthetic impacts, including the scale of the project, are, however, subjective by nature. The discretionary power to either grant or deny the requested entitlements lies wholly with the City. These comments will be forwarded to decision makers for their consideration.

R5-8 It is the applicant's preference to negotiate easements to accommodate minimal encroachments into adjacent properties as required to construct the retaining wall and facilitate site drainage. These improvements would ultimately require the approval of each adjacent property owners. If easements cannot be negotiated, alternative construction methods are feasible to avoid the encroachments.

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Staff Presentation
Item No. 2.11
Mariner's Pointe
PA2010-114

# MARINER'S POINTE

June 23, 2011

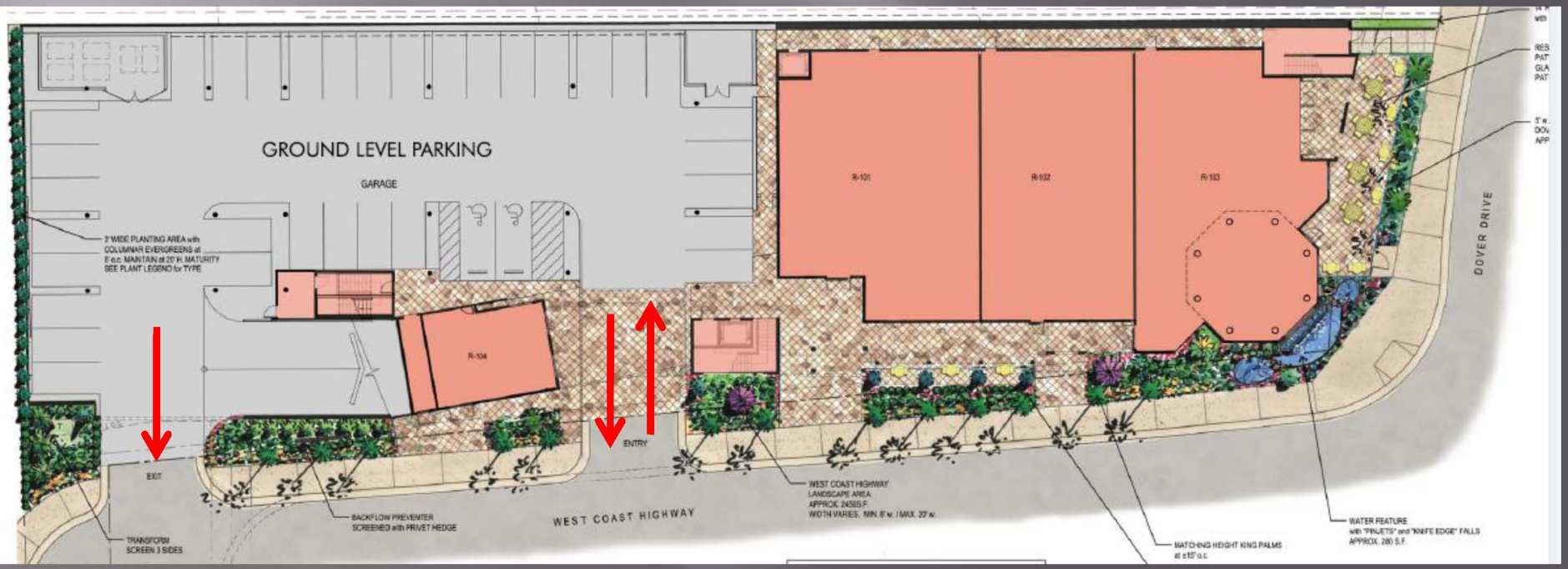
Planning Commission Meeting

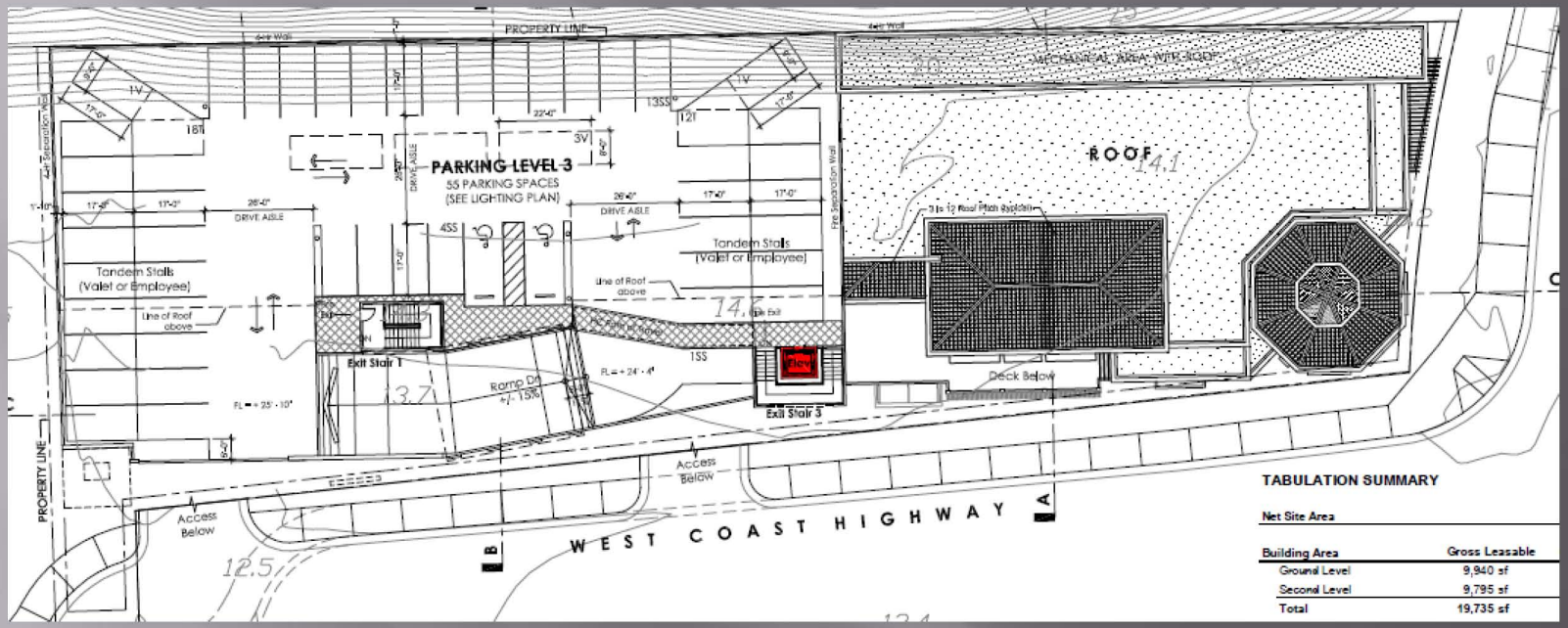
City of Newport Beach

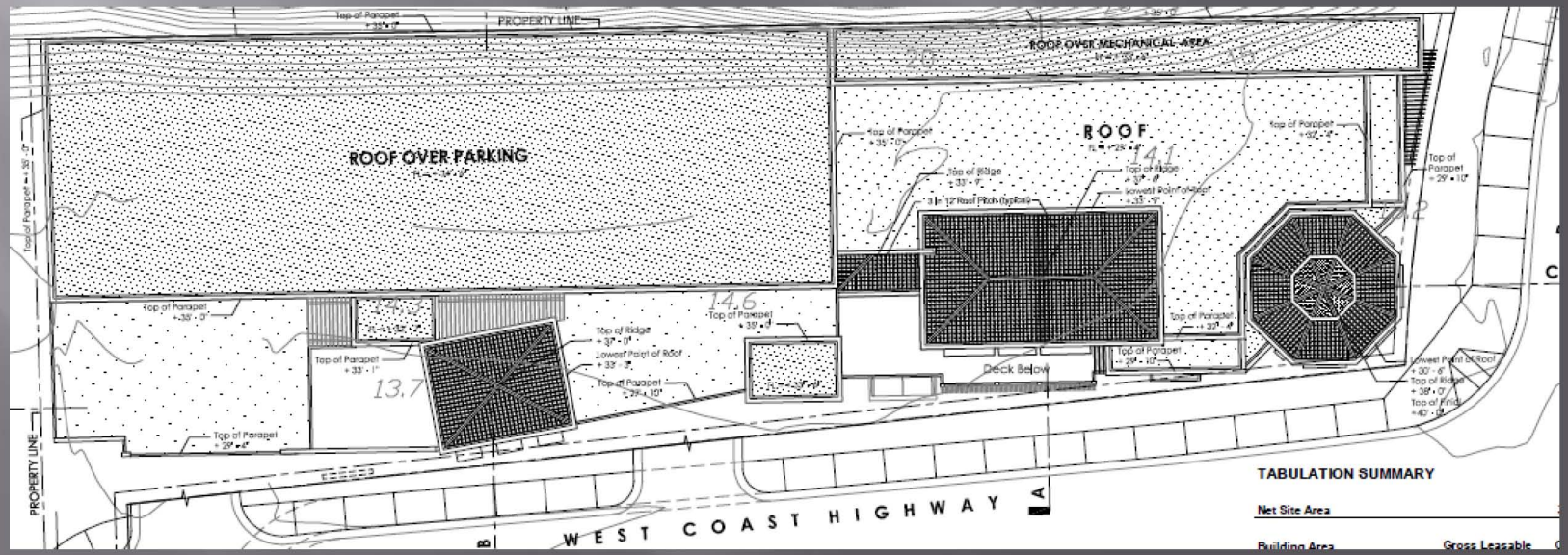
DOVER DR
BAY SHORE DR
COAST HWY W
200
224
300
300
320
400
410
104
100
303
311
321
403
2891
2889
2691
2681
2671
2661
2651
2641
2631
2621
2611
2601
2591

# Existing Site Conditions

PROPERTY LINE
Future SCE Easement
Roof above parking beyond @ 35'-0"
roof slope: 3 in 12
PARKING
PARKING
roof slope: 3 in 12
Top of Bluff Beyond
above sea level
Top of Parapet
Roof Level
Second Lvl
Ground Lvl
Parking Exit Only
14' - 0" Clear Height
Parking Entry/Exit
14' - 0" Clear Height
Elevator
NOTE:

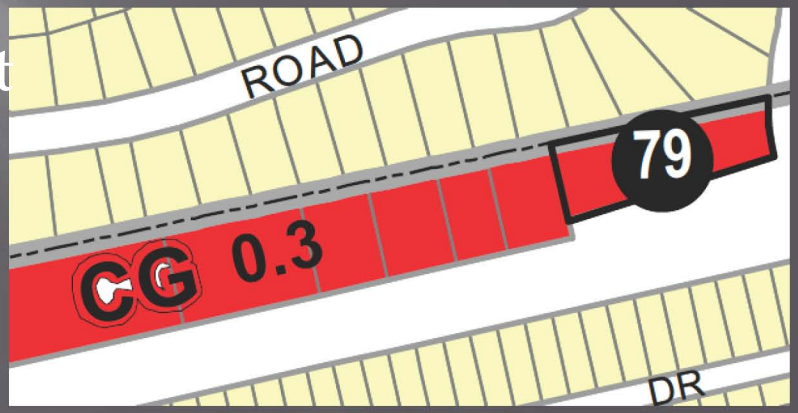

GROUND LEVEL PARKING
GARAGE
3' WIDE PLANTING AREA with COLUMNAR EVERGREENS at 8' o.c. MAINTAIN at 20' H. MATURITY SEE PLANT LEGEND for TYPE
R-101
R-102
R-103
R-104
DOVER DRIVE
EXIT
ENTRY
WEST COAST HIGHWAY
TRANSFORM SCREEN 3 SIDES
BACKFLOW PREVENTER SCREENED with PRIVET HEDGE
WEST COAST HIGHWAY LANDSCAPE AREA APPROX. 2456 S.F. WIDTH VARIES. MIN. 8' w. / MAX. 20' w.
MATCHING HEIGHT KING PALMS at ±15' o.c.
WATER FEATURE with "PINJETS" and "KNIFE EDGE" FALLS APPROX. 280 S.F.


