CITY OF NEWPORT BEACH
PLANNING COMMISSION AGENDA

CITY COUNCIL CHAMBERS - 3300 NEWPORT BOULEVARD
THURSDAY, JULY 19, 2012
REGULAR MEETING – 6:30 p.m.

MICHAEL TOERGE
Chair

BRADLEY HILLGREN
Vice Chair

FRED AMERI
Secretary

TIM BROWN

KORY KRAMER

JAY MYERS

LARRY TUCKER

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

BRENDA WISNESKI, Deputy Community Development Director

LEONIE MULVIHILL, Assistant City Attorney **TONY BRINE, City Traffic Engineer**

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. The agendas, minutes, and staff reports are available on the City's web site at: http://www.newportbeachca.gov and for public inspection in the Community Development Department, Planning Division located at 3300 Newport Boulevard, during normal business hours. 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.

This Commission 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 three (3) minutes per person. All testimony given before the Planning Commission is recorded.

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 of 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).

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
CITY COUNCIL CHAMBERS – 3300 NEWPORT BOULEVARD
THURSDAY, JULY 19, 2012
REGULAR MEETING – 6:30 p.m.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

IV. ELECTION OF OFFICERS

ITEM NO. 1 The Commission will elect officers to serve for the year.

V. 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 three (3) minutes. (Red light signifies when three (3) minutes are up; yellow light signifies that the speaker has one (1) minute left for summation.) Before speaking, please state your name for the record and print your name on the blue forms provided at the podium.

VI. REQUEST FOR CONTINUANCES

VII. CONSENT ITEMS

ITEM NO. 2 MINUTES OF JULY 5, 2012

Recommended Action: Approve and file

VIII. PUBLIC HEARING ITEMS

Speakers must limit comments to three (3) minutes on all items. (Red light signifies when three (3) minutes are up; yellow light signifies that the speaker has one (1) minute left for summation.) Before speaking, please state your name for the record and print your name on the blue forms provided at the podium.

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.

ITEM NO. 3 ROSE BAKERY CAFÉ USE PERMIT REVIEW (PA2010-103)
SITE LOCATION: 3536 East Coast Highway

Summary:
One year review of Amendment No. 1 to UP 2009-035 as required by condition of approval no. 5. The purpose of the review is to determine compliance with the conditions of approval and effectiveness of the Parking Management Plan.

CEQA Compliance:
This Use Permit review is exempt from environmental review pursuant to Section 15321 (Class 21 - Enforcement Actions by Regulatory Agencies) of the Guidelines for Implementation of the California Environmental Quality Act.

Recommended Action:

1. Receive public comments; and
2. Receive and file.

ITEM NO. 4 COAST POINT (PREVIOUSLY KNOWN AS CHINA PALACE) USE PERMIT REVIEW (PA2010-082)
Site Location: 2800 West Coast Highway

Summary:
On November 23, 2010, the City Council adopted Resolution No. 2010-131 approving Use Permit No. UP2010-015 for live entertainment and dancing at the Coast Point (previously known as China Palace) restaurant. Condition No. 1 requires that the Planning Commission review the operation after one year to determine whether the applicant has complied with the conditions of approval.

CEQA Compliance:
This Use Permit review is exempt from environmental review pursuant to Section 15321 (Class 21 - Enforcement Actions by Regulatory Agencies) of the Guidelines for Implementation of the California Environmental Quality Act.

Recommended Action:

1. Receive public comments; and

2. Receive and file.

ITEM NO. 5 WIRELESS TELECOMMUNICATIONS FACILITIES ORDINANCE (PA2012-057)
Site Location: N/A

Summary:
An amendment to the Newport Beach Municipal Code ("NBMC") to update regulations regarding wireless telecommunication facilities ("telecom facilities"). Regulations currently contained in Chapter 15.70 would be updated and relocated to Title 20 (Planning and Zoning). Chapter 15.70 would be rescinded in its entirety.

CEQA Compliance:
This code amendment is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3.

Recommended Action:

1. Conduct public hearing; and

2. Adopt Resolution No. ___ recommending that City Council approve an amendment to the NBMC to update regulations regarding telecom facilities, and consolidate all provisions currently contained in Title 13 (Streets, Sidewalks and Public Property) and Title 15 (Buildings and Construction) within a proposed new chapter in Title 20 (Chapter 20.49 Wireless Telecommunications Facilities); and repeal Chapter 15.70 in its entirety.

IX. <u>NEW BUSINESS</u>

ITEM NO. 6 BALBOA VILLAGE IMPLEMENTATION PLAN (PA2011-224)
Site Location: Balboa Peninsula between 7th Street and A Street including Balboa Village

Summary:
During the City Council's 2011 goal setting session, revitalization of several neighborhoods was prioritized including Balboa Village. The City Council established the Neighborhood Revitalization Ad-Hoc Committee ("NRC") to guide the overall effort and Council Members Henn, Hill, and Selich were appointed to the ad-hoc committee. The NRC established a Citizens Advisory Panel ("CAP") consisting of several community leaders and residents to assist the NRC. With the assistance of staff

and consultants, the CAP and NRC have prepared the attached draft Implementation Plan ("Implementation Plan" or "Plan") that will be forwarded to the City Council for review and action. The Planning Commission's input on the Implementation Plan is requested.

CEQA Compliance:
Consideration and possible adoption of the Balboa Village Implementation Plan is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15262 (Feasibility and Planning Studies) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because the Implementation Plan only identifies possible future actions and has no legally binding effect.

Recommended Action:

1. Review the Balboa Village Implementation Plan and provide comments to the City Council, as deemed warranted by the Planning Commission.

X. CONTINUED BUSINESS

ITEM NO. 7 REVIEW OF RULES OF PROCEDURES OF THE PLANNING COMMISSION (PA2012-065)
Site Location: N/A

Summary:
Amend certain sections of the RULES OF PROCEDURES OF THE PLANNING COMMISSION (Procedures).

CEQA Compliance:
Revising the Planning Commission Rules of Procedures is not considered a "project" as defined by the California Environmental Quality Act (CEQA) in that this action has no potential to result in direct or indirect physical change to the environment.

Recommended Action:

1. In accordance with Section XV of the Procedures, approve the amendments to the Rules of Procedures of the Planning Commission.

XI. STAFF AND COMMISSIONER ITEMS

ITEM NO. 8 COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

ITEM NO. 9 ANNOUNCEMENTS ON MATTERS THAT THE PLANNING COMMISSION MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR REPORT.

ITEM NO. 10 REQUESTS FOR EXCUSED ABSENCES

XII. ADJOURNMENT

V. Public Comments_Purcell
Planning Commission - July 19, 2012

WM
WASTE MANAGEMENT
714.558.7761
949.642.1191

6
Swedish Thai Yoga
(949) 640-0027
Thai Yoga Massage
Deep Tissue
Reflexology
Shatsu
Aroma
8
9
AIR BRUSH TANNING
TANIA ANDRIENE
Hair & Makeup Studio
·WEDDINGS·
(949) 644-6281
AIRBRUSH·TANNING
2012/07/18 17 : 40

DENTISTRY
500 LB
320920
500 LB
NO HAZARDOUS
LEVEL
CR&R
800.826.9677
320667
2012/07/18 17 : 41

500 LB
WEIGHT LIMIT
500 LB
NO HAZARDOUS
LEVEL
CR&R
800.826.9677
320920
2012/07/18 17:41

6
Swedish Thai Yoga
(949) 640-0027
Thai Yoga Massage
Deep Tissue
Reflexology
Shatsu
Aroma
8
9
AIR BRUSH TANNING
TANIA ANDRIENE
Hair & Makeup Studio
·WEDDINGS·
(949) 644-6281
AIRBRUSH·TANNING
2012/07/18 17 : 40

SUMMER HOUSE
CORONA DEL MAR
SUMMER HOUSE
CORONA DEL MAR
2012/07/19 10 : 32

CALIFORNIA TOMATOES
2012/07/19 10 : 08

RECYCLABLES ONLY (NO TRASH)
ITEMS TO BE RECYCLED
• Cardboard
Cartón
• Office Paper
Papel de Oficina
• Plastic Bottles 1 & 2
Botellas Plásticas
• Paper Bags
Bolsas de Papel
• Newspapers
Periódicos
• Cans
Latas de Aluminio y Acero
• Glass Jars / Bottles
Frascos / Botellas de Vidrio
• No Paper Towels
No Toallas de Papel
WM
Recycle America
WASTE MANAGEMENT OF ORANGE COUNTY
(714) 558-7761 • (949) 642-1191
2012/07/18 17 : 41

2012/07/18 18 : 02

2012/07/18 18 : 02

WARE
DISPOSAL CO., INC.
714-834-0234
949-833-9901
2012/07/18 18 : 02

NEWPORT BEACH PLANNING COMMISSION MINUTES
Council Chambers – 3300 Newport Boulevard
Thursday, July 5, 2012
REGULAR MEETING
6:30 p.m.

I. CALL TO ORDER – The meeting was called to order at 6:30 p.m.

II. PLEDGE OF ALLEGIANCE – Chair Toerge

III. ROLL CALL

PRESENT: Ameri; Brown, Hillgren, Kramer, Myers, Toerge, and Tucker

Staff Present: Kim Brandt, Community Development Director; Brenda Wisneski, Deputy Community Development Director; Leonie Mulvihill, Assistant City Attorney; Tony Brine, City Traffic Engineer; Javier Garcia, Senior Planner; Associate Planner Jaime Murillo; and Jim Campbell, Principal Planner

IV. PUBLIC COMMENTS

Chair Toerge invited comments from those in the audience who wished to address the Commission on other than Agenda items.

Jim Mosher commented on the Planning Commission's schedule noting the current requirement for selection of officers. He commented on missing elements within the noticing of the Banning Ranch project.

Dan Purcell commented on the use of marketing stickers by a new restaurant, Dive Bar, and reported finding the stickers on signs in the City and referenced the money paid by taxpayers for graffiti and sticker removal.

V. REQUEST FOR CONTINUANCES

Community Development Director Kimberly Brandt noted no requests for continuances at this time.

VI. CONSENT ITEMS

ITEM NO. 1 MINUTES OF JUNE 21, 2012

Community Development Director Brandt reported that changes to the minutes, suggested by Commissioner Kramer, are being incorporated into the minutes and requested postponing Item No. 1 to later on the agenda.

VII. PUBLIC HEARING ITEMS

ITEM NO. 2 7-ELEVEN USE PERMIT (PA2012-025)
Site Location: 4221 MacArthur Boulevard, Suite B-01

Javier Garcia, Senior Planner presented a PowerPoint presentation and details of the report addressing location, traffic study performed to update/revise the Phasing Ordinance to accommodate the change in the allocation of commercial uses on the site, reduced parking requirement for the project, findings, and recommendations.

Chair Toerge invited the applicant to address the Commission.

Ralph Deppisch, consultant for the applicant, provided a PowerPoint presentation and addressed alcohol sales, personnel training, computer-generated age-restrictive requirements for selling beer, wine and tobacco, upscale interior design, security, parking and traffic, aesthetics, information regarding the franchise, 7-Eleven guiding principles, examples of product offerings, hours, lighting, litter and graffiti control.

DRAFT

Interested parties were invited to address the Commission on this item.

Jim Mosher commented regarding changes in the project including the approved curb cut, the call for bigger signs to attract motorists, impacts on traffic and findings regarding traffic and proximity to residential properties.

Dan Purcell addressed "project creep" and "scope creep". He felt that the proposed project is different than what was originally approved.

There being no others wishing to address the Commission, Chair Toerge closed public comments for this item.

Commissioner Myers stated he voted for this project when originally presented and felt that the improvements would improve the fortunes of nearby businesses and that the use made sense. He expressed disappointment at the increased number of trips generated by the project and reduction in the food service component of the project. He stated no objection of 7-Eleven but objected to the reallocation of commercial uses at the project and the resulting increase in trips.

Commissioner Tucker noted that the project has been approved and noted that it is still consistent with the Zoning and General Plan for the property. He added that the purpose of a Use Permit is to make certain that the types of uses that have the prospects of being incompatible with neighbors, are looked at and conditions are placed so that they become compatible. He addressed the TPO Ordinance and referenced Table No. 7 within the report and noted that there are no unacceptable levels of service indicated, although traffic trips will increase. He indicated that there is no basis for disapproving the project on increased traffic from a change of allocation of the types of uses. Commissioner Tucker stated that he will support the project.

Commissioner Brown commented on the possibility of future residential development in the area.

Vice Chair Hillgren felt that the use is appropriate for the site, agreed with Commissioner Tucker but expressed concerns with the short driveway from MacArthur into the center and felt that may present a safety issue. He indicated that he will not support the item.

Commissioner Kramer reported that he voted for the project, initially, and will be supporting the proposed CUP.

Commissioner Ameri expressed concerns with the increased traffic and its impact.

Motion made by Commissioner Kramer and seconded by Commissioner Brown, and carried (4 – 3), to adopt a resolution, approving Use Permit – Conditional No. UP2012-003, and finding that, based on the weight of the evidence in the administrative record, including Traffic Study No. TS2011-002 and that Traffic Study No. TS2012-001 complies with the Traffic Phasing Ordinance in support of the proposed project.

AYES:	Brown, Kramer, Toerge, and Tucker
NOES:	Ameri, Hillgren, and Myers
ABSTENTIONS:	None
ABSENT (Excused):	None

Chair Toerge redirected the meeting to Item No. 1 under Consent Items.

ITEM NO. 1 MINUTES OF JUNE 21, 2012

Commissioner Kramer commented on his proposed changes to the minutes, distributed under separate cover.

Deputy Community Development Director Brenda Wisneski proposed changes as well as Commissioner Tucker who addressed the elimination of a $30 million cost estimate out of the Statement of Overriding Consideration for the work to clean up the oil problem, noting that no public money would be spent to clean up the oil site. He requested the inclusion of the same to the minutes.

DRAFT

Interested parties were invited to address the Commission on this item.

Jim Mosher referenced the handout of comments submitted by Commissioner Myers regarding modification of page 4 of 12, inserting "Deputy" to the title of Community Development Director Wisneski.

Community Development Director Brandt noted that the communication was from her and therefore the minutes should reflect "Community Development Director Brandt". Commissioner Myers agreed to the change. Commissioner Tucker indicated agreement to include it as part of the motion and Commissioner Brown agreed.

There being no others wishing to address the Commission on this item, Chair Toerge closed public comments.

Motion made by Commissioner Tucker and seconded by Commissioner Brown, and carried (6 – 1), to approve the minutes of June 21, 2012, as amended.