PROPERTY LINE
MECHANICAL AREA WITH ROOF
ROOF
PARKING LEVEL 3
55 PARKING SPACES
(SEE LIGHTING PLAN)
DRIVE ABLE
Tandem Stalls
(Valet or Employee)
Line of Roof above
Exit Stair 1
Ramp Dn
Exit Stair 3
Elev
Deck Below
Access Below
WEST COAST HIGHWAY
TABULATION SUMMARY
Net Site Area
Building Area
Gross Leasable
Ground Level
9,940 sf
Second Level
9,795 sf
Total
19,735 sf


PROPERTY LINE
ROOF OVER MECHANICAL AREA
ROOF OVER PARKING
ROOF
Top of Parapet
Top of Ridge
Lowest Point of Roof
Deck Below
WEST COAST HIGHWAY
TABULATION SUMMARY
Net Site Area
Building Area
Gross Leasable

# General Plan Amendment

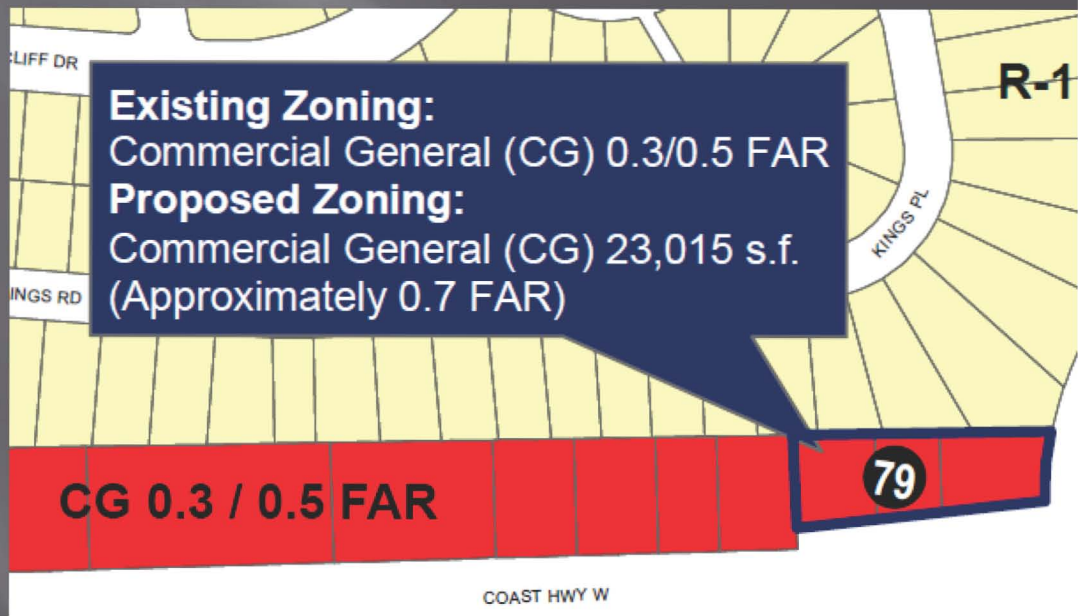
- Current – General Commercial
  - 0.3/0.5 FAR
  - 9,910 sf/16,518 sf
- Proposed
  - 23,015 sf development limit
  - Approximately 0.7 FAR
  - Anomaly No. 79




| | | | | | |
|---|---|---|---|---|---|
| 79 | H4 | CG | | 03./0.5 FAR | Development limit of 23,015 sq. ft. permitted, provided all six legal lots are consolidated into one parcel to provide unified site design |

# Zoning Map Amendment

- Existing
  - 0.3/0.5 FAR
- Proposed
  - 23,015 sf development limit
  - Approximately 0.70 FAR
  - Anomaly No. 79



# Site Development Review

- Nonresidential construction of 20,000 sf or more
  - Compatibility with adjacent uses
  - Adequacy of pedestrian and vehicular access
  - Adequacy of landscaping
  - Not detrimental or constitute a hazard
- Increase in height
  - Increased amenities
  - Architectural design- provide visual interest
  - No undesirable or abrupt scale changes

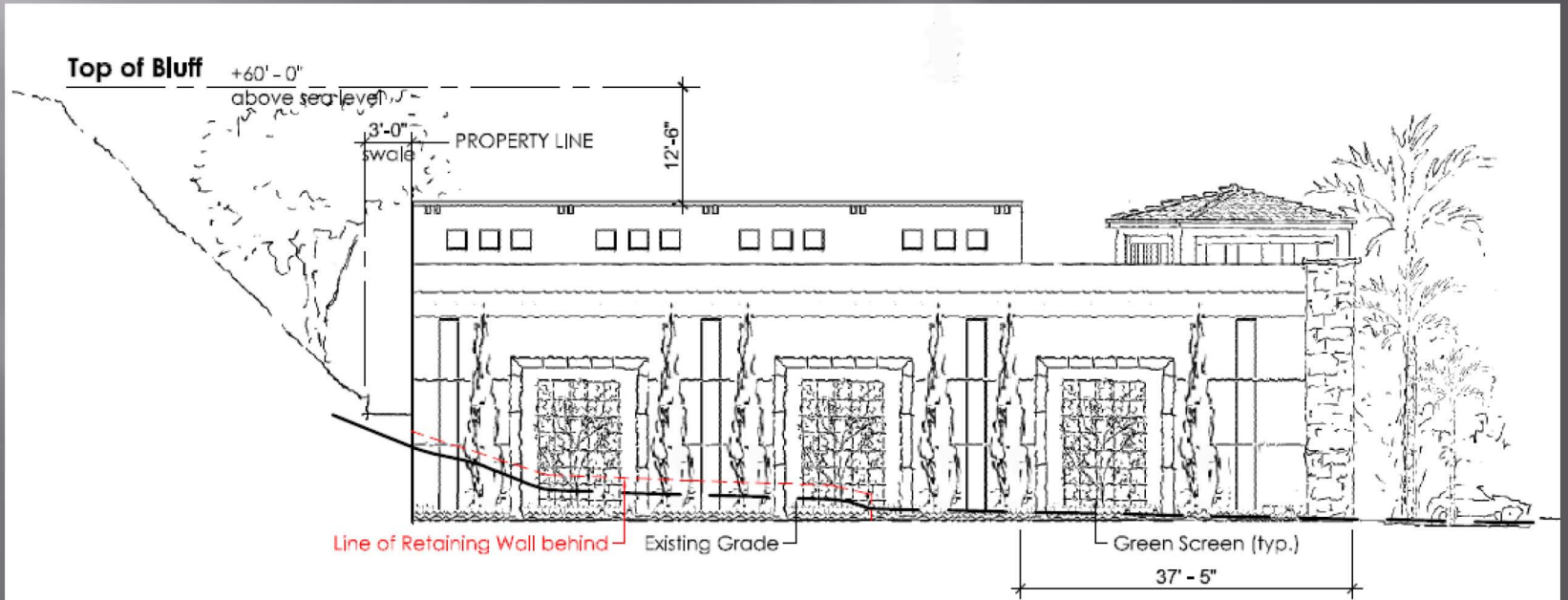
PROPERTY LINE
roof slope: 3 in 12
40'-0" max.
37'-6"
Marina's Pointe
Sushi
Trendy
Antique
Diamonds Inc.
Surf
FASHIONS
Books
BISTRO
Ristorante
GELATERIA
Elevator

Top of Bluff
+60' - 0"
above sea level
2'-0"
7'-6"
Top of Parapet
Roof Level
+29' - 4"
14'-8"
35'-0"
38'-0"
40'-0"
Second Level
+14' - 8"
14'-8"
Ground Level
0' - 0"
BISTRO
Ristorante
GELATERIA

35′

37′

PROPERTY
3'-0"
Future SCE Easement
Roof above parking beyond @ 35'-0"
roof slope: 3 in 12
Buds & Blossoms
37'-0"
35'-0"
PARKING
PARKING
Parking Exit Only
14' - 0" Clear Height
Parking Entry/Exit
14' - 0" Clear Height


Top of Bluff
+60' - 0"
above sea level
3'-0"
swale
PROPERTY LINE
12'-6"
Line of Retaining Wall behind
Existing Grade
Green Screen (typ.)
37' - 5"

# Variance

- 5-foot rear yard setback
- Project encroaches 5 feet
- Wide (340′) and shallow (avg. 90 feet) lot
- Avg. lot depth of other lots is approx. 120′
- Necessary to comply with City parking lot standards and to design an optimal commercial building
- Vertical and horizontal separation to adjacent residences

# Conditional Use Permit

Code parking requirements- 157 spaces

| Table 4 - Assumed Parking Requirements | | | | | |
|---|---|---|---|---|---|
| **Land Use** | **Gross Square Feet (gsf)[1]** | **Leasable Restaurant Area** | **Net Public Area (NPA)[2]** | **Parking Ratio** | **Required Parking** |
| **Restaurant** | 9,522 | 8,280 sf | 4,968 sf[3] | 1 per 50 sf of NPA | 100 |
| **Retail** | 10,493 | n/a | n/a | 1 per 250 gsf | 42 |
| **Medical Office** | 3,000 | n/a | n/a | 1 per 200 gsf | 15 |
| **Total** | **23,015** | | | | **157** |

Shared Parking Analysis – 2 peaks

- 131 spaces at 1:00 pm
- 145 spaces at 6:00 pm

# Parking Management Plan

- 136 spaces provided on-site
  - 80 standard stalls
  - 42 tandem stalls
  - 14 valet-only
- Employee Parking
  - 46 spaces reserved on 3rd level
  - 20 off-site spaces after 5:00 pm
- Customer Parking
  - 7-10 am: 32 self park spaces
  - 10 am – 5pm: 32 self park and 58 valet
  - 5pm to close: valet

# Off-Site Parking

# Off-Site Parking

- 601 Dover Drive
- 20 spaces after 5:00 pm
- Employee parking only
- 1,050 feet (4 min 23 sec walk)
- 11 term co-terminus with ground-lease
- Possible extension
- If lost, substitute parking or reduction of area

# Parcel Map and Traffic Study

- Parcel Map
  - Consolidate the 6 legal lots
  - Consistent with Title 19 (Subdivision Code)
  - Dedication  provided for land drop extension and future widening of Coast Highway
  - Easements for sewer and utilities
- Traffic Study
  - 1,292 ADT (16 am/70pm)
  - Acceptable LOS
  - No improvements or mitigation required

# Mitigated Negative Declaration

- Project would not result in potentially significant impacts
- 11 mitigation measures
- 30 day Public Review
  - April 11, 2011- May 11, 2011
- 9 comment letters
- Written responses provided

# Summary

- Implements goal of improving Mariner's Mile and developing the dilapidated property
- Requires deviation from code
- Parking strategy is less than ideal, but reasonable
- Respectful of views from above
- High quality architecture
- Amenities
- Recommend approval

Applicant Presentation
Item No. 2.12
Mariner's Point
PA2010-114

# Mariner’s Pointe

West Coast Highway at Dover Drive, Newport Beach, California

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West Coast Highway at Dover Drive
Newport Beach, California

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View of Site from corner West Coast Highway and Dover Drive
Newport Beach, California

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# TABULATION SUMMARY

| Net Site Area | 33,036 sf |
|---|---|

| Building Area | Gross Leasable | Gross Building |
|---|---|---|
| Ground Level | 9,940 sf | 11,794 sf |
| Second Level | 9,795 sf | 11,221 sf |
| **Total** | **19,735 sf** | **23,015 sf** |

| Gross Area | |
|---|---|
| Gross Restaurant Area | 9,522 |
| Gross Retail Area | 10,493 |
| Gross Medical Area | 3,000 |
| **Total** | **23,015 sf** |

**Parking Provided On-Site**

| Level | | HC Stalls | Standard Stalls | Tandem Stalls | Valet Only | Total |
|---|---|---|---|---|---|---|
| Ground Level | P1 | 2 | 33 | 0 | 0 | **35** |
| Second Level | P2 | 1 | 24 | 16 | 5 | **46** |
| Third Level | P3 | 2 | 18 | 30 | 5 | **55** |
| **Total** | | **5** | **75** | **46** | **10** | **136** |

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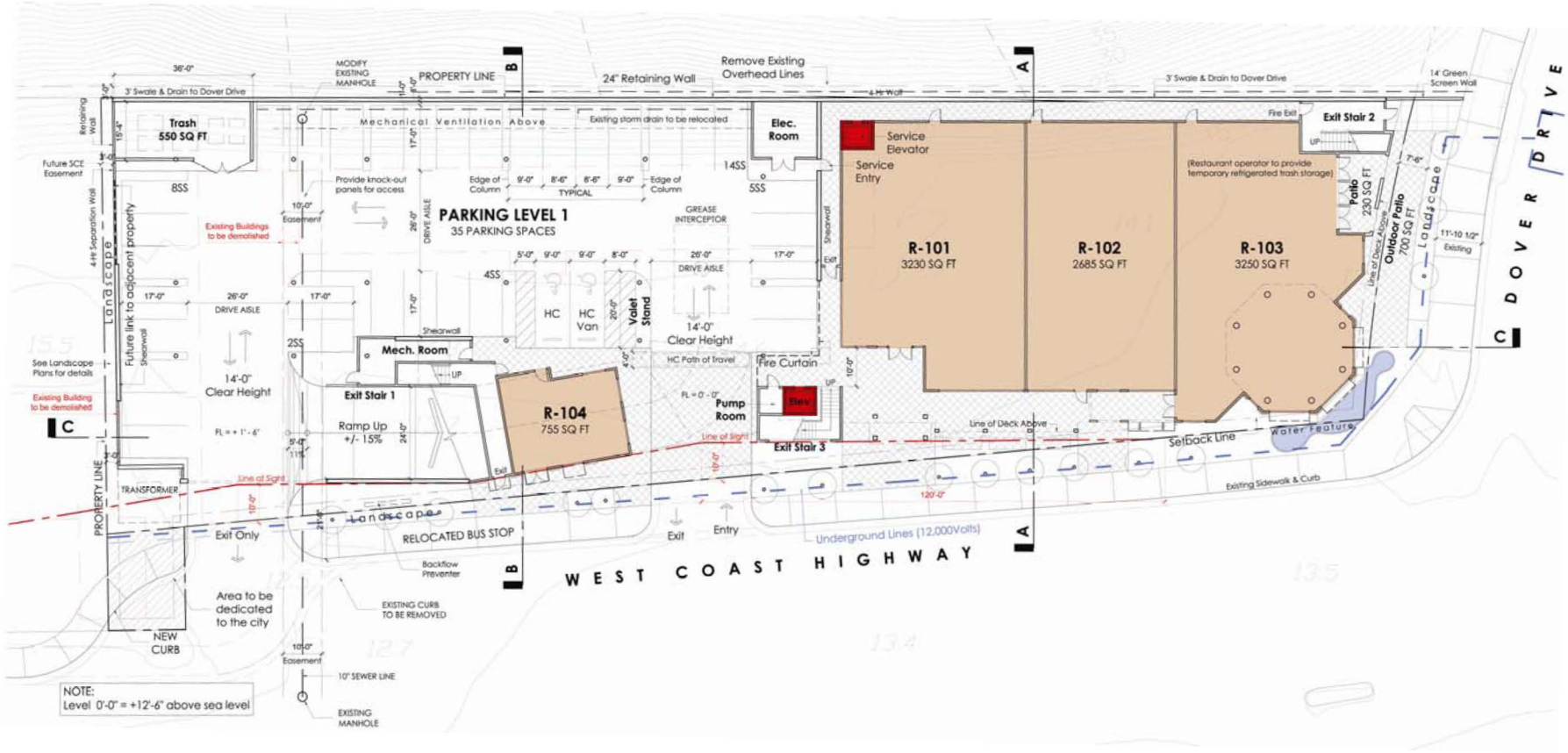


Ground Level Plan on Site

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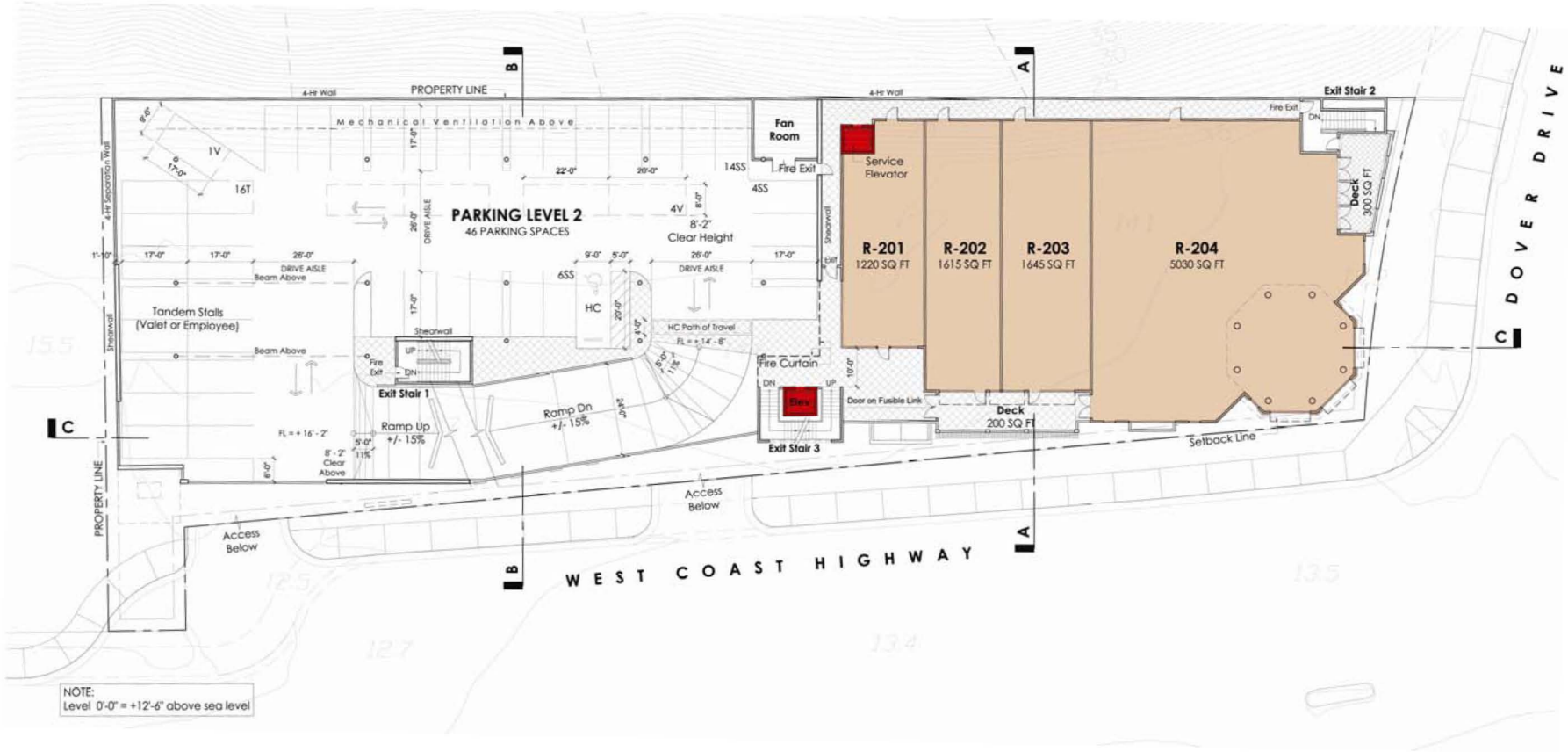


Second Floor Plan on Site

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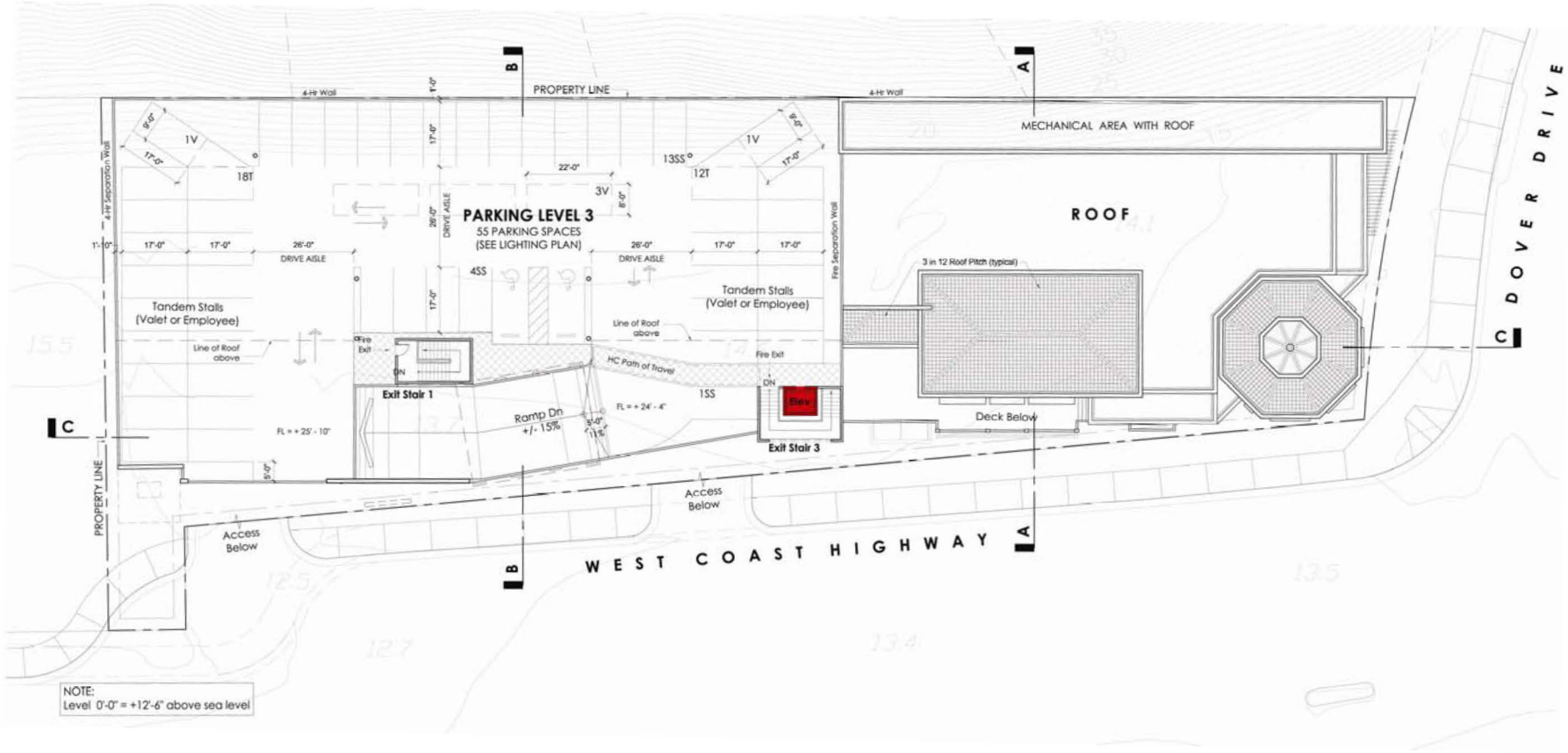


Lower Roof Plan on Site

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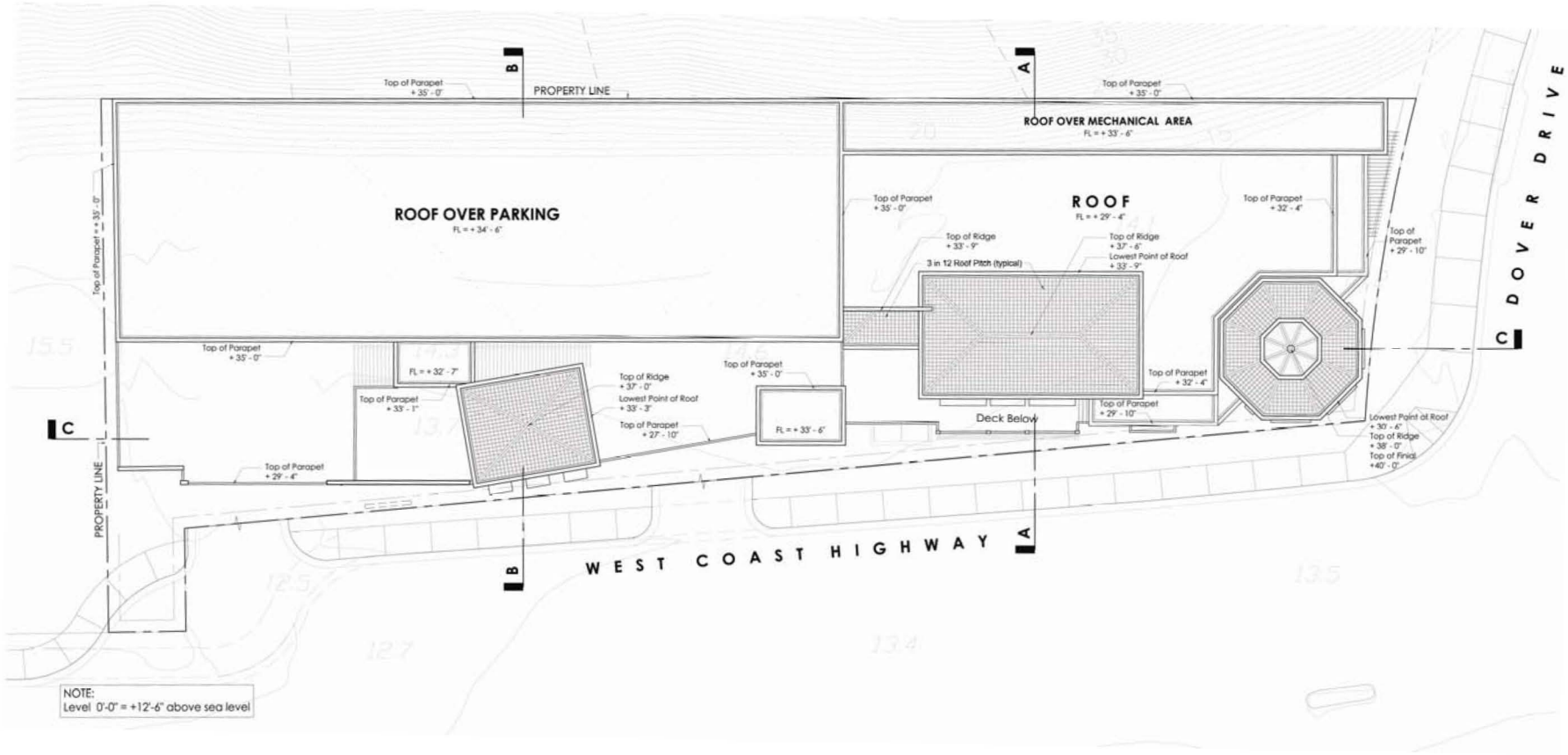