AYES:	Brown, Hillgren, Kramer, Myers, Toerge, and Tucker
NOES:	None
ABSTENTIONS:	Ameri
ABSENT (Excused):	None

ITEM NO. 3 NORTH NEWPORT CENTER PLANNED COMMUNITY AMENDMENT (PA2012-020)
Site Location: Fashion Island, Block 600, Block 800 and portions of Blocks 100, 400, 500 and San Joaquin Plaza of Newport Center

Associate Planner Jaime Murillo presented a PowerPoint presentation and details of the report including background, original 2007 approval of the North Newport Center Planned Community (NNCPC) Development Plan by the City Council, the Development Agreement and associated traffic study and the approval of an Affordable Housing Implementation Plan. He presented details of the proposed amendment to the NNCPC Development Plan, including increasing the residential development allocation from 430 units to 524 units and allocating the units to San Joaquin Plaza. He noted that all existing development regulations will remain unchanged and that the amendment primarily involved an increase in residential development intensity. He reported that of the 94 unit increase, 15 units are allowed by the General Plan but are unassigned. The remaining 79 units would result from the conversion and transfer of un-built development intensity which is currently allowed for under the General Plan at the Newport Beach Marriott site. He noted that the hotel is currently developed with 532 hotel rooms and that the General Plan allows for up to 611 hotel rooms to be developed and that the applicant is proposing to convert those un-built hotel rooms and transfer them to the NNCPC boundaries. He noted transfer of development intensities are allowed under the General Plan. He presented findings and reported on a trip generation comparison by the City to evaluate whether the conversion would result in increased development intensity and noted the results. He also presented the results of the traffic study in support of the findings.

Mr. Murillo addressed the amendment to the existing Development Agreement noting that it will vest the development rights for the 94 units and extend the term for 20 years from the effective date of the approval. In addition, the applicant will be providing provisions for affordable housing and monetary public benefits.

In response to Vice Chair Hillgren's inquiry regarding the public benefits, Mr. Murillo affirmed that they are solely for the proposed 94 units.

Mr. Murillo presented details of the Affordable Housing Implementation Plan (AHIP) and noted that the applicant has the ability to record affordable housing covenants for a 30-year term on existing apartment units owned by the applicant and that as part of the amendment, the applicant will increase the number of units to be provided depending on the designation of units for very-low-income, low-income, or moderate income households. He reported that a water supply assessment was prepared as required by the State Senate Bill 610 and addressed compliance with CEQA requirements. He referenced a map that was distributed under separate cover that should be added as an exhibit to the Amendment to the Development Agreement.

Assistant City Attorney Leonie Mulvihill identified the map provided by Mr. Murillo as Exhibit B and referenced Exhibit C; the Affordable Housing Implementation Plan (AHIP).

Vice Chair Hillgren addressed consideration of the hotel units under the Newport Beach Country Club application and noted that the Commission worked hard to protect and preserve them and stated there is good value to them in terms of assets for the community and a desire to have them developed at Newport Center. He inquired regarding ownership by the Irvine Company and asked regarding the possibility of extending the units for 20 years, which is in contrast to the General Plan provision regarding desirability of mixed-use developments.

Community Development Director Brandt referenced the earlier conclusion of the Newport Beach Country Club application noting that there was a proposal to take five of the 20 units remaining in Newport Center that were unassigned and bringing them into the tennis club property as well as to transfer 27 of the hotel rooms from the Marriott site to the tennis club location. At that time, the Marriot organization was opposed to the proposal. Through the course of the numerous public hearings, there was a proposal brought forward to convert the tennis court entitlement into the needed hotel rooms. Staff made it clear that the 79 hotel rooms were not a vested right to the Marriott Hotel Corporation and that there was no development agreement associated with those hotel rooms. Subsequent to that application being heard by Council, the current application is presented to the Planning Commission to transfer the 79 hotel rooms and convert them to residential units. She reported that staff has received no objections from Marriott regarding the current proposal. She added that it has always been staff's position the units can be moved within Newport Center and she stated that the property owner's permission is not required.

Chair Toerge invited the applicant to address the Commission on this item.

Dan Miller, representing the Irvine Company, presented a brief history of the matter including an agreement with Mr. O'Hill relative to the Newport Beach Country Club project. He addressed an agreement with the Marriott in return for the Irvine Company's support of their application through the County planning process in Newport Coast. He noted that additional hotel units will be built in Newport Coast, not Newport Center. He addressed the public benefit fees and noted that the Irvine Company will advance $2.5 million of that fee for the parks, whether they pull permits or not. Mr. Miller reported the intent to move forward with the residential project in 2014. He addressed previous approval of the AHIP and increases with the proposed amendment. He stated agreement with the findings in the staff report and offered to respond to questions.

Commissioner Kramer requested clarification of the calculation of public benefit fees as well as additional details on the Bayside Drive walkway connection.

Mr. Miller reported that the starting point used in calculating the public benefit fees was the per-unit fee proposed in 2007 and advancement of those fees. Regarding the Bayside Drive walkway connection, he reported that it was suggested by two Members of Council and involves a connection to the bridge to Balboa Island.

Commissioner Kramer asked regarding inclusionary housing as part of the affordable housing provision.

Mr. Murillo reported a previous adoption of the City's Inclusionary Housing Ordinance which was intended to implement the housing goal in the General Plan and referenced a court case that found that application of Inclusionary Housing Ordinances to rental housing projects violated a rent-control act. When the Ordinance was presented to Council, it was revised to only apply to subdivision/for-sale developments. He noted that in this case, it is not known if the units will be rental or for-sale condominiums and that is why the provision of affordable housing was added to the development agreement.

Chair Toerge inquired regarding no public benefit fees associated with the previous 430 units.

Mr. Miller noted that it was part of the original Development Agreement and addressed the public benefit fees.

DRAFT

Mr. Murillo added that there are also a number of roadway improvements and dedication of land that were provided as public benefits in the original Development Agreement.

Interested parties were invited to address the Commission on this item.

Jim Mosher thanked Vice Chair Hillgren for his inquiry regarding the 79 hotel units and expressed concerns regarding future changes to the Municipal Code not applying to the subject Development Agreement. He questioned the total residential entitlement referred to within the staff report.

There being no others wishing to address the Commission, Chair Toerge closed public comments for this item.

Mr. Murillo reported that the 245 units that are allocated to Block 800 in the NNCPC reflect the existing Colony apartment development.

Commissioner Tucker stated that the comment regarding future changes to the Municipal Code is typical of development agreements, noting that the trade-off is the public benefits to be provided by the developer and is applicable only to planning fees and development regulations. He noted that Newport Center is a major area to plan and felt the proposal is consistent with the ultimate plan for Newport Center and felt it is good for all interested parties.

Assistant City Attorney Mulvihill suggested that separate motions be taken on the recommended actions.

Commissioner Ameri inquired regarding the motion protocol.

Assistant City Attorney Mulvihill reported the need for clarity regarding actions taken, especially with large projects that involve various elements. She noted that there are findings for each specific item and the importance of affirming that each finding was acted upon.

Commissioner Kramer commented and expressed his support for the project.

Motion made by Commissioner Tucker and seconded by Commissioner Ameri, and carried (7 – 0), to adopt the draft resolution recommending the City Council adopt Addendum No. 2 to the Program Environmental Impact Report (SCH No 2006011119) for the City of Newport Beach General Plan 2006 Update and the Water Supply Assessment prepared for the project.

AYES:	Ameri, Brown, Hillgren, Kramer, Myers, Toerge, and Tucker
NOES:	None
ABSTENTIONS:	None
ABSENT (Excused):	None

Motion made by Commissioner Tucker and seconded by Commissioner Ameri, and carried (7 – 0), to adopt the draft resolutions recommending the City Council approve Transfer of Development Intensity No. TD2012-002, Planned Community Development Plan Amendment No. PD2012-001, Amendment to Development Agreement No. DA2007-002, Traffic Study No. TS2012-004, and the proposed Amendment of the Affordable Housing Implementation Plan.

AYES:	Ameri, Brown, Hillgren, Kramer, Myers, Toerge, and Tucker
NOES:	None
ABSTENTIONS:	None
ABSENT (Excused):	None

DRAFT

ITEM NO. 4 MARINA PARK PROJECT (PA2012-079)
Site Location: 1600 W. Balboa Boulevard

Principal Planner Jim Campbell presented details and provided a PowerPoint presentation of the report addressing the previous approval of the project by the City Council, the location, and a description of the project. He noted that the architectural tower of the building modified by the Coastal Commission. He referenced preparation of a certified EIR and the conclusion that there were less than significant impacts to public views. He presented the site plan, the tower/lighthouse feature and modification by the Coastal Commission of the height. He noted that the Coastal Commission was concerned about setting precedence for future projects and he presented details of the proposed amendment. Mr. Campbell noted a change in the proposed amendment from the draft presented in the staff report creating specific language to support the proposed 71-foot high tower and including a purpose statement. Mr. Campbell indicated staff's recommendation for approval.

In response to an inquiry from Chair Toerge, Mr. Campbell reported that the proposed building is 35 feet.

In response to Commissioner Tucker's request, Mr. Campbell indicated that the design process was extensive and it was publically vetted.

Responding to Vice Chair Hillgren's inquiry regarding the tower height, Mr. Campbell noted that the EIR evaluated a 73-foot high tower but that the current city-approved design calls for 71 feet.

Commissioner Ameri inquired regarding whether the item must return to the Coastal Commission if the Planning Commission approves the height of the tower at 71 feet.

Mr. Campbell reported that the amendment requires review by the Coastal Commission and if approved by the City. If the Coastal Commission approves the amendment, the project itself will require a subsequent review. He added that staff will try its best to expedite the process.

Assistant City Attorney Mulvihill reported that she was at the Coastal Commission hearing where they considered the matter and approved the project with the exception of the large architectural element. She added that they had a problem relative to the height limit in the City's Zoning Code and stated approval of the amendment should not impede approval of the project. She added that part of the process is to have the Planning Commission review it.

Interested parties were invited to address the Commission on this item.

Jim Mosher felt the building would look as good with the tower as without it and he commented about a statement made by the City's consultant to the Coastal Commission indicating that an existing tsunami warning horn would be removed from its current location and placed on the proposed tower. He questioned how that would work.

Dan Purcell commented on the tower as being a faux lighthouse and expressed the opinion that this project will be used to justify other projects. He also expressed concerns with maintenance.

Catherine Callahan stated her agreement with the previous speakers and she felt that public opinions were overlooked and that the tower is overkill and would be an eyesore.

Elliott Vaughn agreed with previous speakers and addressed placement of the tsunami warning horns noting the City's consultant mentioned that it would be placed above the tower. He requested that language be added to reflect that nothing over 71 feet should be built or added.

Mr. Campbell reported that the project does not include a specific design to incorporate the tsunami warning system or any other communications equipment. The policy sets for the ability to potentially use the tower for the tsunami or communications equipment in the future.

DRAFT

Commissioner Ameri stated agreement with specifying that nothing should be built or installed above 71 feet.

There being no others wishing to address the Commission, Chair Toerge closed public comments for this item.

Commissioner Brown indicated he will support the project, primarily because of the iconic value.

Motion was made by Commissioner Kramer and seconded by Commissioner Brown, and carried (7 – 0), to adopt a resolution recommending the City Council approve the amendment to the Coastal Land Use Plan No. LC2012-002.

Mr. Campbell requested clarification regarding the motion such that the amendment would include the revised language presented by the separate memorandum and not the language within the staff report or draft resolution. Commissioner Kramer and Brown indicated that understanding.

Discussion followed regarding the possibility of considering increasing the height "up to 73 feet."

Commissioner Kramer and Commissioner Brown amended the motion to include language in the resolution placing a height limit to not over 73 feet.

Commissioner Ameri suggested adding language indicating "a minimum of 71 feet and up to a maximum of 73 feet".

Substitute motion by Commissioner Ameri to add language indicating "a minimum of 71 feet and up to a maximum of 73 feet". The substitute motion failed for lack of a second.

Commission Vote on the motion.

AYES:	Ameri, Brown, Hillgren, Kramer, Myers, Toerge, and Tucker
NOES:	None
ABSTENTIONS:	None
ABSENT (Excused):	None

VIII. OTHER BUSINESS

ITEM NO. 5 REVIEW OF RULES OF PROCEDURES OF THE PLANNING COMMISSION (PA2012-065)
Site Location: N/A

Community Development Director Brandt introduced the item noting it has been continued several times and addressed direction by the Planning Commission. She reported that staff incorporated the comments provided by the Planning Commission and presented a draft copy of the By Laws with the changes. She asked for additional feedback so that staff can return to the Planning Commission with a final copy of the By Laws at its next meeting for formal adoption.

She affirmed that typically, the election of officers is scheduled for the first meeting in July, but that it will be set for the Planning Commission's next meeting.

Vice Chair Hillgren inquired regarding the length of time recordings of meetings are required to be kept.

Assistant City Attorney Mulvihill reported that there is a requirement under State law, but that the City has expanded that requirement in its records retention policy. She stated that is City policy and not required in the By Laws.

DRAFT

IX. STAFF AND COMMISSIONER ITEMS

ITEM NO. 6 COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

Community Development Director Brandt announced that Commissioner Tucker was re-appointed to the Planning Commission for a term of four years and reported that the City Council took action on the Ocean Boulevard Lot Merger project, which was approved with some modifications to what the Planning Commission reviewed. Ms. Brandt reported that the Newport Banning Ranch Project will be heard by the City Council on Monday, July 23, 2012, during a special meeting beginning at 6:00 p.m.

ITEM NO. 7 ANNOUNCEMENTS ON MATTERS THAT THE PLANNING COMMISSION MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR REPORT.

None

ITEM NO. 8 REQUESTS FOR EXCUSED ABSENCES

Vice Chair Hillgren reported that he will not be in attendance at the Planning Commission meeting of July 19, 2012.

X. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 8:20 p.m.

The agenda for the Regular Meeting was posted on June 29, 2012, at 10:34 a.m. on the City Hall Bulletin Board located outside of the City of Newport Beach Administration Building.

_____
Michael Toerge, Chairman

_____
Fred Ameri, Secretary

DRAFT

CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT
July 19, 2012 Meeting
Agenda Item 3

SUBJECT:	Rose Bakery Café Use Permit Review Amendment No. 1 to UP2009-035 - (PA2010-103)
SITE LOCATION:	3536 East Coast Highway
APPLICANT:	Rose Bakery Café
PLANNER:	Fern Nueno, Assistant Planner (949) 644-3227, fnueno@newportbeachca.gov

---

PROJECT SUMMARY

One year review of Amendment No. 1 to UP 2009-035 as required by condition of approval no. 5. The purpose of the review is to determine compliance with the conditions of approval and effectiveness of the Parking Management Plan.

RECOMMENDED ACTION

1) Receive public comments; and

2) Receive and file.

INTRODUCTION

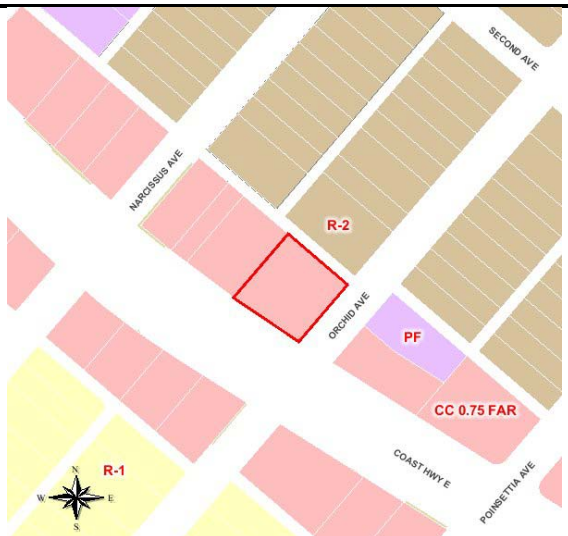
Project Setting

The subject restaurant is located at the northwest corner of East Coast Highway and Orchid Avenue. The lot is developed with a multi-tenant, retail building that includes a nail salon, take-out pizza restaurant, and dry cleaners, and a surface parking lot with thirteen (13) parking spaces. The off-site lot is located to the rear of the property on the other side of the alley at 409 Orchid Avenue.