Upper Roof Plan on Site

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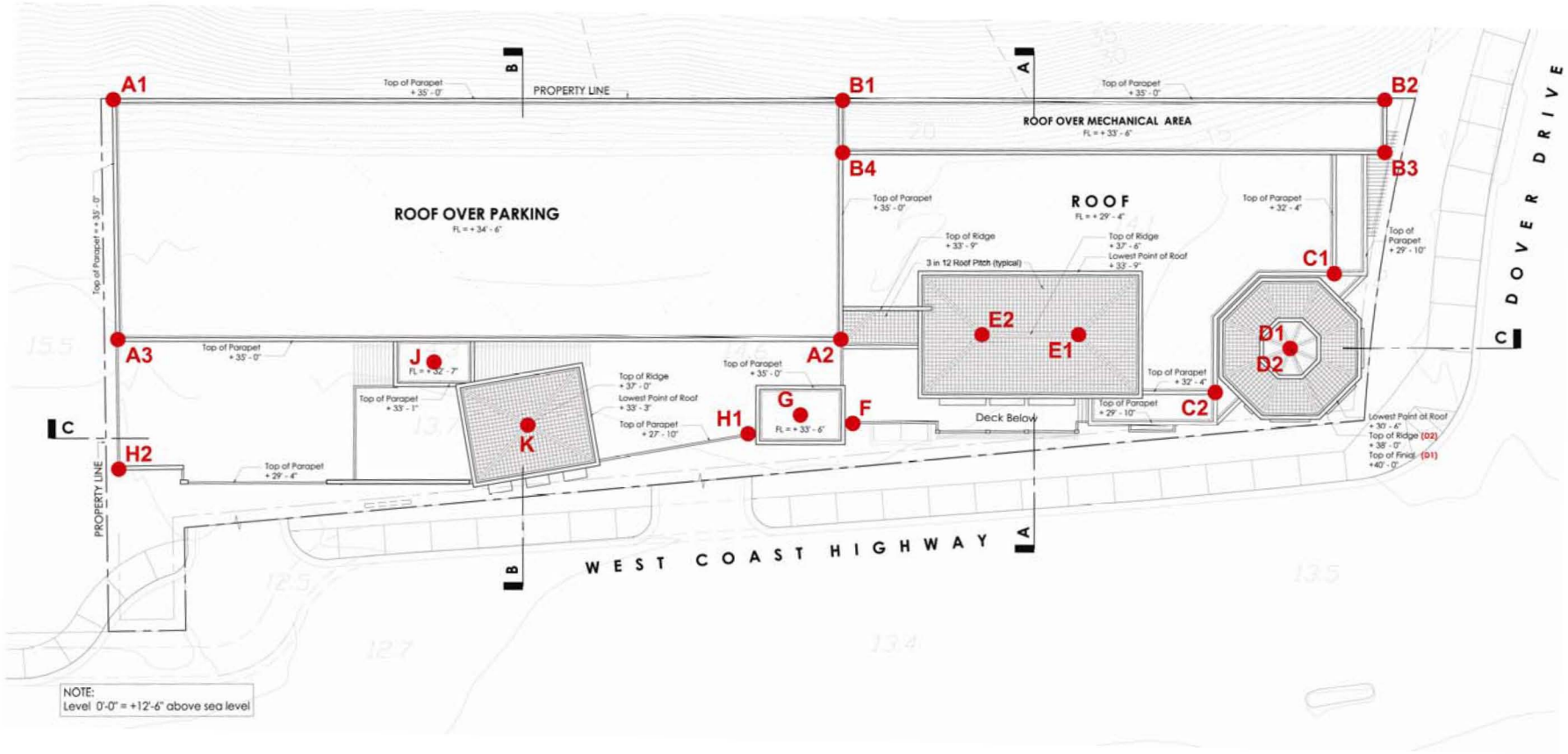


Staking Plan

STOUTENBOROUGH INC
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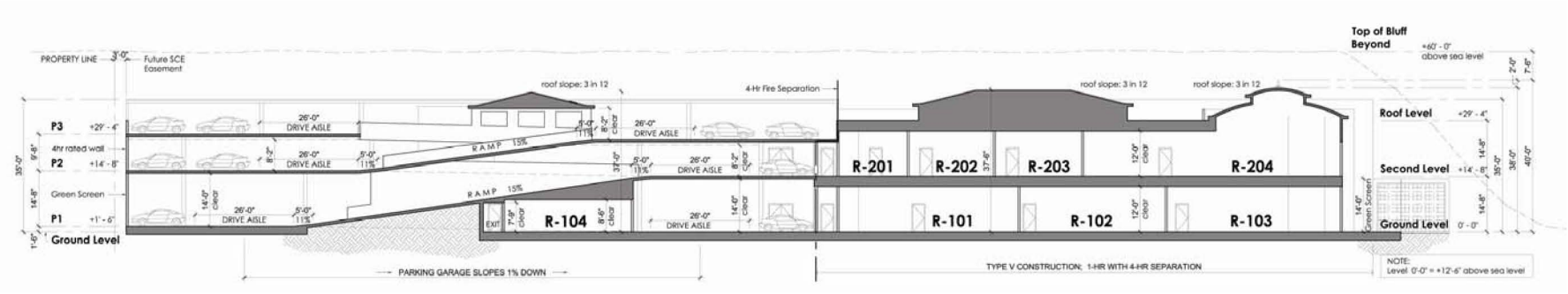


Section C - C

STOUTENBOROUGH INC
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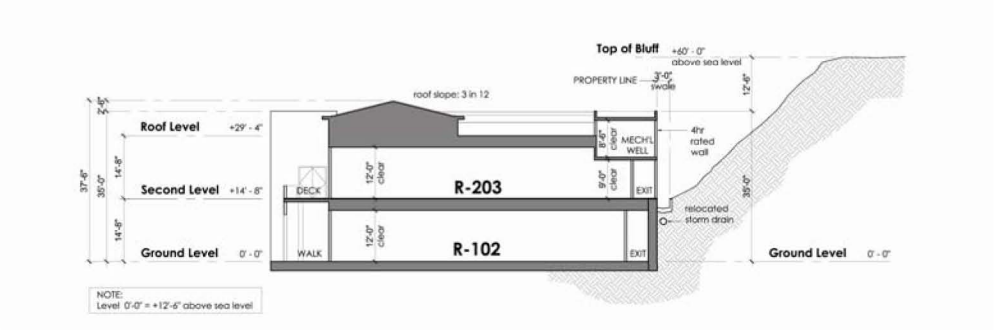


Section A - A

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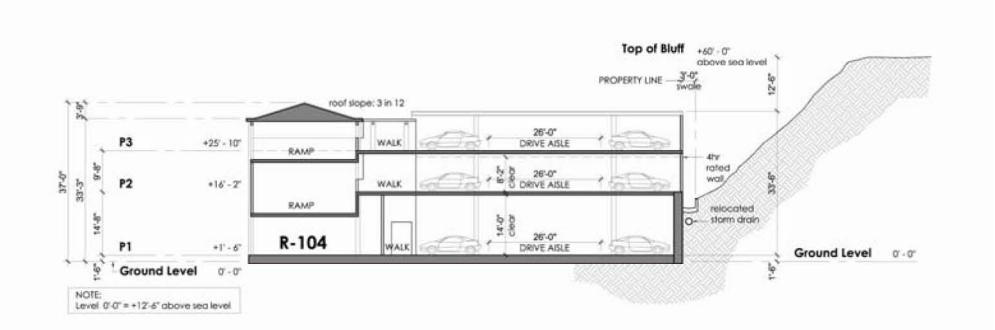


Section B - B

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South Elevation & Partial Ground Level Plan

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South Elevation showing Retail Component

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South Elevation showing Parking Structure

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East Elevation – Dover Drive

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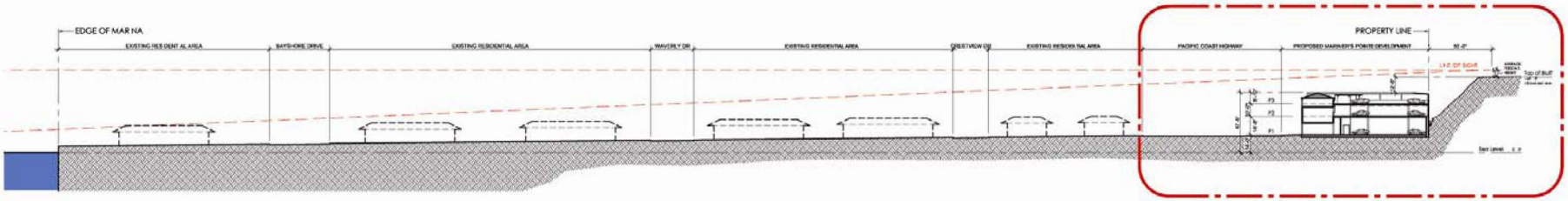
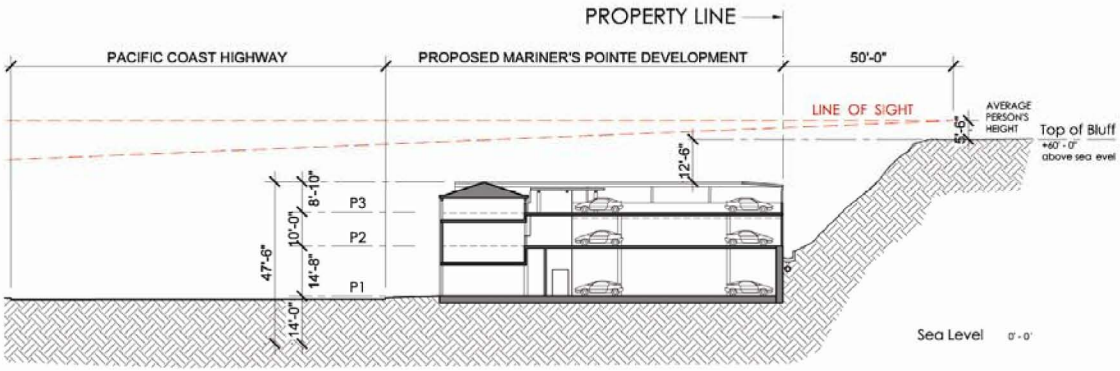
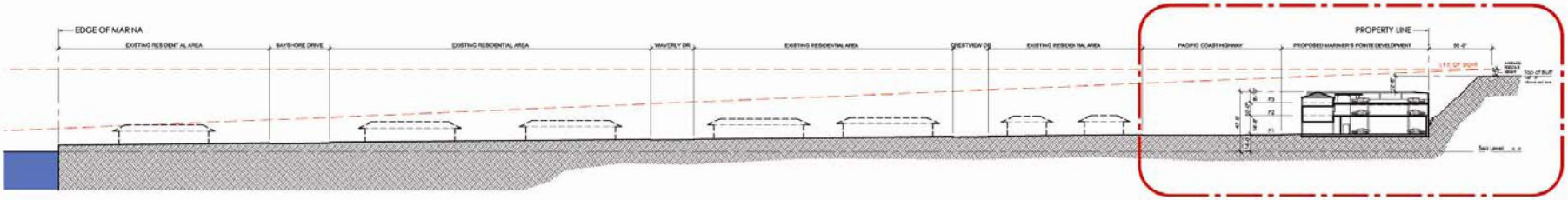
420 Alta Vista Way, Suite 100, Laguna Beach, Ca 92651
T 949 715 3257 | F 949 715 3256 | www.stoutenboroughinc.com