VICINITY MAP

GENERAL PLAN

ZONING



LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	Commercial Corridor (CC)	Commercial Corridor (CC)	Retail
NORTH	Two-Unit Residential (RT)	Two-Unit Residential (RT)	Parking lot and residential
SOUTH	Commercial Corridor (CC)	Commercial Corridor (CC)	Retail
EAST	Commercial Corridor (CC)	Commercial Corridor (CC)	Retail and Post Office
WEST	Commercial Corridor (CC)	Commercial Corridor (CC)	Retail

Project Description and Background

On December 9, 2010, the Planning Commission adopted Resolution No. 1829 (Attachment No. PC 1, Meeting Minutes are Attachment No. PC 2), approving an amendment to Use Permit No. UP2009-035 for a parking management plan (Attachment No. PC 3) to waive the fifteen (15) parking spaces required for the addition of the outdoor dining area. In order to mitigate the potential effects of the parking waiver, the applicant utilizes twenty-nine (29) parking spaces that are located at 409 Orchid Avenue until 5 p.m., daily. This parking lot is leased by the Landmark Steakhouse Restaurant, which is only open for dinner. The approval also included an increase in the hours of operation from 5:00 a.m. – 7:00 p.m. to 5:00 a.m. – 8:00 p.m.

The condition requiring the one year review was included to allow the Planning Commission to assess parking and operation after the outdoor dining addition.

DISCUSSION

Operation and Parking

Staff believes the establishment operates in conformance with the conditions of approval and the parking management plan. Staff has observed that the restaurant is busy, especially during the morning and around lunchtime. Observations indicate some customers walk and bicycle to the establishment, which helps reduce parking demand.

The establishment's hours of operation are currently from 5:00 a.m. to 7:00 p.m. The 500 square foot, 37 seat outdoor dining area was constructed per the Use Permit approval and was completed in February 2012. Pursuant to Condition No. 6, appropriate barriers were installed separating the outdoor dining area from the adjacent parking lot and public rights-of-way. Additionally, an interior remodel of the customer and display/cashier area was approved and constructed within the last six (6) months. The remodel decreased the net public area to approximately 223 square feet.

Pursuant to Condition No. 8, the parking lot was restriped to increase the number of parking spaces from 12 to 13. Pursuant to Condition No. 4, the Parking Management Program has been in effect. The off-site parking lot with 29 spaces is still available and being utilized. A sign located at the subject site directs patrons to park in the off-site parking lot across the alley. The operator has indicated that more permanent and prominent signage has been ordered and will be posted soon.

Applicant's Statement

The applicant submitted a statement (Attachment No. PC 4) asserting that the restaurant has been an asset to the community and that the parking arrangement functions satisfactorily.

Code Enforcement

The Code Enforcement Division reported (Attachment No. PC 5) that three complaints were received regarding the trash area located in the rear of the building since the approval of the Use Permit amendment. One complaint was also for graffiti. Because the trash area is shared with other tenants, the property management company has also been contacted to resolve these issues. Code Enforcement worked with applicant and with the property management company to correct the refuse violations. The graffiti complaint was directed towards the Municipal Operations Department and the issue was resolved. No further violations have been observed by or reported to Code Enforcement.

Conclusion

Staff believes the applicant has complied with all required conditions of approval and the operation, as approved, has not proven to be detrimental to the surrounding neighborhood. Therefore, no changes to the conditions of approval or subsequent reviews are recommended.

Alternatives

Should the Planning Commission choose to make changes to the Use Permit, staff can draft a resolution for review at a future meeting.

Environmental Review

This Use Permit review is exempt from environmental review pursuant to Section 15321 (Class 21 - Enforcement Actions by Regulatory Agencies) of the Guidelines for Implementation of the California Environmental Quality Act. This section exempts actions by regulatory agencies to enforce or revoke a lease, permit, license, certificate, or other entitlement for use issued, adopted, or prescribed by the regulatory agency or enforcement of a law, general rule, standard, or objective, administered or adopted by the regulatory agency.

Public Notice

Notice of this review was published in the Daily Pilot, mailed to property owners within 300 feet of the property and posted at the site a minimum of 10 days in advance of this hearing consistent with the Municipal Code. Additionally, the item appeared upon the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:

Fern Nueno
Assistant Planner

Submitted by:

Brenda Wisneski, AICP, Deputy Director

ATTACHMENTS

PC 1 Resolution No. 1829
PC 2 Planning Commission Meeting Minutes
PC 3 Parking Management Plan
PC 4 Applicant's Statement
PC 5 Code Enforcement Memo
PC 6 Site Plan

Attachment No. PC 1

Resolution No. 1829

RESOLUTION NO. 1829

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING AMENDMENT NO. 1 TO USE PERMIT NO. UP2009-035 FOR A PARKING WAIVER AND AN INCREASE IN THE HOURS OF OPERATION FOR PROPERTY LOCATED AT 3536 EAST COAST HIGHWAY (PA2010-103)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Rose Bakery Café, with respect to property located at 3536 East Coast Highway, and legally described as Lots 4 and 5, Block U, Tract 0323, requesting approval of a use permit for a parking waiver.

2. The applicant proposes a use permit amendment for a parking waiver of fifteen (15) parking spaces that were required with the restaurant expansion approved with Use Permit No. UP2009-035. The applicant also proposes to increase the hours of operation by one hour.

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

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

5. A public hearing was held on December 9, 2010, 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. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities).

2. Class 1 includes the operation of existing facilities involving negligible or no expansion of use. The application does not include any changes in use or physical changes to the property. The parking does not negatively affect the traffic or circulation in the area based on the number of pedestrian customers and the use of the off-site parking lot.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020 (Conditional Use Permits and Minor Use Permits) 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 existing restaurant is consistent with the CC (Corridor Commercial) land use designation of the General Plan, which is intended to provide a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity. The restaurant is consistent with this designation. The existing restaurant is designed and oriented to serve residents and visitors in the area and patrons do walk or bicycle to the restaurant.

A-2. The subject property is not part of a specific plan area.

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 existing restaurant is located in the Corridor Commercial (CC) Zoning District, which is intended to provide for areas appropriate for a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity. Restaurants are retail and service uses and are permitted within this Zoning District subject to the approval of a use permit.

B-2. The parking waiver is necessary to satisfy the Zoning Code-required parking spaces for the previously approved expanded use. The use permit approval is consistent with Chapter 20.40 (Off-Street Parking) of the Zoning Code regarding the waiver of the requirement for fifteen (15) parking spaces in conjunction with the Parking Management Plan.

B-3. The proposed use complies with Section 20.48.090 (Eating and Drinking Establishments) in regards to the operating standards. The Use Permit contains conditions to maintain the requirements of Section 20.48.090, including conditions regarding storage, outdoor dining, and queuing of patrons.

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 proposed project is located within a nonresidential zoning district, but residential uses are located nearby on Orchid Avenue. The project is similar to and compatible with other neighborhood-serving retail and service uses located on East Coast Highway. The size of the building and subject suite is comparable to buildings in the Corona del Mar area.

C-2. The operational characteristics are that of a bakery and restaurant, and the hours of operation of the establishment are restricted and the use cannot operate as a bar or nightclub. The restaurant serves residents, visitors, and employees in the area.

C-3. The subject site contains thirteen (13) parking spaces and the restaurant employees and patrons will also utilize the adjacent parking lot containing twenty-nine (29) parking spaces, thereby avoiding parking in the adjacent residential area. Corona del Mar serves a larger number of pedestrians and bicyclists, which justifies a reduction in the off-street parking requirement. The location of the outdoor patio expansion does not hinder pedestrian movement along East Coast Highway.

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. The lot is approximately 10,000 square feet in area, and is developed with a multi-tenant building and surface parking lot containing 13 parking spaces. The existing building and parking lot have functioned satisfactorily with the current configuration.

D-2. The site is located adjacent to a parking lot that is not utilized during the day and it is available for patrons of the use.

D-3. The proposed project includes a use permit for a parking waiver to reduce the requirement for fifteen (15) off-street parking spaces and will not negatively affect emergency access. The lot is a corner lot and each suite has multiple doors for ingress and egress. The subject lot is surrounded on three sides by public streets and a public alley.

D-4. The Public Works Department has reviewed and does not have any objection to this application. When Use Permit No. 2009-035 was originally reviewed, the Utilities,

Building, and Fire Departments reviewed the application and also had no objections to the project. The project is required to obtain all applicable permits from the City Building and Fire Departments and must comply with the most recent, City-adopted version of the California Building Code.

D-5. The on-site parking lot is deficient parking spaces based on the size of the existing building and use of the tenant suites. However, the existing condition has not been detrimental to the community and adequate parking has been available for the uses in the area.

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. No dancing, live entertainment, or pool tables are allowed on the premises. The employees and patrons of the restaurant have access to the off-site parking lot located on the other side of the alley until 5:00 p.m., daily. The parking survey demonstrated that the on-site parking lot is seldom at capacity. The Walker Parking Consultants Parking Study that analyzed the parking situation in Corona del Mar demonstrates that this area has an adequate supply of off-street parking for the current land uses.

E-2. The hours of operation of the facility of 5:00 a.m. to 8:00 p.m., daily, will limit any late-night noise impacts on the neighboring residential uses.

E-3. The conditions imposed on the use will reduce possible detriment to the community by ensuring continued consistency with the intent and purpose of the Municipal Code.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby approves Amendment No. 1 to Use Permit No. UP2009-035, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.

2. 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.

3. This resolution supersedes Planning Director's Use Permit No. 29, which upon vesting of the rights authorized by this approval, shall become null and void.

PASSED, APPROVED AND ADOPTED THIS 9th DAY OF DECEMBER, 2010.

AYES: Eaton, Unsworth, McDaniel, Ameri, Toerge, and Hillgren

NOES: Hawkins

ABSTAIN: None

ABSENT: None

BY: _____
Earl McDaniel, Chairman

BY: _____
Michael Toerge, Secretary

EXHIBIT "A"

CONDITIONS OF APPROVAL

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

2. The conditions of approval from this Resolution herein replace and supersede the previous conditions of approval from Planning Commission Resolution No. 1802, dated January 12, 2010, upon implementation of this amendment.

3. All applicable conditions of approval of Accessory Outdoor Dining Permit No. 60 shall apply and remain in force. Planning Director's Use Permit No. 29 is null and void.

4. This use permit is subject to the approved Parking Management Program, which can be modified by the Planning Director or Planning Commission.

5. The Use Permit shall be reviewed by the Planning Commission one year after the conclusion of the appeal period.

6. Appropriate barriers shall be placed between outdoor dining areas and parking, pedestrian, and vehicular circulation areas. Barriers shall serve only to define the areas and shall not constitute a permanent all-weather enclosure.

7. The queuing of patrons shall be managed to allow pedestrian passage on the sidewalk.

8. The parking lot shall be restriped according to the approved plans from this Use Permit dated July 16, 2010.

9. Deliveries, refuse collection, and grease trap clean out for the facility shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m., unless otherwise approved by the Planning Director, and may require an amendment to this Use Permit.

10. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, if in the opinion of the Planning Director, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Planning Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.

11. No outside paging system shall be utilized in conjunction with this establishment.

12. 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.

13. 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.

14. 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 Department. 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).

15. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.

16. 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

17. A Special Event Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.

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

19. 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 revocation of this Use Permit.

20. 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.

21. This Use Permit may be modified or revoked by the City Council or Planning Commission should they determine that the proposed uses 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.

22. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Use Permit or the processing of a new Use Permit.

23. 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. The construction plans must meet all requirements for the restroom facilities.

24. 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.

25. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.

26. 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 Rose Bakery Café Parking Management Plan including, but not limited to, Amendment No. 1 to Use Permit No. UP2009-035 and the determination that the project is exempt under the requirements of the California Environmental Quality Act. 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.

27. Amendment No. 1 to Use Permit No. UP2009-035 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.

Attachment No. PC 2

Planning Commission Meeting Minutes

Applicant Rob Lucio, Real Estate Manager of Chipotle Mexican Grill, responded to the Commission's questions.

Chairperson McDaniel continued this item and called a recess to allow the applicants to consider their options.

* * *

SUBJECT: McLaren Newport Beach – (PA2010-165)
2540-2542 West Coast Highway

ITEM NO. 4
PA2010-165
Approved

A conditional use permit to allow an automobile dealership (Vehicle Sales) in an existing commercial building. The proposed use would be limited to sales of vehicles only, with the inventory, storage, maintenance, and repair of vehicles conducted off-site.

Patrick Alford, Planning Manager, addressed questions regarding the project.

The Commission asked questions concerning the following:

- Street closure for transport of vehicles to and from the showroom.
- Hours of operation.
- Beer and wine availability.
- Interior remodel and exterior improvements.
- Signage on the building.
- Newly adopted Zoning Code applicable.

The Applicant, David McCullagh, responded to the Commission's questions.

Public comment period was opened.

No public comments.

Public comment period was closed.

Motion made by Commissioner Hawkins and seconded by Commissioner Ameri to move for approval, including the addition of Condition 17A in the Exhibit "A" of the Resolution, requiring the point of sales for McLaren to be Newport Beach.

Motion carried with the following vote:

Ayes:	Unsworth, Hawkins, McDaniel, Ameri, Toerge, Eaton, and Hillgren
Noes:	None

* * *

SUBJECT: Rose Bakery Café Management Plan – (PA2010-103)
3536 East Coast Highway

ITEM NO. 5
PA2010-103
Approved

An amendment to Use Permit No. UP2009-035 to waive 15 parking spaces required by the previously approved expansion of the restaurant. The applicant also requests a change in the hours of operation from 5:00 a.m. – 7:00 p.m. to 5:00 a.m. – 8:00 p.m.

Fern Nueno, Assistant Planner, gave a brief overview of the staff report.

The Commission asked questions concerning the following:

- Change to title and recordation regarding the Off-Site Parking Agreement.
- Day-time parking consent from Landmark Steakhouse Restaurant.
- Hours of operation.

Ms. Nueno presented the staff report. Dennis O'Neil, who represented the Owners of Rose Bakery Café, responded to the questions from the Commission.

Public comment period was opened.

Comments were given by the following residents from the surrounding neighborhood:

Eveline Dennis – 345 University Drive, Costa Mesa
Steven Fischer – 510 Poinsettia Avenue, Corona Del Mar
Richard Nichols – 519 Iris, Corona Del Mar
Paul Deem – 1305 Circle Way
Ernest G. Johanson – 34 Tinior Sea, Newport Beach
Steve Berede – 376 Magnolia Drive

- Friendly environment.
- High caliber of service from staff.
- Parking lot issue at the bank on 3600 Coast Highway.
- No problems with parking.
- Parking lot studies.
- Allegation that the Applicants had been discriminated against.

Commissioner Hawkins, in response to the allegation by Dr. Nichols, stated that these were serious allegations and asked that the staff respond. City Attorney, Leonie Mulvihill, disagreed there had been any discrimination in the handling of the Application. Acting Planning Director, James Campbell, stated that there was no discrimination; however, there was a Code Enforcement issue and the process was followed correctly. Mr. O'Neil represented that, on behalf of his clients, there had not been any discrimination.

Public comment period was closed.

Motion made by Commissioner Toerge and seconded by Commissioner Hillgren to adopt a resolution approving Amendment No. 1 to Use Permit No. UP2009-035 subject to the conditions attached in the Draft Resolution Commissioner Hawkins stated that he could not support this substantial parking wavier for several reasons: First, the parking arrangement is not substantial; it is simply a revocable license. Second, without an in lieu parking ordinance, waiving this parking requirement will exacerbate the current parking shortage; the City needs to adopt an in lieu parking ordinance to fund additional parking, rather than waiving it.

Motion carried with the following vote:

Ayes:	Unsworth, McDaniel, Ameri Toerge, Eaton, and Hillgren
Noes:	Hawkins

* * *

~~**SUBJECT:** Chipotle Mexican Grill – (PA2010-096)
3101 Newport Boulevard~~

ITEM NO. 3
PA2010-096
Tabled

~~A use permit and accessory outdoor dining permit to allow a take-out service eating and drinking establishment with a Type 41 (On Sale Beer and Wine, Eating Place) Alcoholic Beverage Control (ABC) license and an outdoor patio. The project is located in the Landing Shopping Center (formerly Albertson's).~~

~~**Motion** made by Commissioner Unsworth and seconded by Commissioner Toerge to further table Item No. 3 so that a motion for reconsideration can be made on Item No. 2.~~

Attachment No. PC 3

Parking Management Plan

Parking Management Plan (PA2010-103)
3536 East Coast Highway
Rose Bakery Café
December 9, 2010

The following Parking Management Plan is provided pursuant to Section 20.40.110 (Adjustments to Off-Street Parking Requirements) of the Zoning Code. The Parking Management Plan will employ the following management mechanisms to mitigate impacts associated with a waiver of fifteen (15) off-street parking spaces as required by Chapter 20.40 of the Zoning Code:

Off-Site Parking

- 29 off-site parking spaces shall be provided at 409 Orchid Avenue.
- The property owner or lessee of 409 Orchid Avenue may terminate this arrangement at any time.
- The establishment's use of these spaces shall no longer be valid if the lessee at 3520 East Coast Highway expands their operation hours to open prior to 5:00 p.m.
- Should the off-site parking spaces become no longer available for use by the subject restaurant, the Planning Director or Planning Commission may request a review of Use Permit No. UP2009-035.
- Employees who drive to work shall park at 409 Orchid Avenue until 5:00 p.m.
- The owner or operator shall immediately notify the Planning Director of any change of ownership or use of the property at 409 Orchid Avenue, or of any change in the agreement between the parties.
- Upon notification that the off-site parking spaces are no longer available, the Planning Director shall establish a reasonable time in which one of the following shall occur:
    - Substitute parking is provided that is acceptable to the Planning Director; or
    - The size or capacity of the use subject to this use permit is reduced in proportion to the parking spaces lost.

Attachment No. PC 4

Applicant’s Statement

Dear commissioners,

Its has been over a year since you have kindly approved our plan. There has since been some changes and development that I would like to share with you.

Firstly, we have completed our renovation including the exterior patio. In the interior, we completely change the ceiling and the flooring throughout the shop with new panels and new slip resistant tiles. In addition, we added more lighting to the food preparation area and the corridor area to the restroom for safety and sanitary reason. In the main food cooking area, we added a new wall with a push thru window to double our efficiency. And, in the front customer area, we completely redesign the layout with new self serve coffee station, black granite counter, new curve glass showcase, new dark wood cabinetry, and a new L.E.D. led curve design ceiling with the Venetian plaster throughout to tie everything together. The new look allow our café to blend in better with the community of Newport Beach.

Secondly, we have hired eight more employee in addition to the twelve that we currently have on staff. Some of these kids has been looking for a job for a while without success because of their young age. This their first job or second, allows them to acquire a working skills and good working habits that will help them in their next life endeavors. It has been enlightened and rewarding working with them. Some you would have been proud if you see how will they do. And other were introduce to us directly by their parents because they see that our establishment would provide a positive learning experience for their child. And a few of those parents even go as far as willing to subsidize their pay if I was willing to hire, and of course, I hired but without the subsidy.

And thirdly, this little whole in the wall, commissioner, had have a positive affects on so many lives not just those that work here, but also, all of our local customers, and visitors from abroad. We have heard many story of how the locals has met others that knows and likes Rose Café and spoke about us while they were away on vacation in the other states. We have vacationers from all over the world such as Germany, China, England, Saudi Arabia, Ireland, etc., that stay at the Newport Marriott that has told me that they made a point to stop by our establishment because they love our food. And, a few of them have even expressed to me that they want Rose Bakery Café to expand into a franchise, and they would help finance the project because they and their family loves our concept. I can go on and telling you more stories and things that happen since you supported our expansion, but I was hoping this would be enough to give you a glimpse of what has developed at the café since we have our out door eating area.

Commissioners, as you can understand, the patio is essential to the core success of our business. I can remember, it wasn't that long ago when we slave away for years with a few staff, my wife and I was making less per hour than our staff. Without the outdoor seating, this beautiful café that we work so hard to establish would not survive with only four interior tables with these days rent that we are paying. I would only hope, commissioner, that you can see this establishment as our only asset and as one of the city's many. There has been issue with the parking in the past due to the way things has been arrange on paper, and I foresee that there might be issue in the future. However, I can't stop working my dream base on what could happen. When I chose to renovate and spend the fortune of our future, I knowing know that all could be for nothing. For better or worst I know that it is my choice and only mine alone. I just hope that when the time comes all of you would do what you can in all fairness. Moreover, we have been running the café for 14 years now, we have seen the restaurant close down the 30 parking space in the back for their party on Saturday, we have seen the street closure that affect all parking to the center, and we have been through many summer weekends when the parking lots are at its greatest demand, and yet, never did these event ever interferes with our normal customer counts, nor did it affect any business in the center. And if we were to block the surrounding resident from parking on the lots, we would instantly see at the least 15 spaces open up right away. And of course this is not what I condone, I' m just saying that there really are enough parking spaces in the area for all that needs it. In conclusion, commissioners, on the behalf of all that work and patronage at Roses, I just want to thank you for all your support, and hope that all of you can visit us someday and see what its about.

Sincerely,

Shawn Lim

Attachment No. PC 5

Code Enforcement Memo

CODE AND WATER QUALITY ENFORCEMENT DIVISION

MEMORANDUM

July 11, 2012

TO: Fern Nueno, Assistant Planner

FROM: Brian Contino, Code Enforcement Officer

SUBJECT: Rose Bakery Café- 3536 E. Coast Hwy, Corona del Mar

PROPERTY ADDRESS: 3536 E. Coast Hwy
PROPERTY OWNER: Rose Bakery Cafe
NBMC VIOLATION: 10.50.020C- Nuisance- Debris Storage
6.04.095- Commercial Bin Storage

CASE HISTORY

I2011-0484

On May 5, 2011, the City received a complaint regarding the refuse storage area used by Rose Bakery Café. The complaint was the storage area was being left open, trash on the ground inside and surrounding the refuse area, and lids to the dumpsters are being left open.

On May 10, 2011, a notice of violation was issued and mailed to Rose Bakery Café requesting that they keep the area in and around the trash enclosure remains clean and the lids are closed at all times.

On May 15, 2011, a visual re-inspection of the trash enclosure revealed compliance.

I2012-0200

On February 7, 2012, Code Enforcement received a complaint about trash and graffiti on the property. The graffiti complaint was directed towards the City's Municipal Operations Department and Code Enforcement handled the trash complaint.

On March 3, 2012, a notice of violation was issued to the property management company to correct the trash violations.

I2012-0971

On June 28, 2012, Code Enforcement received a complaint about the trash enclosure located on the property. A $100 citation was issued to the property owner for the following violations: 1. Trash cans with out lids. 2. Trash needs to be placed into containers. 3. Recycled goods need to be placed into containers with a secure lid. 4. The trash enclosure area needs to be power washed. All of the violations must be corrected by July 9, 2012.

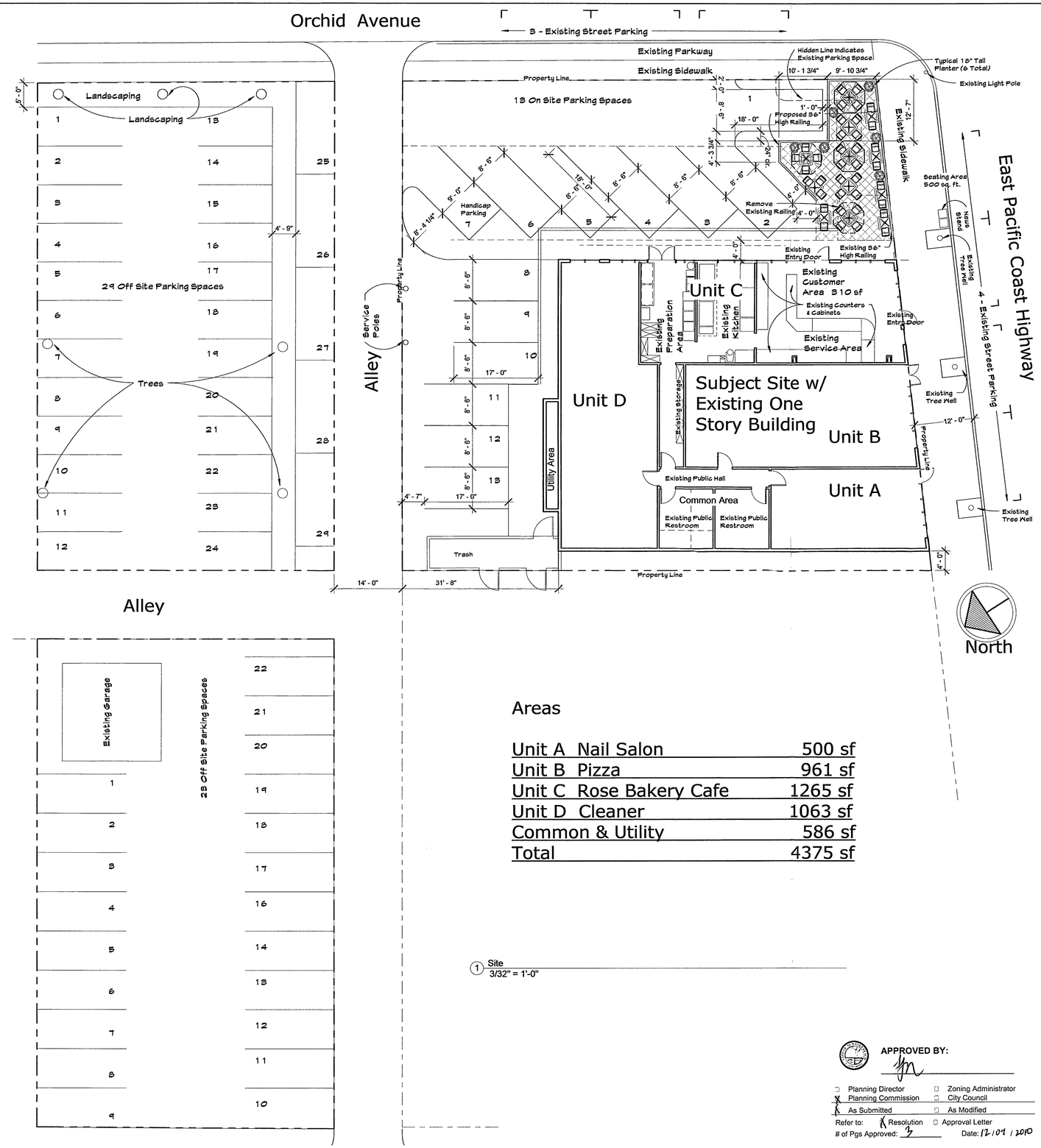
On July 10, 2012, a follow up inspection was conducted of the property. After the inspection it was determined that property management, took the necessary actions to bring the refuse area into compliance.

Thank you,

Brian N. Contino
Code & Water Quality Enforcement Officer

Attachment No. PC 6

Site Plan



Areas

Unit A	Nail Salon	500 sf
Unit B	Pizza	961 sf
Unit C	Rose Bakery Cafe	1265 sf
Unit D	Cleaner	1063 sf
Common & Utility		586 sf
Total		4375 sf

1 Site
3/32" = 1'-0"

APPROVED BY:

☐ Planning Director ☐ Zoning Administrator
☒ Planning Commission ☐ City Council
☒ As Submitted ☐ As Modified
Refer to: ☒ Resolution ☐ Approval Letter
# of Pgs Approved: 3 Date: 12/01/2010

Exterior Seating Layout

Permit Application

Revisions

RECEIVED BY PLANNING DEPARTMENT JUL 16 2010 CITY OF NEWPORT BEACH

Rose Bakery Cafe

3536 Coast Highway #C Newport Beach, Ca

Site Plan

job no. 0

date 02-24-10

Sheet 1 of

PA2010-103 for UP2010-020
3536 East Coast Highway
Rose Bakery Café

ADDITIONAL MATERIALS RECEIVED

Rose Bakery Café

STAFF PRESENTATION

Planning Commission
Public Hearing
July 19, 2012

Introduction

- **Project Description**
  - Review of Amendment No. 1 to Use Permit No. UP2009-035 (PA2012-103)
  - Determine compliance with the conditions of approval and effectiveness of the Parking Management Plan
- **Project Location**
  - East Coast Highway and Orchid Avenue
  - 3536 East Coast Highway

Vicinity Map

Review

- Operation
- Parking
- Code Enforcement

Recommendation

- Receive public comments
- Receive and file

For more information contact:

Fern Nueno
949-644-3227
fnueno@newportbeachca.gov
www.newportbeachca.gov

Item 3a: Additional Materials Received
Planning Commission July 19, 2012
PA2010-103

RECEIVED
2012 JUL 16 AM 11:02
OFFICE OF
THE CITY CLERK
CITY OF NEWPORT BEACH

519 Iris Avenue
Corona del Mar, CA 92625

July 13, 2012

RECEIVED BY
COMMUNITY
JUL 16 2012
DEVELOPMENT
CITY OF NEWPORT BEACH

Newport Beach Planning Commission
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92660

Planning Chair and Commissioners
Thursday, July 19th Regular Meeting

Re: Rose Bakery Cafe Use Permit Review

We, Dick and Sandy Nichols, support the use permit of Rose Bakery Cafe. Rose Cafe is a gem right in the middle of Olde Corona del Mar. In the 40 years that we have lived in CdM, we have not enjoyed an eatery as much as we enjoy Rose's.

The owners are hard working and they serve really good food at a reasonable price. We also totally enjoy seeing all the young people they employ. We feel that for many of the employees this is their first on the job training. . Rose's is truly a success story. That is clear by the people that line up and those waiting for a table to enjoy their meal.