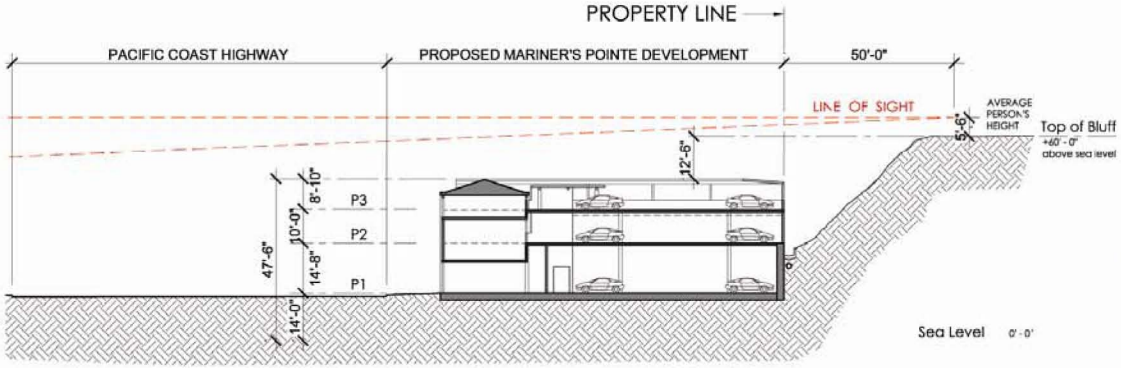


Line of Sight Exhibit
311 King's Road

STOUTENBOROUGH INC
Architects and Planners
420 Alta Vista Way, Suite 100, Laguna Beach, Ca 92651
T 949 715 3257 | F 949 715 3256 | www.stoutenboroughinc.com



Line of Sight Exhibit
303 King's Road

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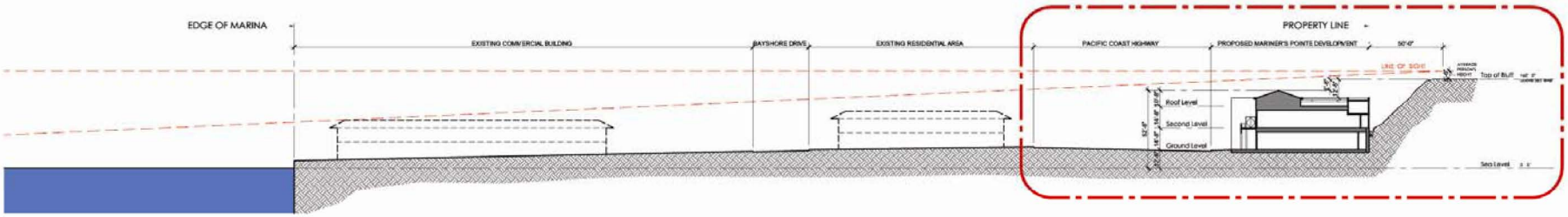
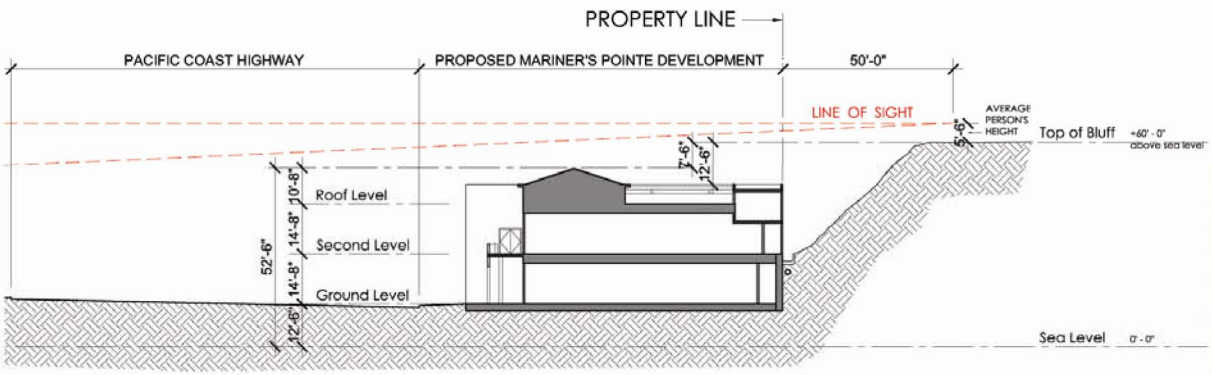
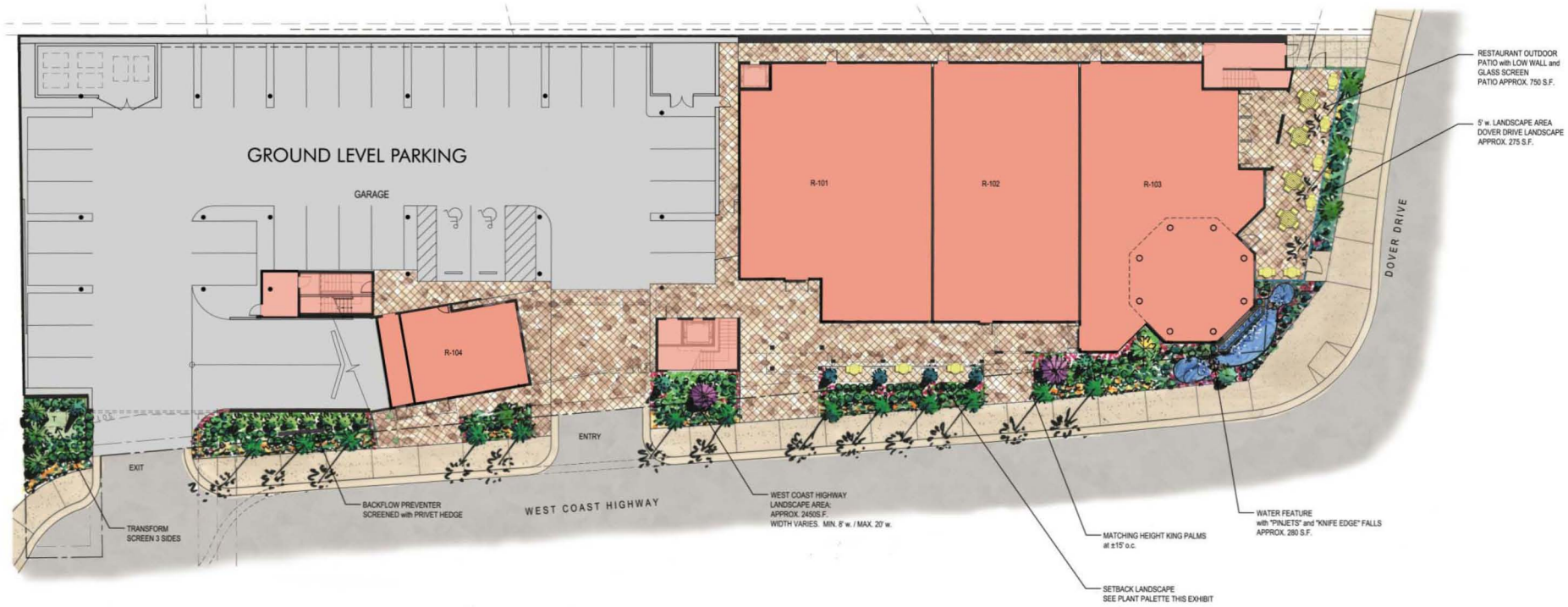
Architects and Planners
420 Alta Vista Way, Suite 100, Laguna Beach, Ca 92651
T 949 715 3257 | F 949 715 3256 | www.stoutenboroughinc.com



Line of Sight Exhibit
100 King's Place

STOUTENBOROUGH INC
Architects and Planners
420 Alta Vista Way, Suite 100, Laguna Beach, Ca 92651
T 949 715 3257 | F 949 715 3256 | www.stoutenboroughinc.com




Conceptual Landscape Plan

STOUTENBOROUGH INC
Architects and Planners
420 Alta Vista Way, Suite 100, Laguna Beach, Ca 92651
T 949 715 3257 | F 949 715 3256 | www.stoutenboroughinc.com

# Mariner's Pointe

West Coast Highway at Dover Drive, Newport Beach, California

WINSTON'S JEWELERS c/o VBAS PROPERTIES

STOUTENBOROUGH INC
Architects and Planners
420 Alta Vista Way, Suite 100, Laguna Beach, Ca 92651
T 949 715 3257 | F 949 715 3256 | www.stoutenboroughinc.com

Correspondence
Item No. 2a
Mariner's Pointe
PA2010-114

David L. Ball
714 St James Road
Newport Beach, Ca 92663
Phone: 949-646-5507 Fax: 949-645-3214
E Mail: dball_111@yahoo.com

Debbie Faber
Certified Escrow Officer
Chicago Title
917 Glenneyre
Laguna Beach, Ca 92651
Fax: 949-497-5106
Email: debbi.faber@ctt.com

RE: Escrow No. 118660047

Dear Ms Faber

During the past several weeks a number of issues have been identified surrounding the potential constraints and costs for constructing additional improvements on 104 Kings Place. The following is a list of issues that have been identified:

1. The newly enacted Bluff Development plan places a number of restrictions on the placement and height of improvements which may be constructed;

2. The commercial project being constructed fronting on PCH below lot 104 is requesting and will likely receive a height variance allowing an additional ~~14~~ 7 feet to be added to the current height constraint;

3. Newport Beach recently passed new regulations that restrict the maximum height of retaining walls to 8 feet which negatively impacts the potential for maximizing the permitted pad area;

4. The proposed increased height of the commercial project negatively impacts two story bluff line development when viewed in conjunction with the method of calculating building height for lot 104;

5. It is the desire of the City to eliminate the current sewer connection and require sewer service to be pumped to the sewer in Kings Place;

6. It appears that storm water run-off will need to be pumped to the storm drain in Kings Place;

7. The slope will require substantial reinforcement to accommodate construction to the slope limit line;

8. As a result of conversations with neighbors in the area it has been disclosed that there has been a conflict with the owner of lot 108 raising the prospects for a hostile development environment;

9. The survey disclosed that the mailbox for lot 108 is situated in the public ROW of lot 104;

10. The current chain link fence extending from the bluff top of 104 to PCH does not follow the property line;

11. The City has a new policy to allow for only one 2 car curb-cut which has the effect of severely limiting garage access and parking.

Due to these facts and others Buyer elects to terminate the escrow during the 25 day contingency period contained in paragraph 14 of the Residential Purchase Agreement. Please draw cancellation instructions for the immediate termination of escrow.

Sincerely,

David L Ball

Correspondence
Item No. 2b
Mariner's Pointe
PA2010-114

**Burns, Marlene**

**From:** cwunsworth@roadrunner.com
**Sent:** Thursday, June 23, 2011 2:14 PM
**To:** Burns, Marlene
**Subject:** Mariners Pointe

Marlene,

1. Conditions 4, 7, 9, 11, 12, 19, 30, 40, 44, 49, 73, and 86 all require review and approval by the Community Development Director. I believe the Planning Commission should review each of these to determine which, if any, should come back to Planning Commission instead of the CDD. Also, will all CDD determinations be subject to appeal by Planning Commissioners?

2. All easements, encroachment permits, and leases should be reviewed by the City Attorney's office to assure the "permanence" of the interest conveyed.

3. Throughout Conditions the terms "operator," "applicant" and "owner" are used interchangeably. With whom does the responsibility lie?

4. Re Conditions 54 and 55 - How specifically can equipment be described? It should be best technology available.

Thanks,
Charles Unsworth

Correspondence
Item No. 2c
Mariner's Pointe
PA2010-114

May 9, 2011

Jaime Murillo, Associate Planner
City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92658-8915

Subject: Comments on the Initial Study
Mariner's Pointe, West Coast Highway at Dover Drive
Newport Beach, California

As the owner of the residential property adjacent to the subject development site, this letter is submitted to state my concerns and objections in reference to this development's potential impacts to my property. I purchased my property, 100 Kings Place, which is located immediately north of the subject commercial development site years ago for its high value in terms of location and view in hopes of building a residence that, similar to my neighbors' homes, would enjoy the panoramic views of Balboa Island, Lido Isle, and the Pacific Ocean. However, upon review of the plans and per the Initial Study dated April 2011, my family and I are extremely concerned that the value of our property and quality of life would be significantly impacted by the proposed project, due to the following reasons:

1. Scenic View/Privacy: The height of the proposed two-story building and three-story parking structure, including the rotunda and cupola, would partly obstruct our views of Balboa Island, Lido Isle, and the Pacific Ocean. In addition, employees and customers parking, walking, and/or loitering on the rooftop parking structure would decrease the privacy of our backyard;
2. Aesthetics/Lighting: The rooftop parking and lights rising above the parapet walls would create an unpleasant view, with sunlight reflecting in the day through the parked cars and lights installed above the parapet wall generating night time glare;
3. Air Quality: The odor and fumes of food from the kitchen exhaust of two restaurants operating from 9:00AM to 1:00AM daily would constantly blow onto our property;
4. Native Vegetation: Aside from its unpleasant aesthetic, this project will create a significant shadow over the rear end of our property, making it nearly impossible for native vegetation and ground cover to grow and would result in an unusable area;
5. Zero Lot Variance: The developer proposes to encroach 5 feet into the 5-foot rear yard setback and build a retaining/shoring wall and 3-foot wide drainage swale on our property. Due to this we would lose 3' x 110' (330 Sq. Ft.) of our property. In addition, the retaining wall under-pining would extend about 40' to 50' into our property at 8' on center. This would limit the future development of our rear lot; and
6. Noise: There will be an increase in noise for a prolonged period of time due to the proposed project's commercial/retail uses including restaurants operating from 9:00AM until 1:00AM. Noise will originate from the restaurants' kitchens, dining patios, and bar areas, with music playing overhead and patrons talking, laughing, and yelling, especially while alcohol is being served. In addition, the noise source would

be 5 feet closer to our property due to the the proposed zero lot variance. Also, with the addition of rooftop parking, cars would be driving approximately 26 feet higher than on PCH, and furthermore the 15' wide x 140' long mechanical area located on the north end of the proposed rooftop along our property line at 35' height would significantly elevate the noise level.