Over the years, there have been many restaurants that have not survived. We hope that the City of Newport Beach and the Planning Commission will continue to work with the owners of Rose Cafe to ensure their continuing success.

As for parking, we walk to Rose's, as do many other people. There are other places in town where parking is really a problem and no one seems to notice. Katy corner, across PCH, there is a hair salon, candy store, clothing store, flower stand, and Chronic Taco's restaurant. There are about 10 spaces, two spaces are marked for 15 minutes to serve all the above mentioned business.

We understand there is one individual in town who complains about Rose Bakery and Cafe. Well you have 6 in our family who have nothing but praise for the owners and staff of Rose's.

We ask that you approve this use permit for Rose Bakery and Cafe and let the people who frequent Roses OFTEN continue to enjoy this little Gem for years to come.

Very truly yours,

Dick & Sandy Nichols

Dick and Sandy Nichols

Item 3b: Public Comments - Purcell
Planning Commission July 19, 2012
PA2010-103
2012/07/11 11 : 45

UNAUTHORIZED VEHICLES PARKED IN
DESIGNATED ACCESSIBLE SPACES
NOT DISPLAYING DISTINGUISHING
PLACARDS OR LICENSE PLATES
ISSUED FOR PERSONS WITH
DISABILI
TOWED
AWAY A
XPENSE.
TOWED VE
BE CLAIMED
AT PO
TMENT
(949) 644-3681
PATRONS OF 3536 EAST
COAST HWY.
THERE ARE MORE
PARKING ON THE
ADJACENT LOT
2012/07/11 11:43

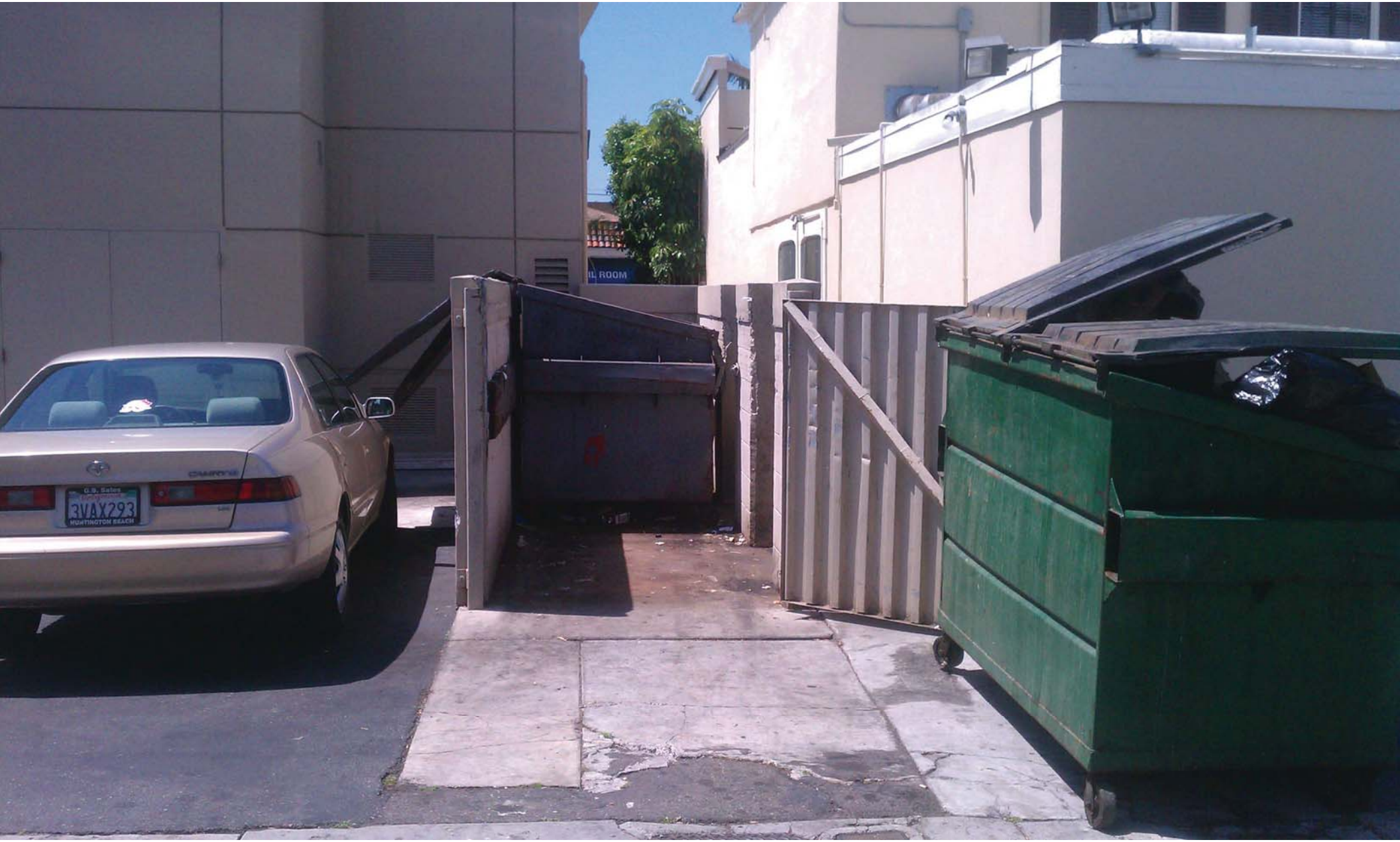
EVERY DAY
ADDITIONAL
ROSE BAKERY CAFE
PARKING AVAILABLE
IN ADJACENT
BACK LOT
2012/07/18 17 : 57

2012/06/28 10 : 11

VINCIRA
STOP
dripslikehoney
CALIFORNIA
1
NORTH
HWY
ORCHID AVE
POST OFFICE
LIQUOR
Linden Rose & Co.
Lighting

VINCIRA
.COM
WELLS FARGO

2012/04/26 18 : 29


3VAX293
HUNTINGTON BEACH

Coors
LIGHT

CARRIER

ROBERT'S WASTE & RECYCLING
(714) 557-2533
yellowbin@sbcglobal.net

-----Original Message-----
From: Dan Purcell
Sent: Thursday, March 01, 2012 11:17 AM
To: KBrandt@newportbeachca.gov; Matt Cosylion (MCosylion@newportbeachca.gov)
Cc: Jim Mosher
Subject: FW: 3536 E Coast Hwy Stickers, Dumpsters and Dining

Hi Kim:

I want to review the recent approval for the Rose's remodel and I would appreciate the opportunity to have staff explain the approval, as I am not an expert in these matters. In speaking with Matt yesterday, I learned the owner of Rose's is not allowed to have an unlimited number of seats outside, contrary to what the owner told me. Moreover, there seems to be no solution to the waste management problems at the property.

Thanks,
Dan

-----Original Message-----
From: Dan Purcell
Sent: Sunday, February 26, 2012 5:53 PM
To: Matt Cosylion (MCosylion@newportbeachca.gov)
Cc: KBrandt@newportbeachca.gov; Jim Auger (jauger@newportbeachca.gov); strataland@earthlink.net; Gardnerncy@aol.com; CdMRA (info@cdmra.org)
Subject: 3536 E Coast Hwy Stickers, Dumpsters and Dining

Hi Matt:

I am trying to stay on top of the situation at Rose's because it is indicative of situations throughout the business district in Corona del Mar. I am not sure how much seating the business is allowed, but I was by yesterday morning and found the following:

46 chairs on the patio
16 tables on the patio
13 chairs inside
4 tables inside

I would appreciate you letting me know if this fits within the allowable limits for the permit. The owner told me there is no limit to the seating he is allowed, as long as the seating stays within the designated area.

I realize you are addressing the dumpster area, but I feel the businesses are disrespecting your efforts. One dumpster still does not have a lid and the lids were open on the other dumpster. Liquid was pooling on the ground and food waste and other trash was present. Crows can access the trash and carry it around the neighborhood.

City signs near the business have fresh stickers on them. I feel the owners of the business should call the graffiti and sticker hotline and not expect others to manage the problem for them. One of the stickers is "dripslikehoney" and is produced by Chris Bunyan. I have received threats from Bunyan and the police department is aware of the ongoing issue with him. Some of his poetry is listed below.

I appreciate your effort and realize you have a lot of things on your plate.

Thanks,
Dan

CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT
July 19, 2012 Meeting
Agenda Item 4

SUBJECT:	Coast Point (previously known as China Palace) Use Permit Review (PA2010-082)
SITE LOCATION:	2800 West Coast Highway ▪ Use Permit No. UP2010-015
APPLICANT:	Coast Point (previously known as China Palace)
PLANNER:	Makana Nova, Assistant Planner (949) 644-3249, mnova@newportbeachca.gov

---

PROJECT SUMMARY

On November 23, 2010, the City Council adopted Resolution No. 2010-131 (Attachment No. PC 1) approving Use Permit No. UP2010-015 for live entertainment and dancing at the Coast Point (previously known as China Palace) restaurant. Condition No. 1 requires that the Planning Commission review the operation after one year to determine whether the applicant has complied with the conditions of approval.

RECOMMENDED ACTION

1) Receive public comments; and

2) Receive and file.

INTRODUCTION

Project Setting

The project site is located at the northwest corner of West Coast Highway and Riverside Avenue. The designated off-site parking lot is located at the Wells Fargo Bank building across Riverside Avenue at 2750 West Coast Highway.

VICINITY MAP

GENERAL PLAN

ZONING

LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	Mixed-Use Horizontal 1 (MU-H1)	Mariner's Mile Specific Plan (SP-5, RSC)	Eating and Drinking Establishment
NORTHWEST	Mixed-Use Horizontal 1 (MU-H1)	Mariner's Mile Specific Plan (SP-5, RSC)	Vehicle Rental Facilities
SOUTHEAST	Mixed-Use Horizontal 1 (MU-H1)	Mariner's Mile Specific Plan (SP-5, RMC)	Bank
NORTHEAST	Mixed-Use Horizontal 1 (MU-H1)	Mariner's Mile Specific Plan (SP-5, RSC)	Retail
SOUTHWEST	Mixed-Use Water Related 1 (MU-W1)	Mariner's Mile Specific Plan (SP-5, RSC)	Eating and Drinking Establishments and Office

Background

The applicant entered into a lease with the property owner of the project site in 1983 to construct the existing eating and drinking establishment, Coast Point (China Palace). Two discretionary applications were approved for the project site: Use Permit No. UP3095 to allow the establishment of an eating and drinking establishment with on-sale alcoholic beverages and Variance No. VA1112. The approvals waived 13 of the required on-site parking spaces in exchange for the purchase of 13 annual parking passes and use of the Avon Street Municipal Lot at 200 Tustin Avenue by employees of the restaurant.

In January of 2010, Modification Permit No. MD2009-029 and Accessory Outdoor Dining Permit No. OD2009-003 (PA2009-113) were approved to allow the construction of a combination block wall and glass screen-wall necessary to permit a new outdoor dining area.

On November 23, 2010, the City Council authorized live entertainment and dancing at the restaurant by approving Use Permit No. UP2010-015 (PA2010-082). Several conditions of approval were included to mitigate potential negative effects to the community. Condition No. 1 of City Council Resolution No. 2010-131 (Attachment No. PC 1) requires a one-year review to ensure that the restaurant operator complyied with the conditions of approval. The one-year review allowed for the assessment of parking and operation after the live entertainment and dancing became operational. The Planning Commission and City Council Minutes, as well as the approved Parking Management Plan, are included as Attachment Nos. PC 5, 6, and 7.

Following approval of the use permit for live entertainment and dancing, the applicant changed the name of the restaurant from China Palace to Coast Point.

DISCUSSION

Based on the review of the conditions of approval and feedback from the applicant, staff believes the establishment operates in conformance with the conditions of approval and the parking management plan. Staff has observed that the restaurant is not particularly busy in the daytime hours.

The establishment's hours of operation are currently from 7:00 a.m. to 2:00 a.m., daily with the hours of operation for the outdoor dining area limited from 7:00 a.m. to 12:00 midnight when live entertainment is provided. Live entertainment and dancing is permitted from 6:00 p.m. to 1:00 a.m., daily. The 400 square foot live entertainment and dance area was included as a revision to the building permit for the outdoor dining patio under Plan Check No. 0316-2010.

Conditions of Approval

Staff has reviewed the conditions required with the approval of Use Permit No. UP2010-015. The applicant has worked with the Planning Division to achieve full compliance. The following conditions of approval are highlighted on the basis that they directly relate to the operations of the establishment:

- Condition No. 3-The applicant obtained a live entertainment permit on August 15, 2011.
- Condition Nos. 8 and 52-The applicant revised the occupancy calculations on the building plans to account for the live entertainment area and dance floor.
- Condition No. 10-The applicant provided a security plan on March 5, 2012.
- Condition No. 64-The applicant provided a letter from the branch manager of Wells Fargo indicating that their parking was available for the subject business after 6:00 p.m.
- Condition No. 67- The applicant demonstrated the ability to offer valet service when parking demand was high. The Community Development Director determined that requiring valet nightly was not necessary because demand is not high enough.
- Condition No. 73-The applicant purchased 13 annual parking passes for 2012.
- Condition No. 75-The applicant has removed take-out signage from the parking areas.

For a full analysis of the operational conditions of approval that required the applicant's action under this review, please refer to Attachment No. PC 2.

Police Department Review

The Police Department has reviewed the calls for service and complaints involving the Coast Point (China Palace) (Attachment No. PC 3) and concluded that were 11 calls for service between December 1, 2010 and July 1, 2012. Three calls were related to fights or assaults, two calls concerned use permit violations which were classified as "unfounded" since no violations were observed by officers dispatched, and five calls were miscellaneous calls for lost property or "keep the peace". The Police Department noted in their review that there are no objections to the operations under Use Permit No. UP2010-005.

The Police Department also reviewed a printed statement submitted by the applicant and verified that food sales constituted 60 percent of gross sales, in accordance with Condition of Approval No. 20. The Police Department will review the sales receipts and records of the applicant in six months to ensure records are maintained in accordance with the condition. The Police Department does not object to the continuation of the restaurant under the current conditions of approval or anticipate the need for further reviews by the Planning Commission.

Code Enforcement Review

The Code Enforcement Division reported (Attachment No. PC 4) that a violation regarding banners was issued to the Coast Point on December 1, 2011. No further violations have been observed by or reported to Code Enforcement since this citation was issued.

Conclusion

Staff believes the applicant has complied with all required conditions of approval and the operation, as approved, has not proven to be detrimental to the surrounding neighborhood. Therefore, no changes to the conditions of approval or subsequent reviews are necessary.

Alternatives

Should the Planning Commission choose to make changes to the Use Permit, staff may draft a resolution for review at a future meeting.

Environmental Review

This Use Permit review is exempt from environmental review pursuant to Section 15321 (Class 21 - Enforcement Actions by Regulatory Agencies) of the Guidelines for Implementation of the California Environmental Quality Act. This section exempts actions by regulatory agencies to enforce or revoke a lease, permit, license, certificate, or other entitlement for use issued, adopted, or prescribed by the regulatory agency or enforcement of a law, general rule, standard, or objective, administered or adopted by the regulatory agency.

Public Notice

Notice of this review was published in the Daily Pilot, mailed to property owners within 300 feet of the property and posted at the site a minimum of 10 days in advance of this hearing consistent with the Municipal Code. Additionally, the item appeared upon the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:

Makana Nova
Assistant Planner

Submitted by:

Brenda Wisneski, AICP, Deputy Director

ATTACHMENTS

PC 1 City Council Resolution No. 2010-131
PC 2 Analysis of Compliance with Conditions of Approval
PC 3 Police Department Review
PC 4 Code Enforcement Review
PC 5 Planning Commission Minutes
PC 6 City Council Minutes
PC 7 Parking Management Plan
PC 8 Project Plans

Rpt.docx

Attachment No. PC 1

City Council Resolution No. 2010-131

RESOLUTION NO. 2010-131

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH APPROVING USE PERMIT NO. UP2010-015 TO ALLOW LIVE ENTERTAINMENT AND DANCING WITHIN AN EXISTING RESTAURANT LOCATED AT 2800 WEST COAST HIGHWAY IN CONJUNCTION WITH A PARKING MANAGEMENT PROGRAM FOR THE PROVISION OF OFF-SITE PARKING LOCATED AT 2750 WEST COAST HIGHWAY (PA2010-082).

THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Yu-Ter Mau, representing China Palace, lessee of property located at 2800 West Coast Highway, legally described as the southeasterly 129.15-foot by 130-foot portion of Lot F, Tract No. 919, in the City of Newport Beach, County of Orange, State of California, as per map recorded in Book 29, Pages 31 to 34, inclusive of miscellaneous maps, in the office of the county recorder of the County of Orange.

2. The applicant proposed a new use permit to allow live entertainment and dancing from 6:00 p.m. to 2:00 a.m., daily, within an existing full-service eating and drinking establishment that has a Type 47 (On Sale General-Eating Place) Alcoholic Beverage Control license. The proposed dance floor is 200 square feet in area and is located within the existing 2,129-square-foot net public area. The application also includes a Parking Management Program for 30 off-street parking spaces.

3. The subject property is located within the Retail and Service Commercial land sub-area of the Mariner's Mile Specific Plan (SP-5) Zoning District and the General Plan Land Use Element category is Mixed-Use Horizontal 1 (MU-H1).

4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Mixed-Use Horizontal (MU-H).

5. At a noticed public hearing held on August 5, 2010, the Planning Commission considered the application, plans, and written and oral evidence presented at this meeting, and approved Use Permit No. UP2010-015 based on the findings and conditions of approval in Planning Commission Resolution No. 1818.

6. On August 17, 2010, the Planning Commission's decision to approve Use Permit No. UP2010-015 was appealed by the City Council by Council Member Rosansky. The appeal was filed to review the authorized hours for late night activities and parking.

7. The City Council held a public hearing on September 28, 2010, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. The City Council considered evidence, both written and oral presented at this meeting, and affirmed and upheld the Planning Commission's decision and approved Use Permit No. UP2010-015.

8. Pursuant to Section 20.95.060.C, the public hearing was conducted "de novo," meaning that it is a new hearing and the decision being appealed has no force or effect as of the date the call for review was filed.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 3 (New Construction or Conversion of Small Structures).

2. The project consists of minimal change to the physical characteristics of the existing structure. The conversion of the eating and drinking establishment to allow for the addition of live entertainment includes only minor interior modifications to the existing structure for the installation of a new dance floor.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.91.035.A of the Newport Beach Municipal Code, the City Council Finds as follows:

Finding:

A. That the proposed location of the use is in accord with the objectives of the Zoning Code and the purpose of the district in which the site is located.

Facts in Support of Finding:

A-1. The project is located in the SP-5 (Mariner's Mile Specific Plan) Zoning District within the Retail Service Commercial Sub-Area. The Retail and Service Commercial Sub-Area encourages the continuation of "marine-oriented" uses and the "marine" theme or character of the area; encourages mutually supportive businesses, a continuity of shopping and pedestrian orientation, and prohibits uses, which would interrupt this continuity; and minimizes the number of curb cuts on Coast Highway. The eating and drinking establishment with existing on-sale alcoholic beverage service is a mutually supportive commercial use that serves visitors, residents, and employees in the area. Eating and drinking establishments are a permitted use in this land use district with the approval of a use permit. Therefore, the eating and drinking establishment with on-sale alcohol service and live entertainment is consistent with the purposes of the Mariner's Mile Specific Plan for the Retail Service Commercial Sub-Area.

A-2. The location of the eating and drinking establishment is located within Mariner's Mile is surrounded by land uses that are dominated by retail commercial, professional office and visitor serving uses. Restaurant uses with live entertainment can be expected to be found in this and similar locations and are complimentary to the surrounding commercial uses.

A-3. The project site is located in an area designated for mixed-use development, but not located in close proximity to residential districts, day care centers, schools, park and recreation facilities or places of religious assembly.

A-4. The project has been conditioned in such a manner to require strict adherence to safety and noise regulations. The project design and operational characteristics, as conditioned, meets the intent of the Zoning Code.

Finding:

B. That the proposed location of the Use Permit and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan and the purpose of the district in which the site is located; will not be detrimental to the public health, safety, peace, morals, comfort, or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to the properties or improvements in the vicinity or to the general welfare of the city.

Facts in Support of Finding:

B-1. The Land Use Element of the General Plan designates the site for Mixed Use Horizontal 1 (MU-H1). Properties designated MU-H1 on the inland side of Coast Highway in the Mariners' Mile Corridor are intended for marine-related and highway-oriented general commercial uses in accordance with CM and CG designations. The existing eating and drinking establishment and proposed live entertainment is consistent with this land use designation.

B-2. The existing eating and drinking establishment is located in a commercially designated area and is consistent with the land uses intended for properties fronting West Coast Highway within the Mariner's Mile corridor. The updated General Plan, adopted in 2006, provides opportunities for the integration of residential units on the inland parcels between Riverside Avenue and Tustin Avenue. Due to the potential addition of residential units in the vicinity of the project site, the project has been conditioned as reflected in the draft resolution (Attachment No. PC 1) to regulate parking, trash, and site maintenance.

B-3. The use authorized by this permit is not a bar, tavern, cocktail lounge, or nightclub. The City has experienced land use conflicts, nuisance issues, and issues requiring police intervention with these types of activities in the past. Prohibition of these uses or activities will minimize potential land use conflicts, nuisances and police intervention. The Police Department has provided Condition Nos. 3, 12, 15 through 20, 22 through 25, and 52 to ensure the operation is maintained as proposed by the applicant.

B-4. There have been no alcohol related arrests for the subject property from July 1, 2009 through July 1, 2010. Although the number of alcohol licenses within the reporting district and adjacent reporting districts is higher than the County-wide average and

adjacent districts, this level is not significantly high given the nature of the land uses in the district. The percentage of alcohol-related arrests in the police-reporting district in which the project is proposed is lower than the percentage citywide. The preceding information supports the case that the subject establishment will not become an undo burden upon police services with the addition of live entertainment.

B-5. Both the General Plan and the CLUP set a development intensity limit of 0.5 floor area to land area ratio (FAR) for non-residential development. The total square footage of 5,347 gross square feet for the project site results in an FAR of 0.32. The proposed project complies with the maximum FAR permitted by the General Plan.

Finding:

C. That the proposed use will comply with the provisions of this Zoning Code, including any specific condition required for the proposed use in the district in which it would be located.

Facts in Support of Finding:

C-1. The proposed use complies with the development standards for the SP-5 (Mariner's Mile Specific Plan) District. The existing full-service eating and drinking establishment with proposed live entertainment will not be detrimental to the site or to the community based upon the proposed conditions of approval. The proposed conditions of approval ensure that all conflicts with surrounding land uses are eliminated or minimized to the greatest extent possible.

C-2. The hours of operation have been conditioned to limit live entertainment at the establishment from 6:00 p.m. to 1:00 a.m. The hours of operation for the establishment will be reduced to 7:00 a.m. to 2:00 a.m., daily.

C-3. The approved Parking Management Program will ensure adequate access and utilization of the parking areas provided both on and off-site for the subject establishment.

SECTION 4. DECISION.

NOW THEREFORE, the City Council of the City of Newport Beach, California, hereby resolves as follows:

SECTION 1: The City Council of the City of Newport Beach does hereby deny the appeal and upholds and affirms the decision of the Planning Commission to approve Use Permit No. UP2010-015 subject to the conditions contained in Exhibit "A," which is attached hereto and incorporated by reference.

SECTION 2: This resolution was approved and adopted at a regular meeting of the City Council of the City of Newport Beach, held on the 23rd day of November, 2010:

MAYOR

ATTEST:

CITY CLERK

EXHIBIT "A"

CONDITIONS OF APPROVAL

(Project-specific conditions are in italics)

PLANNING

1. *Use Permit No. UP2010-015 shall be subject to a one year review before the Planning Commission after the date of approval.*

2. *Prior to issuance of building permits, the applicant shall obtain a determination, in writing, from the Coastal Commission that the project as proposed is not development under the California Coastal Act or obtain Coastal Commission approval of the parcel map.*

3. *There shall be no live entertainment or dancing allowed on the premises without first obtaining a Live Entertainment permit from the City. Prior to the issuance of building permits for the change of occupancy, the applicant shall obtain a Live Entertainment Permit from the Revenue Department.*

4. 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.

5. *The hours of operation for the eating and drinking establishment shall be limited from 7:00 a.m.to 2:00 a.m., daily. The hours of operation for the outdoor dining area shall be limited from 7:00 a.m. to 12:00 midnight when live entertainment is provided.*

6. *Live entertainment shall be permitted at the subject property from 6:00 p.m. to 1:00 a.m.*

7. *Dancing is allowed for the hours of live entertainment.*

8. *The area provided for live entertainment and dancing shall not exceed 400 square feet.*

9. *The applicant shall provide licensed security personnel while offering live entertainment.*

10. *A comprehensive security plan for the permitted uses shall be submitted to the Newport Beach Police Department for review and approval.*

11. *All owner's, managers, and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for serving and selling alcoholic beverages.*

12. *Approval does not permit China Palace to operate as a bar, tavern, cocktail lounge, or nightclub as defined by the Municipal Code, unless the Planning Commission first approves a use permit.*

13. *Live entertainment shall be as defined in the Municipal Code.*

14. *The live entertainment use shall be permitted within the interior dining rooms only. Live entertainment provided for restaurant patrons shall remain an ancillary use intended to enhance the dining experience within the restaurant. The live entertainment area shall be physically identified within the restaurant area.*

15. *Food service from the regular menu must be available to patrons up to thirty minutes before the scheduled closing time.*

16. *No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.*

17. *No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed except when offered in conjunction with food ordered from the full service menu. There shall be no reduced price alcoholic beverage promotion after 9:00 p.m.*

18. *VIP passes or other passes to enter the establishment, as well as door charges, cover charges, or any other form of admission charge, including minimum drink order or sale of drinks is prohibited.*

19. *The petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.*

20. *The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.*

21. *A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.*

22. *There shall be no on-site radio, television, video, film, or other electronic media broadcasts, including recordings to be broadcasted at a later time which include the service of alcoholic beverages, without first obtaining an approved Special Events Permit issued by the City of Newport Beach.*

23. *The use of private (enclosed) "VIP" rooms or any other temporary permanent enclosures separate from public areas are prohibited.*

24. *When offering live entertainment, all doors and windows shall remain closed except for the normal ingress/egress doors. The doors and windows from the primary dining room to the outdoor dining room shall be closed at all times during the hours of live entertainment other than for server access.*

25. *Live entertainment shall be permitted only within the confines of the main building. No outside paging system shall be utilized in conjunction with this establishment. No amplified music or entertainment is permitted in the outdoor dining area, sidewalk, or adjacent areas. No outside paging system, loudspeaker or other noise generating device shall be utilized in conjunction with this outdoor dining area. No music will be piped into any sidewalk or adjacent areas.*

26. 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 per the current Zoning Code 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

27. All proposed signs shall be in conformance with the provisions of Chapter 20.67 of the Newport Beach Municipal Code or an approved Comprehensive Sign Program for the project site.

28. *The landscape plan for the restaurant site shall be subject to the review and approval of the Parks, Beaches, and Recreation Department, the Public Works Department, and the Planning Department. [COA UP3095]*

29. *Landscaping shall be regularly maintained free of weeds and debris. All vegetation shall be regularly trimmed and kept in healthy condition. [COA UP3095]*

30. *Final design of the project shall provide for adequate security lighting in public areas and the off-site parking areas. [COA UP3095]*

31. *The project lighting system shall be designed and maintained in such a manner so as to conceal the light source and to minimize light spillage and glare to the adjacent area. The plans shall be prepared and signed by a licensed electrical engineer, with a letter form the engineer stating that, in his opinion, this requirement has been met. [COA UP3095]*

32. *All trash areas, mechanical equipment, vents, and other service equipment shall be shielded or screened by architectural design from public streets and adjoining properties. [COA UP3095]*

33. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.

34. 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.

35. 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.

36. 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 Department. 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).

37. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m., daily, unless otherwise approved by the Planning Director, and may require an amendment to this Use Permit.

38. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.

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

40. Use Permit No. UP2010-0015 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.91.050 of the Newport Beach Municipal Code, unless an extension is otherwise granted.

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

42. 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 revocation of this Use Permit.

43. This Use Permit may be modified or revoked by the City Council or Planning Commission should they determine that the proposed uses 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.

44. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Use Permit or the processing of a new Use Permit.

45. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.

46. 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.

47. 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 China Palace Use Permit for Live Entertainment including, but not limited to, Use Permit No. UP2010-015 (PA2010-082). 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

48. *That all access to the building be approved by the Fire Department. [COA UP3095]*

49. *That all on-site fire protections (hydrants and Fire Department connections) shall be approved by the Fire and Public Works Department. [COA UP3095]*

50. *That prior to the issuance of building permits, the Fire Department shall review the proposed plans and may require automatic fire sprinkler protection. [COA UP3095]*

51. *The landscape plan shall place heavy emphasis on fire-retardant vegetation. [COA UP3095]*

Building Department Conditions

52. *Strict adherence to maximum occupancy limits is required. A building permit is required to allow the change in occupancy. Plan Check No. 0316-2010 for tenant improvements to the subject property shall be revised to reflect the new calculated occupant load to accommodate live entertainment. The plans shall calculate the occupant load, including all occupied areas, patio, and dance floor based on the CBC Chapter 4. The plans shall verify that the existing number of plumbing fixtures complies with Table CBC 4-1 (Restaurants). All plans and work must comply with the California Building Code.*

53. 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.