As a good neighbor, I would like to offer the following suggestions:

1. The height of the building and parking structure shall be no taller than the permitted 31-foot base height limit, including any architectural features, as stated in the current zoning ordinance;
2. No roof top cars and associated structure lighting shall be exposed to the sky. A tiled roof over the parking structure (within the above stated height limit of 31') would be acceptable. This may reduce the noise, lighting, and privacy issues associated with parking as previously mentioned. Therefore, we request that the developer shall not receive a Conditional Use Permit to allow rooftop parking;
3. The restaurants' operation shall be limited to 10:00PM as most commercial businesses in the neighborhood close by then;
4. The retaining wall shall be built higher and include back fill to raise the grade to an appropriate level so the vegetation can grow to screen the noise and view of the structure and to prevent the ground cover vegetation from dying;
5. The structures shall not be built within the 5-foot rear yard setback; and
6. The current FAR of 0.3/0.5 for the project site as designated on the Zoning Map shall not be amended. This would decrease the number of cars and traffic congestion on and around the property.

I appreciate your consideration of the above. If you have any questions, you can reach me at (714) 321-2668.

Cameron Merage, Owner
100 Kings Place
Newport Beach, CA 92663

Correspondence
Item No. 2d
Mariner's Pointe
PA2010-114

# ORANGE COUNTY SANITATION DISTRICT

We protect public health and the environment by providing effective wastewater collection, treatment, and recycling.

RECEIVED BY
PLANNING DEPARTMENT
APR 21 2011
CITY OF NEWPORT BEACH

April 15, 2011

Jamie Murillo, Associate Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658

SUBJECT: Notice of Intent to Adopt Mitigated Declaration for Mariner's Pointe Project City of Newport Beach

---

This letter is in response to the above referenced Notice of Intent to Adopt Mitigated Declaration for Mariner's Pointe Project City of Newport Beach (NOI), for a project within the City of Newport Beach (City). The project site is located near the intersection of Dover and West Coast Highway, within the City.

The proposed project involves the construction of 50,274 square feet of commercial/retail space with a parking structure. The project site is within the jurisdiction of the Orange County Sanitation District (OCSD). The density of development is higher than current OCSD planning projections.

OCSD records show that this area has a sewer system that eventually connects to an OCSD sewer in West Coast Highway, near the project site. This is a 30-inch sewer that will collect the project's sanitary sewer flows. Please indicate if the project will require any modifications to city sewers, or provide corrected information about our records on the city sewers. This could be done by a figure to display how wastewater will be routed to the OCSD system. It should also be noted that OCSD anticipates the lower two floors of the parking structure may need to be connected to the sanitary sewer system. OCSD has a fee structure for these types of facilities and they should be included in the sanitary sewer flow analysis.

Also, please note that any construction dewatering operations that involve discharges to the local or regional sanitary sewer system must be permitted by OCSD prior to discharges. OCSD staff will need to review/approve the water quality of any discharges and the measures necessary to eliminate materials like sands, silts, and other regulated compounds prior to discharge to the sanitary sewer system.

Serving
Anaheim
Brea
Buena Park
Cypress
Fountain Valley
Fullerton
Garden Grove
Huntington Beach
Irvine
La Habra
La Palma
Los Alamitos
Newport Beach
Orange
Placentia
Santa Ana
Seal Beach
Stanton
Tustin
Villa Park
Yorba Linda
Costa Mesa Sanitary District
Midway City Sanitary District
Irvine Ranch Water District
County of Orange

Thank you for the opportunity to comment on the proposed development. If you have any questions regarding sewer connection fees, please contact Wendy Smith at (714) 593-7880. For planning issues regarding this project, please contact me at (714) 593-7335.

James L Burror, Jr. P.E.
Engineering Supervisor

JB:sa
EDMS:003935156/1.12a

CCRPA

**California Cultural Resource Preservation Alliance, Inc.**

P.O. Box 54132
Irvine, CA 92619-4132

**An alliance of American Indian and scientific communities working for the preservation of archaeological sites and other cultural resources.**

RECEIVED BY
PLANNING DEPARTMENT
APR 28 2011
CITY OF NEWPORT BEACH

April 26, 2011

Jaime Murillo, Associate Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658

Dear Jaime Murillo,

Thank you for the opportunity to review the Mitigated Negative Declaration for the Mariner's Pointe Project. We agree that the proposed project has a high probability for the presence of prehistoric cultural deposits beneath the current modern ground surface and that they may be impacted by earthmoving and demolition activities. The mitigation measures appear to be appropriate, however we would like to see a requirement that if significant cultural deposits such as intact midden or features and especially human remains are located during Phase II studies, rather than going directly to Phase III data recovery mitigation, a determination will be made as to whether preservation in place is a feasible option. This may be feasible if the cultural deposits are within areas designated for parking or landscaping. Site burial beneath parking lots and open spaces is recommended in California Public Resources Code 21083.2 (b) (3) and (4). This can also save the developer money as Phase III data recovery mitigation is labor intensive and expensive.

In addition, since the project involves a General Plan Amendment, SB 18 requires that prior to the adoption of an amendment of a city's general plan, the city conduct consultations with California Native American tribes.

Finally, the City of Newport Beach is to be commended for their diligence in addressing environmental concerns, including cultural resources. If you have any questions, please contact me at (949) 559-6490, or p.martz@cox.net.

Sincerely,

Patricia Martz

Patricia Martz, Ph.D.
President

**From:** Jack Langson
**To:** Murillo, Jaime;
**Subject:** Mariner"s Point draft MND
**Date:** Monday, May 09, 2011 5:56:42 PM

---

Mr. Murillo,

Thank you for the opportunity to comment on the draft Mitigated Negative Declaration for the Mariner's Point project. As I understand it, City Staff is taking public comment into consideration in determining whether to recommend the currently proposed project without further mitigation and without a full EIR.

TRAFFIC IMPACT: It seems to me that the transportation/traffic impact has NOT been adequately mitigated to justify the requested scale of this project on such a small parcel. While the amount of traffic from this small parcel will be a tiny share of the traffic at this very busy intersection, I request that City Staff uphold the principle of adhering to the existing FAR specified in the General Plan regardless of the parcel size. Since there are 3 proposed building uses (i.e. restaurant, retail, and medical office), there apparently is no compelling need for the proposed exception to the General Plan specified FAR which will result in increased traffic at the site.

BUILDING MASS: The requested variance in allowable building height from the 31' existing zoning to 40' (plus 44' at the architectural cupola) will introduce a new standard for buildings so close to the highway in our neighborhood. Again, I request that City Staff adhere to the exiting zoning regulations.

PARKING STRUCTURE STALL COUNT: The parking structure has been "engineered" to the limit to meet the requested project size. There will definitely need to be a valet/garage traffic manager around whenever a delivery truck is parked on the ground floor given the tight turning radius of the driveway and the fact that the valet cannot take a car out to PCH to get back to the valet station due to wrong-way traffic flow. It will be interesting to see how the developer engineers the transition from the level parking stalls to the 15% grade on the ramp without scraping the bottoms of cars or encroaching on the level handicapped path of travel. Finally, counting "tandem" parking stalls as fully usable is optimistic. Hence, this awkward parking facility seems to need further review.

Again, thank you for the opportunity to have my comments considered.

Cordially,

Jack M. Langson, neighbor
2616 Bayshore Drive

May 9, 2011

RECEIVED BY
PLANNING DEPARTMENT

MAY 09 2011

CITY OF NEWPORT BEACH

Jaime Murillo, Associate Planner
City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92658-8915

Subject: Comments on the Initial Study
Mariner's Pointe, West Coast Highway at Dover Drive
Newport Beach, California

As the owner of the residential property adjacent to the subject development site, this letter is submitted to state my concerns and objections in reference to this development's potential impacts to my property. I purchased my property, 100 Kings Place, which is located immediately north of the subject commercial development site years ago for its high value in terms of location and view in hopes of building a residence that, similar to my neighbors' homes, would enjoy the panoramic views of Balboa Island, Lido Isle, and the Pacific Ocean. However, upon review of the plans and per the Initial Study dated April 2011, my family and I are extremely concerned that the value of our property and quality of life would be significantly impacted by the proposed project, due to the following reasons:

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3. Air Quality: The odor and fumes of food from the kitchen exhaust of two restaurants operating from 9:00AM to 1:00AM daily would constantly blow onto our property;
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5. Zero Lot Variance: The developer proposes to encroach 5 feet into the 5-foot rear yard setback and build a retaining/shoring wall and 3-foot wide drainage swale on our property. Due to this we would lose 3' x 110' (330 Sq. Ft.) of our property. In addition, the retaining wall under-pining would extend about 40' to 50' into our property at 8' on center. This would limit the future development of our rear lot; and
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3. The restaurants' operation shall be limited to 10:00PM as most commercial businesses in the neighborhood close by then;
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5. The structures shall not be built within the 5-foot rear yard setback; and
6. The current FAR of 0.3/0.5 for the project site as designated on the Zoning Map shall not be amended. This would decrease the number of cars and traffic congestion on and around the property.

I appreciate your consideration of the above. If you have any questions, you can reach me at (714) 321-2668.

Cameron Merage, Owner
100 Kings Place
Newport Beach, CA 92663

| | |
|---|---|
| **From:** | mhilford@sbcglobal.net |
| **To:** | Murillo, Jaime; |
| **cc:** | Mike Hilford; |
| **Subject:** | Mariner"s Pointe Project Variances |
| **Date:** | Tuesday, May 10, 2011 2:02:19 PM |

I find no mention of the Mariner's Pointe Project at the suggested website: http://www.newportbeachca.gov/index.aspx?page=942 .

Developers of the project, located at 100-300 PCH, have requested some code variances that includes building height & roof-top parking that will, if approved, set a precedent and standard for all PCH buildings in this area. It would be naive to believe that the variances, if allowed, will be limited to 100-300 PCH.

For example, years ago, building height limits at 530 Kings Rd., were increased, or ignored, and now the street is lined with three & four story high-mega-houses that are incompatible with the neighborhood's scale.

Noise & commotion related to parking on these high structures, built in close proximity to many residences on Kings Rd., will negatively impact home-owner's quality of life and property values.

Therefore, I recommend the requested variances be denied.

Thank you,

Mike Hilford
511 Kings. Rd.
949/548-1495

**DEPARTMENT OF TRANSPORTATION**
District 12
3337 Michelson Drive, Suite 380
Irvine, CA 92612-8894
Tel: (949) 724-2267
Fax: (949) 724-2592

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*Be energy efficient!*

| Post-it® Fax Note 7671 | Date 5-10-11 # of pages ▸ 1 |
|---|---|
| To Jaime Murillo | From D. Davis |
| Co./Dept. Planning | Co. CALTRANS |
| Phone # 9) 644-3209 | Phone # 9) 440-3487 |
| Fax # 9) 644-3229 | Fax # 9) 756-4962 |

May 10, 2011

Jaime Murillo
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658

File: IGR/CEQA
SCH#: 2011041038
Log #: 2704
SR-1

**Subject: Mariner's Point Project**

Dear Mr. Murillo

Thank you for the opportunity to review and comment on the **Mitigated Negative Declaration for the Mariner's Pointe Project.** The project proposes to demolish the existing building and construct the proposed two-story commercial/retail building and three-level parking lot. The gross square footage of the proposed project would be 23,015. The uses would consist 10,493 gross square feet of restaurants, 9,522 gross square feet of retail, and 3,000 gross square feet of medical/office. Additionally, the project would construct a three-level parking structure that would provide 136 valet and self parking stalls. The nearest State route to the project site is SR-1.

The California Department of Transportation (Department), District 12 is a commenting agency on this project and we have no comment at this time. However, in the event of any activity within the Department's right-of-way, an encroachment permit will be required.