54. Approval from the Orange County Health Department is required prior to the issuance of a building permit.

55. The construction plans must meet all applicable State Disabilities Access requirements. *Handicapped parking shall be provided in a manner and quantity approved by the City Traffic Engineer. The handicapped parking shall be available for self-parking. [COA UP3095]*

56. *Fugitive dust emissions during demolition and construction shall be minimized by watering the site for dust control, containing excavated soil on-site until it is hauled away, and periodically washing adjacent streets to remove accumulated materials. [COA UP3095]*

57. *A washout area for the restaurant trash containers shall be provided in such a way as to assure direct drainage into the sewer system and not into the Bay or the storm drains. [COA UP3095]*

58. *Grease interceptors shall be installed on all fixtures in the restaurant facilities where grease may be introduced into the drainage systems in accordance with the provision of the Uniform Plumbing Code. [COA UP3095]*

59. *Kitchen exhaust fans shall be designed to control odors and smoke. [COA UP3095]*

60. *Final design of the project shall provide for the incorporation of water-saving devices for project lavatories and other water-using facilities. [COA UP3095]*

Public Works Conditions

61. *A minimum of one parking space per 50 square feet of "net public area' shall be provided for the restaurant use from 11:00 a.m. until 6:00 p.m. and that a maximum of 13 of the required restaurant parking spaces may be located in the Mariner's Mile Municipal parking lot. [COA UP3095]*

62. *A total of 30 parking spaces shall be provided on-site for the full-service eating and drinking establishment during operating hours from 6:00 p.m. to closing.*

63. *Delete*

64. *As a condition precedent to the Applicant conducting operations under Use Permit No. UP2010-015(PA2010-082), the Applicant shall obtain the Planning Director's approval of a written agreement between the Applicant (as lessee) and the owner of the property located at 2750 West Coast Highway (as lessors) providing parking for eighteen (18) cars from 6:00 p.m. to closing. If at any time the bank, located at 2750 West Coast Highway, extends its hours of operation beyond 6:00 p.m., or if Applicant's possession of the parking lot is terminated, or if the agreement is terminated for any reason, then the live entertainment and dancing rights of the Applicant to operate under the above-referenced Use Permit shall immediately terminate until replacement off-site parking, acceptable to the Planning Director, is obtained for the subject property.*

65. *Valet parking is not permitted at 2750 West Coast Highway. If valet parking is proposed at the off-site parking location, the applicant shall submit a new valet operation plan.*

66. *Six compact parking spaces shall be permitted within the on-site parking area. [COA UP3095]*

67. *Valet parking shall be required on-site during operating hours from 11:00 a.m. to 2:00 a.m. as long as the tandem configuration of parking (parallel parking in the drive aisle) remains on-site.*

68. *The valet operation shall not impact the public right-of-way. Vehicle staging, drop off and pick-up shall occur on-site only and the valet pick-up and delivery station shall not be located in the public-right-of-way. [COA UP3095]*

69. *The valet parking service shall not preclude the use of a portion of the independently accessible spaces by patrons wishing to park their own car. The self-park spaces shall be clearly designated. [COA UP3095]*

70. *The applicant shall discourage patrons from crossing Riverside Avenue at mid-block locations and direct patrons to use to utilize nearby crosswalks.*

71. *That the on-site parking, vehicular circulation and pedestrian circulation be subject to further review by the City Traffic Engineer, and that no parking be allowed on the entrance drive within 16 feet of the property line. [COA UP3095]*

72. *That all improvements be constructed as required by ordinance and the Public Works Department.*

73. *That 13 parking permits shall be purchased from the City on an annual basis. Said parking permits shall be distributed to the employees of the restaurant for their use in parking in the municipal lot. [COA UP3095]*

74. *That employees of the restaurant shall be required to park in the municipal parking lot. [COA UP3095]*

75. *The signage for take-out parking in the ADA access pathway shall be removed.*

76. *That the intersection of streets and drives be designed to provide site distance for a speed of 35 miles per hour. Landscaping, walls and other obstructions shall be considered in the sight distance requirements. Landscaping within the sight distance line shall not exceed twenty-four inches in height. The sight distance requirement may be approximately modified at non-critical locations, subject to the approval of the Traffic Engineer. [COA UP3095]*

77. *That the applicant's leasehold interest to a 19-foot by 19-foot -45 degree corner cutoff at the northwesterly corner of Riverside Avenue and West Coast Highway and to 18 feet of right-of-way be dedicated to the public for street and highway purposes along the West coast Highway frontage, and that the building be relocated towards the westerly side property line so as to provide for the required corner cutoff. [COA UP3095]*

78. *That prior to obtaining building permits, the Applicant shall agree he will not request adjustments to rental fees based on the City's acquisition of the 18-foot wide strip and corner cutoff, reducing the size of the parcel. [COA UP3095]*

79. *That the future street area be landscaped and maintained by the Applicant until such time as it is needed for street purposes. [COA UP3095]*

80. *That all vehicular access rights to West Coast Highway be released and relinquished to the City of Newport Beach prior to issuance of any building permits. [COA UP3095]*

81. *That street and utility improvements be shown on standard improvement plans prepared by a licensed civil engineer. [COA UP3095]*

82. *That the Applicant acknowledges and agrees that the proposed development will not increase the need for on-street parking along West coast Highway and therefore, the Applicant agrees not to claim any economic loss for the removal of parking for the restriping or widening of West Coast Highway on the grounds of loss of on-street parking. [COA UP3095]*

Attachment No. PC 2

Analysis of Compliance with
Conditions of Approval

2800 West Coast Highway
Analysis of Compliance with Conditons of Approval

Note: The following conditions of approval are highlighted on the basis that they directly relate to the operations of the establishment.

	Condition	Comments
1	*Use Permit No. UP2010-015 shall be subject to a one year review before the Planning Commission after the date of approval.*	The Planning Division allowed the applicant additional time after the one-year review period to satisfy the outstanding conditions of approval.
2	*Prior to issuance of building permits, the applicant shall obtain a determination, in writing, from the Coastal Commission that the project as proposed is not development under the California Coastal Act or obtain Coastal Commission approval of the parcel map.*	Requirement for Coastal Commission review waived by the Community Development Director on the basis that the for the change of intensity to the existing use was not significant.
3	*There shall be no live entertainment or dancing allowed on the premises without first obtaining a Live Entertainment permit from the City. Prior to the issuance of building permits for the change of occupancy, the applicant shall obtain a Live Entertainment Permit from the Revenue Department.*	The applicant obtained a permit from the Revenue Division to conduct live entertainment and dance on August 15, 2011.
8	*The area provided for live entertainment and dancing shall not exceed 400 square feet.*	The applicant revised Plan Check No. 0316-2010 on June 5, 2012 to account for the change of occupancy associated with the dance floor area.
10	*A comprehensive security plan for the permitted uses shall be submitted to the Newport Beach Police Department for review and approval.*	The applicant submitted a security plan to the City of Newport Beach on March 5, 2012.
17	*No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed except when offered in conjunction with food ordered from the full service menu. There shall be no reduced price alcoholic beverage promotion after 9:00 p.m.*	The Planning Division was notified by a member of the public that the applicant had posted signs advertising happy hour specials beyond the hours permitted. The Planning Division notified the applicant and the signage was removed and the applicant indicated the signage was misworded. Happy hour was not offered outside permitted hours.

52	*Strict adherence to maximum occupancy limits is required. A building permit is required to allow the change in occupancy. Plan Check No. 0316-2010 for tenant improvements to the subject property shall be revised to reflect the new calculated occupant load to accommodate live entertainment. The plans shall calculate the occupant load, including all occupied areas, patio, and dance floor based on the CBC Chapter 4. The plans shall verify that the existing number of plumbing fixtures complies with Table CBC 4-1 (Restaurants). All plans and work must comply with the California Building Code.*	The applicant revised Plan Check No. 0316-2010 on June 5, 2012 to account for the change of occupancy associated with the dance floor area.
54	*Approval from the Orange County Health Department is required prior to the issuance of a building permit.*	Requirement waived by the Building Division because change in occupancy on building permit plans did not require OC Health Department review.
64	*As a condition precedent to the Applicant conducting operations under Use Permit No. UP2010-015(PA2010-082), the Applicant shall obtain the Planning Director's approval of a written agreement between the Applicant (as lessee) and the owner of the property located at 2750 West Coast Highway (as lessors) providing parking for eighteen (18) cars from 6:00 p.m. to closing. If at any time the bank, located at 2750 West Coast Highway, extends its hours of operation beyond 6:00 p.m., or if Applicant's possession of the parking lot is terminated, or if the agreement is terminated for any reason, then the live entertainment and dancing rights of the Applicant to operate under the above-referenced Use Permit shall immediately terminate until replacement off-site parking, acceptable to the Planning Director, is obtained for the subject property.*	The applicant provided a letter from the branch manager of Wells Fargo indicating that their parking was available for the subject business after 6:00 p.m.
67	*Valet parking shall be required on-site during operating hours from 11:00 a.m. to 2:00 a.m. as long as the tandem configuration of parking (parallel parking in the drive aisle) remains on-site.*	The applicant demonstrated the ability to offer valet service when parking demand was high. The Community Development Director determined that requiring valet nightly was not necessary because demand is not high enough.
71	*That the on-site parking, vehicular circulation and pedestrian circulation be subject to further review by the City Traffic Engineer, and that no parking be allowed on the entrance drive within 16 feet of the property line. [COA UP3095]*	The Public Works Department has not noted any significant traffic circulation issues since Use Permit No. UP2010-015 (PA2010-082) was approved in November of 2010.

73	*That 13 parking permits shall be purchased from the City on an annual basis. Said parking permits shall be distributed to the employees of the restaurant for their use in parking in the municipal lot. [COA UP3095]*	Parking passes have been purchased for 2012.
74	*That employees of the restaurant shall be required to park in the municipal parking lot. [COA UP3095]*	Parking passes have been purchased for 2012 for employees to utilize the off-site municipal parking lot.
75	*The signage for take-out parking in the ADA access pathway shall be removed.*	Signage has been removed.

Attachment No. PC 3

Police Department Review

City of Newport Beach
Police Department

Memorandum

July 5th, 2012

TO: Makana Nova, Assistant Planner

FROM: Detective Mario Montero

SUBJECT: One Year Review – China Palace, 2800 W. Coast Highway. Use Permit 2010-015.

On November 23rd, 2010, the Newport Beach City Council upheld and affirmed the Planning Commission's approval of Use Permit 2010-015 for China Palace by Resolution #2010-131. The use permit allowed live entertainment and dancing inside the existing eating and drinking establishment between the hours of 6:00 pm and 1:00 am. The resolution did not permit the establishment to operate as "a bar, tavern, cocktail lounge, or nightclub as defined by the Municipal Code," without further approval from the Planning Commission. Per your request, our office has reviewed the activity at China Palace. The time period from December 1st, 2010 through June 1st, 2012 reflects the period of time since the approval of the permit.

There were a total of 11 calls for service to the Police Department at China Palace in the 20 month period. The calls were evaluated as follows:

Fights/Assaults	3	Subjects fighting and/or reported assaults
Noise/Disturbances	0	Loud music and general noise
Use Permit Violations	2	Minor on the premises, other violations.
Miscellaneous Calls	5	Keep the Peace, Lost property, Misc

The calls ranged from simple calls for assistance to felonious assault/battery. There were a total of 3 Department Report numbers assigned by officers. One report was for lost property on 12/1/2010. The second report was for a misdemeanor battery on 12/3/2010. The third report was for the arrests of two suspects involved in an altercation, one of which was arrested for a felony, on 12/17/2011.

It should be noted that both complaints of Use Permit Violations in the establishment were classified as "Unfounded," since no violations were observed by officers dispatched to the location.

Based on our review, which included the noted calls for service, we have no objections to the operation as outlined in Use Permit 2010-015.

China Palace provided a typed and unverifiable statement to the Planning Department for sales receipts from March 1st, 2012 through May 31st, 2012. The statement showed the sale of food amounted to 61.84% of the total gross sales receipts while bar sales amounted to 38.16%. The owner requested that the actual dollar amount be kept confidential. The Police Department accepted this documentation for the purposes of this review only.

Condition 20 of Use Permit 2010-015 states:

"The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand."

The Police Department recommends an additional review be conducted, six-months from the date of this document, to verify the licensee is in full compliance with Condition 20. Failure to comply with this condition or any other conditions of approval set forth in Use Permit 2010-015 may result in further action by the Planning Department or the Police Department.

It should be noted that the purpose of this six-month review is solely for the purpose of verifying the establishment's compliance of Condition 20.

The Police Department would like to take this opportunity to thank China Palace in advance for their efforts in fulfilling the requirements of Condition 20.

If you have any questions, please contact Mario Montero at (949) 644-3706.

Mario Montero, ABC/Vice/Intelligence
Detective Division

Dale Johnson, Captain
Detective Division Commander

Attachment No. PC 4

Code Enforcement Review

PROJECT REVIEW REQUEST
COMMUNITY DEVELOPMENT DEPARTMENT
Planning Division

Please Distribute to:
Police Dept./Vice & Intelligence
Code Enforcement (Cosylion)

Date: June 12, 2012

Please return PRR and Plans to Staff Planner
Makana Nova, Assistant Planner
(949) 644-3249, mnova@newportbeachca.gov

Applicant:	China Palace	Contact:	Yu-Ter Mau (Jack) 949 631-8031
Project Name	China Palace Use Permit		
Address:	2800 W Coast Highway		
(PA2010-082)	UP2010-015		

A one-year review will be conducted for Use Permit No. UP2010-015. The Use Permit was approved on November 23, 2010 to allow live entertainment and dancing within an existing full-service eating and drinking establishment with on-sale alcohol service. (Police: Please provide information related to calls for service, complaints, investigations, and sales receipts information) (Code Enforcement: Please provide information related to complaints, citations, and violations)

REPORT REQUESTED BY: **June 26, 2012**

PLANNING COMMISSION HEARING DATE: **July 19, 2012**

Check all that apply:

- ☑ No comments on the project as presented.
- ☐ Application of Standard Code requirements are not expected to alter the project design.
- ☐ Recommended conditions of approval are attached.
- ☐ Application of Standard Code requirements or the attached conditions of approval will substantially impact or alter the design of the project.
- ☐ I contacted the applicant on _____
  - ☐ To schedule an appt. for Code review
  - ☐ To discuss the following (see notes)

Notes:

CODE ENFORCEMENT HAS NOT RECEIVED ANY COMPLAINTS REGARDING THE SUBJECT PROPERTY AND UP2010-015. A NOTICE OF VIOLATION REGARDING BANNERS, WAS SENT TO THE PROPERTY OWNER (OFFICER INITIATED - NO COMPLAINTS).

C Palmer — Signature
3220 — Ext.
6/25/2012 — Date

Please indicate the approximate time spent on reviewing this project: 10 minutes

Tmplt: 02/09/11

NOTICE OF VIOLATION

CITY OF NEWPORT BEACH
Community Development Department
Code Enforcement Division

3300 Newport Blvd.
Newport Beach, CA 92663
949-644-3215

Number: I2011-1207
Date: 12/01/2011

Name of Owner or Business : COAST POINT RESTAURANT

2800 COAST HWY W
NEWPORT BEACH,CA,92663

An inspection of premises located at 2800 W COAST HWY NB in the City of Newport Beach, on 12/01/2011 revealed a violation(s) of the Newport Beach Municipal code.