Please continue to keep us informed of this project and any future developments, which could potentially impact State transportation facilities. If you have any questions or need to contact us, please do not hesitate to call Damon Davis at (949) 440-3487.

Sincerely,

Chris Herre, Branch Chief
Local Development/Intergovernmental Review

C: Terry Roberts, Office of Planning and Research

# Department of Toxic Substances Control

*Linda S. Adams*
Acting Secretary for
Environmental Protection

Leonard E. Robinson
Acting Director
5796 Corporate Avenue
Cypress, California 90630

*Edmund G. Brown Jr.*
Governor

CITY OF NEWPORT BEACH
MAY 10 2011
RECEIVED BY
PLANNING DEPARTMENT

May 6, 2011

Mr. Jaime Murillo, Associate Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, California 92658

NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION FOR THE MARINER'S POINTE PROJECT, (SCH#2011041038), ORANGE COUNTY

Dear Mr. Murillo:

The Department of Toxic Substances Control (DTSC) has received your submitted draft Initial Study (IS) and a draft Mitigated Negative Declaration (MND) for the above-mentioned project. The following project description is stated in your document: " The project applicant proposes to construct a two-story commercial/retail building totaling 23,015 gross building square feet and a three-level parking structure totaling 50,274 gross building square feet on the 0.76-acre project site in the northwest quadrant of the intersection at Dover Drive and West Coast Highway. The development would include various commercial/retail uses such as restaurants, specialty retail and medical office. The project site is surrounded by single-family and multifamily residences to the north and south. One-story commercial buildings are adjacent to the west of the project site. East of the project site is Newport Bay and undeveloped open space to the northeast. The project site is located at the northwest corner of the intersection at Dover Drive and West Coast Highway in the City of Newport Beach. The project site consists of six legal lots. The site is currently enclosed by a chain-link fence and includes two vacant buildings on the western portion of the site and a paved surface parking lot".

Based on the review of the submitted document DTSC has the following comments:

1) The MND should evaluate whether conditions within the Project area may pose a threat to human health or the environment. Following are the databases of some of the regulatory agencies:

- National Priorities List (NPL): A list maintained by the United States Environmental Protection Agency (U.S.EPA).
- Envirostor (formerly CalSites): A Database primarily used by the California Department of Toxic Substances Control, accessible through DTSC's website (see below).
- Resource Conservation and Recovery Information System (RCRIS): A database of RCRA facilities that is maintained by U.S. EPA.
- Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS): A database of CERCLA sites that is maintained by U.S.EPA.
- Solid Waste Information System (SWIS): A database provided by the California Integrated Waste Management Board which consists of both open as well as closed and inactive solid waste disposal facilities and transfer stations.
- GeoTracker: A List that is maintained by Regional Water Quality Control Boards.
- Local Counties and Cities maintain lists for hazardous substances cleanup sites and leaking underground storage tanks.
- The United States Army Corps of Engineers, 911 Wilshire Boulevard, Los Angeles, California, 90017, (213) 452-3908, maintains a list of Formerly Used Defense Sites (FUDS).

2) The MND should identify the mechanism to initiate any required investigation and/or remediation for any site within the proposed Project area that may be contaminated, and the government agency to provide appropriate regulatory oversight. If necessary, DTSC would require an oversight agreement in order to review such documents.

3) Any environmental investigations, sampling and/or remediation for a site should be conducted under a Workplan approved and overseen by a regulatory agency that has jurisdiction to oversee hazardous substance cleanup. The findings of any investigations, including any Phase I or II Environmental Site Assessment Investigations should be summarized in the document. All sampling results in which hazardous substances were found above regulatory standards should be

clearly summarized in a table. All closure, certification or remediation approval reports by regulatory agencies should be included in the MND.

4) If buildings, other structures, asphalt or concrete-paved surface areas are being planned to be demolished, an investigation should also be conducted for the presence of other hazardous chemicals, mercury, and asbestos containing materials (ACMs). If other hazardous chemicals, lead-based paints (LPB) or products, mercury or ACMs are identified, proper precautions should be taken during demolition activities. Additionally, the contaminants should be remediated in compliance with California environmental regulations and policies.

5) Future project construction may require soil excavation or filling in certain areas. Sampling may be required. If soil is contaminated, it must be properly disposed and not simply placed in another location onsite. Land Disposal Restrictions (LDRs) may be applicable to such soils. Also, if the project proposes to import soil to backfill the areas excavated, sampling should be conducted to ensure that the imported soil is free of contamination.

6) Human health and the environment of sensitive receptors should be protected during any construction or demolition activities. If necessary, a health risk assessment overseen and approved by the appropriate government agency should be conducted by a qualified health risk assessor to determine if there are, have been, or will be, any releases of hazardous materials that may pose a risk to human health or the environment.

7) If the site was used for agricultural, livestock or related activities, onsite soils and groundwater might contain pesticides, agricultural chemical, organic waste or other related residue. Proper investigation, and remedial actions, if necessary, should be conducted under the oversight of and approved by a government agency at the site prior to construction of the project.

8) If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, Chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5). If it is determined that hazardous wastes will be generated, the facility should also obtain a United States Environmental Protection Agency Identification Number by contacting (800) 618-6942. Certain hazardous waste treatment processes or hazardous materials, handling, storage or uses may require authorization from the local Certified Unified Program Agency (CUPA). Information about the requirement for authorization can be obtained by contacting your local CUPA.

9) DTSC can provide cleanup oversight through an Environmental Oversight Agreement (EOA) for government agencies that are not responsible parties, or a Voluntary Cleanup Agreement (VCA) for private parties. For additional information on the EOA or VCA, please see www.dtsc.ca.gov/SiteCleanup/Brownfields, or contact Ms. Maryam Tasnif-Abbasi, DTSC's Voluntary Cleanup Coordinator, at (714) 484-5489.

10) Also, in future CEQA document, please provide your e-mail address, so DTSC can send you the comments both electronically and by mail.

If you have any questions regarding this letter, please contact Rafiq Ahmed, Project Manager, at rahmed@dtsc.ca.gov, or by phone at (714) 484-5491.

Sincerely,

Greg Holmes
Unit Chief
Brownfields and Environmental Restoration Program

cc: Governor's Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, California 95812-3044
state.clearinghouse@opr.ca.gov.

CEQA Tracking Center
Department of Toxic Substances Control
Office of Environmental Planning and Analysis
P.O. Box 806
Sacramento, California 95812
ADelacr1@dtsc.ca.gov

CEQA # 3195

May 3, 2011

City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658

RECEIVED BY
PLANNING DEPARTMENT

MAY 10 2011

CITY OF NEWPORT BEACH

Attention: Jaime Murillo, Associate Planner

Subject: Mariner's Pointe Project
City of Newport Beach

Reference is made to your Notice of Intent to Adopt Mitigated Declaration for Mariner's Pointe Project, a copy of which is attached hereto. We note the City Staff has concluded that the project would not have a significant impact on the environment and therefore has recommended a negative declaration.

However, we homeowners in Newport Beach, mainly on the ocean side of Kings Road, are strongly opposed to the project as presented. It is way overbuilt for the size of the property! The existing zoning, and the requirements therein, are presently fair to the homes on the rim and to the business properties below. As far as we can tell, all other businesses along the North side of the highway have complied. Why should there be an exception in this case?

We are most concerned about the Parking Structure: massive size, way over the 31 foot height limit, parking on the roof., lights on the roof, noise from car doors shutting, horn sounds, etc. Of even more concern is the fact that the entrance and exit are close to the corner of Dover and PCH. There have been many accidents on this corner and in the vicinity thereof. The ingress and egress to the Parking Structure are in an area where three traffic lanes merge into two. Traffic going East on PCH would have to make a U-turn at the corner to enter the parking structure.

Furthermore, if you accept these radical changes to the zoning requirements for this project, you probably will set an unwanted precedent. Also, we believe such massive structures will reduce the property values of homes directly above PCH. The property in question warrants a more reasonable development which complies with existing zoning and is more compatible with the neighborhood.

| HOMEOWNERS | ADDRESSES |
|---|---|
| Henry J. Geerlings | #11 Kings Road |
| Nancy N. Geerlings | 421 Kings Road |
| Evelyn Collins | |
| M. H. Hilford | 511 Kings Rd |
| Ron Lee | 108 KINGS PLACE |
| Marvin A Walker | 717 Kings Rd |
| Helen Walker | 717 Kings Rd |

| HOMEOWNERS | ADDRESSES |
| --- | --- |
| Fred Gabert | 811 Kings Rd. |
| Mary Peckert | 811 Kings Rd |
| Carol Lance Gier | 403 Kings Rd. |
| Richard D. Pier | 321 Kings Rd. |
| C.C. Pier | ✓ ✓ |
| Gary DeWald | 303 KINGS RD |
| Carolyn K DeWald | ✓ ✓ |
| [illegible] | 100 Kings Road |
| [illegible] | 503 Kings Rd |
| Laurie Jarbox, trustee | 104 Kings Place |

# Notice of Intent to Adopt
# Mitigated Declaration for Mariner's Pointe Project
# City of Newport Beach

Notice is hereby given that the City of Newport Beach has completed a Mitigated Negative Declaration for the construction of a new commercial building at 100 - 300 West Coast Highway at the intersection of West Coast Highway and Dover Drive, Newport Beach, California. The 0.76 acre project site consists of two existing connected one-story buildings and a surface lot. The project applicant, Glenn Verdult, proposes to demolish the existing structures and pavement onsite and construct a two-story commercial structure of 23,015 gross building square feet and a three-story parking structure. The development would include various commercial/retail uses such as restaurants (10,493 sf), specialty retail (9,522 sf), and medical office (3,000 sf).

Development of the proposed project would require the following entitlements from the City of Newport Beach.

- **General Plan Amendment**: increase the allowable floor area to land area ratio (FAR) for the project site from 0.5 FAR to 0.68 FAR
- **Zoning Code Amendment**: change the specific floor area limitation for the project site on the Zoning Map from 0.3/0.5 FAR to 0.68 FAR
- **Site Development Review**: to allow the construction of a 23,015-square-foot, two-story building and a three-story parking structure that will exceed the 31-foot base height limit with a maximum height of 40 feet
- **Modification Permit**: to allow architectural feature (cupola and finial) to exceed the 40-foot maximum height limit (proposed height of 44 feet)
- **Conditional Use Permit**: to allow rooftop parking, to modify the off-street parking requirements, and to establish a parking management plan for the site
- **Variance**: to allow the building to encroach 5 feet into the 5-foot rear yard setback
- **Parcel Map**: to consolidate six lots into one parcel

On the basis of the Initial Study, City staff has concluded that the project would not have a significant impact on the environment and has therefore recommended preparation of a Mitigated Negative Declaration (MND). The MND reflects the independent judgment of City staff and recognizes project design features, previous environmental evaluations, and standard construction and engineering practices, requiring review and reevaluation of future projects as contributing to avoidance of potential impacts. The project site does not include any sites on an Environmental Protection Agency hazardous waste site list compiled pursuant to Government Code Section 65962.5.

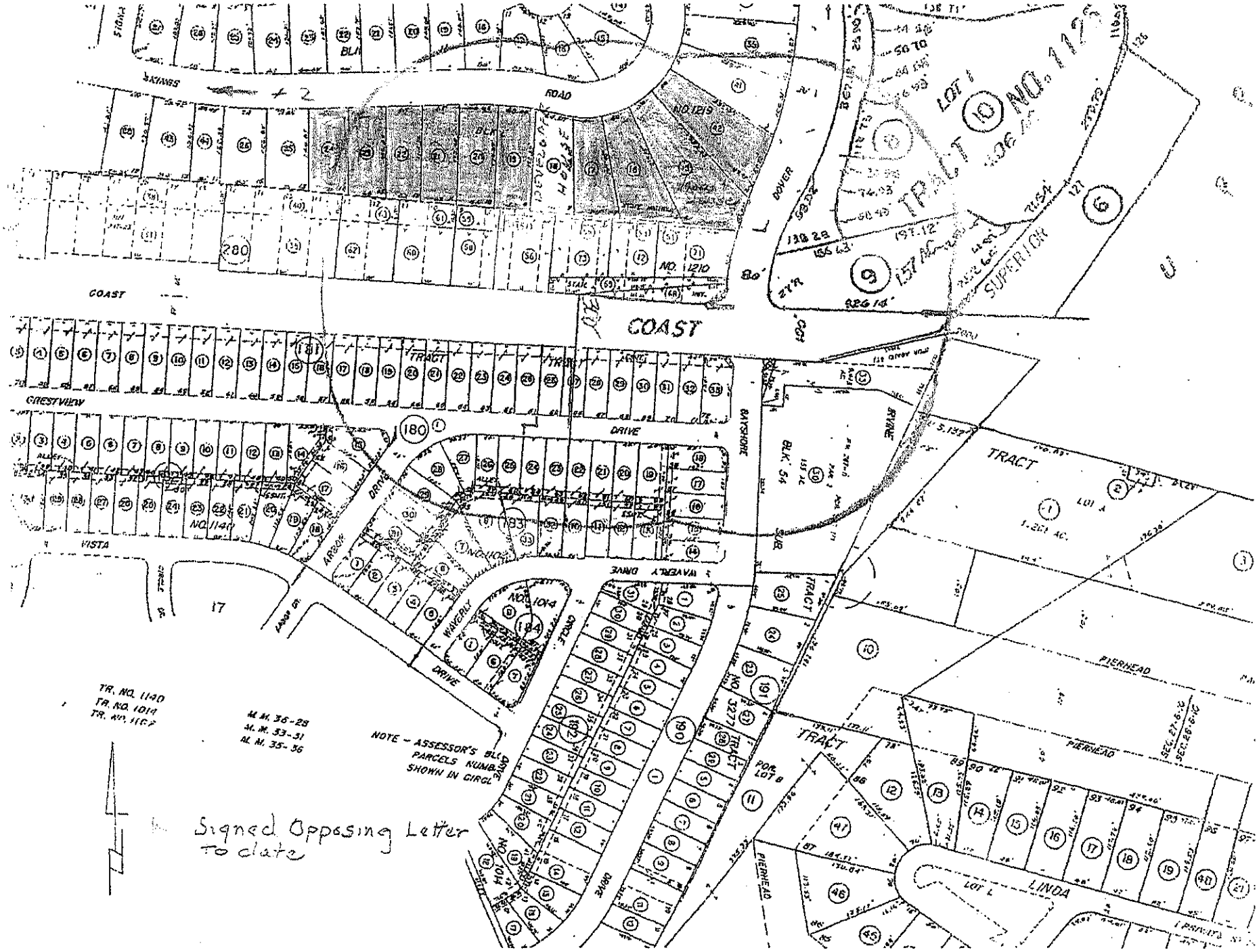
The MND is available for a 30-day public review period beginning April 11, 2011 and ending May 11, 2011. Copies of the document are available for review at 3300 Newport Boulevard, Newport Beach, CA 92658 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. The document can also be accessed online at: http://www.newportbeachca.gov/index.aspx?page=942. Additionally, copies of the document are also available for review at the following City public libraries:

Newport Beach Public Library
Corona del Mar Branch
420 Marigold Ave.
Corona Del Mar, CA 92625

Newport Beach Public Library
Mariners Branch
1300 Irvine Avenue
Newport Beach, CA 92660

Newport Beach Public Library
Balboa Branch
100 East Balboa Boulevard
Newport Beach, CA 92660

Newport Beach Public Library
Central Library
1000 Avocado Avenue
Newport Beach, CA 92660


BAYMAS
ROAD
COAST
COAST
GREENVIEW
DRIVE
VISTA
ARBOR
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WAVERLY
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DOVER
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PIERHEAD
PIERHEAD
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LOT L
TR. NO. 1140
TR. NO. 1014
M. M. 36-28
M. M. 53-31
M. M. 35-36
NOTE - ASSESSOR'S BLOCK
PARCELS NUMBERS
SHOWN IN CIRCLE
Signed Opposing Letter
To date

Scott R. Albrecht
Stephen S. Chang*
Loren A. Deters
Matthew A. Goldstein**
Philip W. Green
Jeffrey S. Grider
Megan G. Mayer
Jeanne V. McKee
Jennifer A. Needs
Anat Pieter
Herbert N. Samuels***
Hugh A. Sanders
William L. Steel
Martin J. Stein

*Also admitted in Colorado
**Also admitted in Arizona
***Also admitted in New York and Florida

Of Counsel
Orlando F. Cabanday
Ernest Mooney

May 11, 2011

File No.: 5657-001

VIA EMAIL JMurillo@newportbeachca.gov
Jaime Murillo, Associate Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658

RE: Notice of Intent to Adopt Mitigated Negative Declaration for Mariner's Pointe Project

Dear Mr. Murillo:

This law firm represents Laura Tarbox, Trustee of the Frank A. Eisendrath Trust, the owner of the home at 104 Kings Place, Newport Beach ("Home"). The Home is located directly above the proposed project. The owner believes the proposed project will have a significant impact on the environment and that the proposed Mitigated Negative Declaration ("MND") is insufficient and flawed in many respects.

The owner acknowledges the Home is located adjacent to a commercial zone and that development of the subject property for commercial uses is appropriate. However, the owner believes the proposed project is too massive for the subject property and that the requested amendments to the General Plan, Zoning Code, height limits and encroachment restrictions should not be granted.

The owner's principal environmental concerns are as follows:

1. Noise.

a. Rooftop Open-Air Parking Lot. The MND at Section 3.12 admits that noise will emanate from proposed rooftop open-air parking lot from slamming doors, car alarms and beeps, horns, loud talking, etc., but the MND offers no mitigating solutions other than a statement that only autos of employees and that are valet parked will be allowed on that level, which is no solution at all because all of the same noise issues are likely to occur even with that

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Telephone: (949) 263-0004 • Facsimile: (949) 263-0005

restriction. Also, Section 3.12 says that there are only 20 rooftop parking spaces but the plans show 47 spaces. The owner also does not believe the applicant will limit rooftop parking only to employees and valet parking. The applicant's representative, Tod Ridgeway, told the owner and me yesterday that the applicant proposes at least two alcohol serving restaurants, at least one of which will only be accessible from the rooftop parking level. It seems unlikely patrons of such a restaurant would tolerate not being allowed to park on the same level as the restaurant's entry. The proposal for open-air parking for patrons of alcohol serving restaurants located below many residences is already in practice with disastrous consequences in Crystal Cove. The exiting patrons of Javier's and Maestro's restaurants and their cars are extremely loud and insensitive to the adjacent homes, and most if not all of those homeowners hate living there.

The owner requests that the City not allow open-air rooftop parking, and that if rooftop parking is allowed that the City require it to be totally covered with appropriate noise attenuation material, and that a gate system or other access barrier be required as a condition to restaurant use that allows access to the rooftop level only by valet parking attendants and employees.

b. Restaurant Outdoor Seating Areas. The applicant's plans currently call for outdoor restaurant seating areas on the east side of the project on both the ground level and the second level, directly below the Home. The likely noise from those areas is not addressed in the MND. The owner requests that the City not allow any outdoor restaurant seating areas, and that if such seating is allowed that the City restrict the hours of access to those areas to prevent their use after 10 pm, require screening walls or other appropriate noise attenuation solutions, and prohibit any music (live or otherwise) or other amplified noise within these areas.

2. Odors.

a. Food. The applicant intends to have at least two restaurants in the project, which will require cooking facilities with appropriate rooftop ventilation. The food odors appear likely to rise directly into the residential area including the Home. The MND is silent about the likelihood of food odors emanating from the restaurants and therefore offers no mitigating solutions. The owner requests that the City require the applicant to prevent food odors from emanating into the residential area as a condition to restaurant use.

b. Cigarettes and Cigars. The applicant intends to have at least two alcohol-serving restaurants, one on each level, and both of which have proposed outdoor seating areas. It can be expected that a significant number of patrons of these restaurants will be smokers, but the MND is silent about the likelihood of cigarette and cigar smoke and odors emanating from the project, including from the outdoor seating areas, the areas between the proposed elevator and the restaurant entrances, and the proposed open-air rooftop parking lot., and therefore offers no mitigating solutions. The owner requests that the City prohibit cigarette and cigar smoking everywhere within and around the project, including without limitation in any outdoor seating areas, walkways and parking areas.

3. Light Pollution. The applicant's plans provide for many lights in the rooftop open-air parking area and glass elevator area that will be located within the parking area's southern and western boundary walls, which will be shining in the Home's direction and therefore can reasonably be expected to have a material adverse impact on the Home's nighttime environment. The owner requests that the City require the top level of parking be covered to prevent such glare and if the City does not require such cover that the City require lighting that will not be shining in the Home's direction or will shine in that direction with minimal glare.

4. Views.

a. Project's Rooftop. The Home will look down directly onto the commercial structure's rooftop. Therefore, to minimize view degradation from the Home the owner requests that the City prohibit the placement of any vents, heating and air conditioning equipment, or similar fixtures or equipment on the roof and that the City require appropriate roofing materials.

b. Cupola. The proposed cupola will be the highest point of the structure and will be about 44 feet above the ground level (not including its proposed spire, which may extend several feet above that). This requires a modification permit because it will be located above the maximum allowable height. While it does not appear that the cupola will block the Home's view of Newport Bay, it will be the most visible part of the commercial building from the Home and the spire may interfere with the Home's view of Newport Bay. Therefore, the owner requests that the City not approve a modification permit and instead require that any cupola including its spire be built within the 40 foot maximum height limit.

c. Landscaping. The applicant's renderings of the project in the MND show about 10 proposed palm trees in the front of the project along Coast Highway, all of which are shown as extending substantially above the highest points of the proposed buildings. The owner believes that the height of these palm trees as shown in the drawing will extend into the Home's view corridor of the Newport Bay and ocean, and therefore the owner requests that the City require all landscaping within the project to at no time be higher than any of the buildings within the project.

In addition to the owner's environmental concerns, the owner has these aesthetic objections:

1. Rear Wall. The applicant's representative Tod Ridgeway indicated to the owner and me yesterday that the northern boundary of the project, which will be facing the Home, will be a long and very high solid block wall (which will be over 300 feet long and about 30 feet tall. The massiveness of this wall will be very unattractive in appearance from the Home and neighboring homes, and the Owner requests that the City require that the side of this wall facing the Home have an attractive design or other covering, and/or that the applicant be required to

place tall landscaping between the wall and the Home within the applicant's property (and not within the owner's property).

2. Privacy. The applicant proposes two outdoor restaurant seating areas on the east side of the project, both of which will be located directly below the home. In addition, the rooftop elevator's doors will open directly toward the Home. It appears likely that patrons in those areas will be able to look directly into the owner's rear yard and into the Home's proposed second floor. The owner requests that the City require appropriate view screening from the outdoor seating areas and from the elevator access area so that patrons cannot see into the Home's proposed second floor or its rear yard.

3. Overall Mass. The overall mass of the project appears to the owner to be too large for the available space and will be very out of character with existing commercial uses in the area and as will have too many negative impacts on the Home and adjacent homes.

Lastly, the owner believes the project as proposed will only be possible if the applicant is able to use adjacent property, including the owner's property and property owned by adjacent homeowners, because it appears the proposed project may require encroachments into the owner's property for retaining wall footings and/or tiebacks, drainage swales and/or landscaping. The owner does not intend to grant to the applicant any easements or other rights to use the owner's property for any purpose, and the owner therefore requests that the City require the project to be located entirely within the applicant's property and that no physical encroachments occur within any adjoining properties.

Sincerely,

William L. Steel

WLS:kl
cc: Client
5657\001\j. murillo ltr 5-11-11.docx

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STOP

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Nutrition Facts
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Total Fat
Sodium
Total Carbohydrate
Dietary Fiber
Sugars
Protein
Vitamin A
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Calcium
Iron
Vitamin E
FLAVORED SNACKS
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ECOSTINA
WATER

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Date Inspected: 6.16.11

IN #: 23420142

Client (MC) Revised 04/21/2011 Form 1103

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Newport Beach

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**BAC Field Services Corporation does not own the property and should not be contacted regarding sale or rental inquiries.**

| ATTENTION | ATENCIÓN |
| --- | --- |
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| To protect the interest of the lender and in accordance with the terms of the security instrument, the property has been secured to prevent entry by unauthorized persons. | Para proteger el interés del prestamista y de acuerdo con los términos del instrumento de seguridad, la propiedad ha sido asegurada para prevenir la entrada de personas sin autorización. |
| In case of an emergency only, call (866) 515-9759, and have the property address and work order number below ready. | En caso de emergencia solamente, llame al (866) 515-9759, y tenga la dirección de la propiedad y el número de orden de trabajo adjunta a mano. |
| BAC Field Services Corporation does not own the property and should not be contacted regarding its sale or rental. Please contact your local realtor for all property inquiries. | BAC Field Services Corporation no es dueño de la propiedad y no debe ser contactado con respecto a la venta o alquiler de esta. Por favor comuníquese con su agente local para todas las preguntas sobre la propiedad. |

Property Winterized (Propiedad Preparada para el invierno): Yes (Sí) ___ No (No) X

Date (Fecha): 11/23/10

Property Address (Dirección de la propiedad): 2828 Ocean Blvd, Newport Beach, 92625

Representative's Name (Nombre del representante): _____

Vendor ID (Identificación del Vendedor): CFC0367266

Work Order Number (Número de orden de Trabajo): 47486905-1

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