WARNING ONLY [✓]
PREVIOUSLY ADVISED [ ]
FINAL WARNING [✓]

THIS VIOLATION(S) WAS ORIGINALLY BROUGHT TO YOUR ATTENTION ON_____, AND YOU HAVE NOT CORRECTED OR RESOLVED THE VIOLATION(S)

NEWPORT BEACH MUNICIPAL CODE SECTION(S) / DESCRIPTIONS OF VIOLATION(S)

1: MC 20.42.090 STANDARDS FOR TEMPORARY SIGNS
2: NBMC 20.42.100 SIGN PERMIT REQUIRED

CORRECTION(S) REQUIRED -

1. PLEASE REMOVE ANY UNPERMITTED BANNERS.
2. OBTAIN A PERMIT FOR ANY FUTURE BANNERS.

THANK YOU.

THIS VIOLATION MUST BE CORRECTED ON OR BEFORE 12/04/11. If the violation is not corrected by the date specified, an ADMINISTRATIVE CITATION may be issued and penalties will begin to accrue ($100.00, $200.00, AND $500.00) each day. Additional enforcement actions such as administrative abatement, civil penalties, prosecution and/or civil injunction may be utilized to correct this violation(s). A REINSPECTION WILL BE MADE ON OR AFTER THE CORRECTION DATE. IF THE CORRECTION(S) IS NOT COMPLETED AN ADMINISTRATIVE CITATION MAY BE ISSUED AND FEES WILL BEGIN TO ACCRUE.

PRINT NAME OF OFFICER A. Kendall

SIGNATURE OF OFFICER

VIOLATION(S) CLEARED AS OF _____ (DATE INSPECTED) OFFICER ID # 2707

Attachment No. PC 5

Planning Commission Minutes

applicant proposes a winery (wine production with accessory retail sales and accessory wine tasting).

Fern Nueno, Assistant Planner, gave a brief overview of the staff report, including a minor change to the project description in the Study Plan.

Cora Newman of Government Solutions, representing the applicant and Gus Defalco, applicant made comments and answered questions posed by the Commission. Detective Bryan Moore, Newport Beach Police Department made further comments and was available for questions.

Public comment was opened.

No comments were made.

Public comment was closed.

Motion made by Commissioner Toerge, seconded by Commissioner Unsworth, to adopt resolution, as follows; recommend City Council approval of Code Amendment No. CA2010-005.

Motion carried with the following vote:

Ayes:	Eaton, Unsworth, Hawkins, McDaniel, Ameri, and Toerge
Noes:	None

SUBJECT: China Palace Use Permit - (PA2010-082)
2800 West Coast Highway

ITEM NO. 7
PA2010-082

Approved

The application is for a use permit to allow live entertainment and dancing within an existing full-service eating and drinking establishment with on-sale alcohol service. Required off-street parking for the project will be provided at an off-site parking lot located at 2750 West Coast Highway.

Makana Nova, Assistant Planner, gave a brief overview of the staff report with a PowerPoint presentation.

Scott Peotter, representing the applicant, presented an aerial map depicting restaurants surrounding China Palace to the Planning Commission and staff and made comments. Detective Bryan Moore, Newport Beach Police Department made comments.

Public comment was opened.

Comments were given by the following:

Michael Pells, 308 Avenida Carlos
Howard Larsen, 407 Kings Place
Craig Hudson, Newport Beach resident
Dr. Cassidy, Cliff Drive resident
Kathy Seymour, Kings Road resident
Mr. West, Newport Beach resident

Public comment was closed.

Motion made by Commissioner Toerge, seconded by Commissioner Eaton, to adopt a resolution, after debate, to approve Use Permit No. UP2010-015 subject to the findings and conditions of modified resolution provided by the applicant's representative as follows:

- Page 3 of 13, Section B-2 –Strike the last portion of last sentence: "and to limit the hours of operation so that the establishment closes 12:00 midnight.
- Page 4 of 13, Section C-1 – Incorporate all changes: Replace the word proposed with "*existing*" and add the word "*proposed*" before live entertainment
- Page 4 of 13, Section C-2 – Modify section to read as follows: "The hours of operation have been conditioned to limit live entertainment at the establishment from 6:00 p.m. to 1:00 a.m. The hours of operation for the establishment will be reduced to 7:00 a.m. to 2:00 a.m., daily."
- Page 6 of 13, Exhibit "A", Condition No. 4 – Modify condition to read: "The hours of operation for the eating and drinking establishment indoors shall be limited from 7:00 a.m.to 2:00 a.m., daily. The hours of operation for the outdoor dining area shall be limited from 7:00 a.m. to 12:00 midnight."
- Condition No. 5 – Modify condition to read: "Live entertainment shall be permitted at the subject property from 6:00 p.m. to 1:00 a.m."
- Condition No. 6 – Incorporate all changes: "Dancing is allowed for the hours of live entertainment."
- Condition No. 7 - Incorporate all changes: "The area provided for live entertainment and dancing shall not exceed 400 square feet."
- Condition No. 12 – Incorporate all changes: "Live entertainment shall be as defined in the Municipal Code."
- Condition No. 25 – Incorporate all changes: add the words "per current code" after the word below in the last sentence.
- Condition No. 36 – Incorporate all changes: Change 8:00 a.m. to "7:00 a.m."
- Condition No. 61 – Incorporate all changes: Change 12:00 midnight to "closing".
- Condition No. 62 – Modify condition to require a total of "30 parking spaces" and incorporate all other changes.
- Condition No. 64 – Incorporate all changes: Replace application with "applicant"
- Add condition to read "When offering live entertainment, all doors and windows shall remain closed except for the normal ingress/egress doors. The doors and windows from the primary dining room to the outdoor dining room shall be closed at all times during the hours of live entertainment other than for server access."
- Add condition to read "As a condition precedent to the Applicant conducting operations under Use Permit No. UP2010-015 (PA2010-082), the Applicant shall obtain the Planning Director's approval of a written agreement between the Applicant (as lessee) and the owner of the property located at 2750 West Coast Highway and 149 Riverside Avenue

#B (as lessors) providing parking for thirty (30) cars and seven (7) cars, respectively. If at any time the bank, located at 2750 West Coast Highway, extends its hours of operation beyond 6:00 p.m., or if Applicant's possession of the parking lot is terminated, or if the agreement is terminated for any reason, then the live entertainment rights of the Applicant to operate under the above-referenced Use Permit shall immediately terminate until replacement off-site parking, acceptable to the Planning Director, is obtained for the subject property."

- Add a condition to read "Use Permit No. UP2010-015 shall be subject to a one year review before the Planning Commission after the date of approval".

Scott Peotter stated that the applicant was not agreeable to the hours of live entertainment being limited to 1:00 a.m.

Motion carried with the following vote:

Ayes:	Eaton, Unsworth, Hawkins, McDaniel, Ameri, and Toerge,	
Noes:	None	

* * *

NEW BUSINESS	**None**

* * *

STAFF AND COMMISSIONER ITEMS

City Council Follow-up – meeting adjourned prior to consideration of this item	**ITEM NO. 8**
Planning Commission reports – meeting adjourned prior to consideration of this item	**ITEM NO. 9**
Announcements on matters that Commission members would like placed on a future agenda for discussion, action, or report. – meeting adjourned prior to consideration of this item.	**ITEM NO. 10**
Requests for excused absences – meeting adjourned prior to consideration of this item	**ITEM NO. 11**

ADJOURNMENT: 11:30 p.m.

MICHAEL TOERGE, SECRETARY
CITY OF NEWPORT BEACH PLANNING COMMISSION

Attachment No. PC 6

City Council Minutes

David Waite, legal representative for Stoneridge Capitol Partners, discussed the importance of thoroughly evaluating project impacts.

Brian Adams expressed concern for public access within the property.

Tom Muller, Conexant Legal Representative, discussed the general plan.

Carol McDermott asked for support of the project and emphasized that the plan is conceptual.

Hearing no further testimony, Mayor Curry closed the public hearing.

In response to Council questions, City Attorney Hunt expressed support for the City proceeding with the project, noted that the ICDP is a concept upon which plans can be made from, and clarified that Council has the authority to change the plan after it is approved.

Council Member Selich expressed support for the proposed plan.

Council Member Webb suggested modifications to the ICDP in regards to bicycles, easements, and access from Birch Street.

Council Member Gardner expressed support for Council Member Webb's suggestions and felt that the ICDP is in tune with the General Plan.

Council Member Daigle believed that this project will revitalize the area.

Motion by Council Member Daigle, seconded by Council Member Gardner to adopt Resolution No. 2010-113 approving the proposed Airport Business Area Integrated Conceptual Development Plan as amended by Council Member Webb.

The motion carried by the following roll call vote:

Ayes: Council Member Selich, Council Member Rosansky, Mayor Pro Tem Henn, Mayor Curry, Council Member Webb, Council Member Gardner, Council Member Daigle

24. CHINA PALACE USE PERMIT (PA2010-082) - 2800 WEST COAST HIGHWAY - USE PERMIT NO. 2010-015. ***[100-2010]***

Motion by Council Member Rosansky, seconded by Council Member Gardner to continue the item to November 9, 2010.

The motion carried by the following roll call vote:

Ayes: Council Member Selich, Council Member Rosansky, Mayor Pro Tem Henn, Mayor Curry, Council Member Webb, Council Member Gardner, Council Member Daigle

City Manager Kiff reported that the applicant requested a 45 day continuance.

XVI. PUBLIC COMMENTS - None

XVII. CURRENT BUSINESS

25. IMPLEMENTATION OF THE RECOMMENDATIONS OF THE CITIZENS

XIV. ORAL REPORTS FROM CITY COUNCIL ON COMMITTEE ACTIVITIES

Mayor Pro Tem Henn reported that the Finance Committee met on Monday and discussed the issuance of bonds in association with the Civic Center project. He also reported that the Economic Development Committee (EDC) heard a presentation from OPIS100 who conducts workshops to assist small businesses understand how to be more successful in this economic time. He announced that the first workshop will be held on January 22, 2011, at 8:30 a.m. in the OASIS meeting room.

XV. PUBLIC HEARINGS

Without objection, it was the consensus of Council to consider Items 10 and 11 together.

10. ADOPTION OF THE 2010 CALIFORNIA BUILDING CODES.

11. ADOPTION OF THE 2010 FIRE CODE AND THE 2009 INTERNATIONAL FIRE CODE. *[100-2010]*

Interim Community Development Director Fick noted that a presentation was provided during the study session. He recommended that Council introduce the ordinance to adopt the State mandated provisions of the Building and Fire Codes, include the local amendments that are non-substantive, and continue the prohibition of wood roofs in high fire hazard severity zones. He stated that staff plans to incorporate public input after conducting workshops.

Mayor Curry opened the public hearing. Hearing no testimony, he closed the public hearing.

Motion by Council Member Selich, seconded by Council Member Gardner to a) introduce Ordinance No. 2010-23 as amended, and pass to a second reading on November 23, 2010; b) adopt Resolution of Findings No. 2010-127 on November 23, 2010; and c) introduce Ordinance No. 2010-24 amending Title 9 of the NBMC to adopt the 2010 California Fire Code (Title 24, Part 2 of the California Code of Regulations) and local amendments, and the 2009 International Fire Code; and pass to second reading on November 23, 2010.

The motion carried by the following roll call vote:

Ayes: Council Member Selich, Mayor Pro Tem Henn, Mayor Curry, Council Member Webb, Council Member Gardner, Council Member Daigle
Absent: Council Member Rosansky

12. CHINA PALACE USE PERMIT (PA2010-082) - 2800 WEST COAST HIGHWAY - USE PERMIT NO. 2010-015. *[100-2010]*

Council Member Rosansky requested that the item be continued.

Mayor Curry opened the public hearing. Hearing no public testimony, he closed the public hearing.

Motion by Council Member Rosansky, seconded by Council Member Webb to continue the item to the November 23, 2010 City Council meeting.

The motion carried by the following roll call vote:

Ayes: Council Member Selich, Council Member Rosansky, Mayor Pro Tem Henn, Mayor

The motion carried by the following roll call vote:

Ayes: Council Member Selich, Council Member Rosansky, Mayor Pro Tem Henn, Mayor Curry, Council Member Webb, Council Member Gardner, Council Member Daigle

XIII. ITEMS REMOVED FROM THE CONSENT CALENDAR - None

XIV. ORAL REPORTS FROM CITY COUNCIL ON COMMITTEE ACTIVITIES

Council Member Daigle reported that she was appointed to the Airport Lands Commission.

Council Member Gardner discussed the joint meeting of the Harbor Commission and Planning Commission, and the benefits of these commissions working together.

Mayor Pro Tem Henn reported on the Economic Development Committee (EDC) meeting and indicated that the City is included in Southern California Association of Government's (SCAG's) list of business-friendly cities that follow a statement of principles since Newport Beach adopted a fiscal sustainability plan. He reported that EDC also received a report relative to a "Shop Local" campaign.

XV. PUBLIC HEARINGS

16. NEWPORT BUSINESS PLAZA (PA2008-164) - 4699 JAMBOREE ROAD AND 5190 CAMPUS DRIVE - GENERAL PLAN AMENDMENT NO. GP2008-007 - PLANNED COMMUNITY DEVELOPMENT PLAN AMENDMENT NO. PD2009-001 - TENTATIVE PARCEL MAP NO. NP2010-006 (COUNTY TMPM NO. 2010-101). ***[100-2010]***

City Manager Kiff requested that the item be continued to January 11, 2011, not December 14, 2010.

Mayor Curry opened the public hearing. Hearing no testimony, he closed the public hearing.

Motion by Council Member Rosansky, seconded by Council Member Webb to continue the item to the regular meeting of January 11, 2011, in order to provide adequate time to comprehensively review and identify the potential terms of a development agreement, and the applicant's request for a waiver of a development agreement.

17. CHINA PALACE USE PERMIT (PA2010-082) - 2800 WEST COAST HIGHWAY - USE PERMIT NO. 2010-015. ***[100-2010]***

Acting Planning Director Campbell utilized a PowerPoint presentation to discuss the project site, existing site plan, floor plan, parking issues, proposed hours of operation with and without entertainment, and proposed changes to the conditions of operation.

In response to Council questions, Acting Planning Director Campbell reported that the area is designated mixed-use but staff does not anticipate residential uses. He stated that C'est Si Bon Bakery is not open late, but people can be towed if they park there. He explained the reasons the Planning Commission recommended 1 parking space per 31 square feet of net public area (without valet) and staff recommended 1 parking space per 35. He also discussed the different recommendations relative to operating hours.

Council Member Rosansky expressed support for having 1 parking space for every 35 square feet of net public area and closing the patio at midnight when there is no entertainment or dancing. However, he recommended closing at 2:00 a.m. when the business is operating strictly as a restaurant.

Motion by Council Member Rosansky, seconded by Council Member Selich to adopt Resolution No. 2010-131 approving Use Permit No. UP2010-015, including revisions to the conditions of approval to require 1 parking space for every 35 square feet of net public area, allow valet parking until 2:00 a.m., and modify Condition No. 5 to allow the applicant to keep the patio open until 2:00 a.m. when there is no entertainment or dancing.

Mayor Curry opened the public hearing.

Scott Bauer, representing the applicant, requested that the patio doors remain open even when there is entertainment or dancing. He noted that live entertainment will stop at 1:00 a.m.

Hearing no further testimony, Mayor Curry closed the public hearing.

Council Member Gardner expressed concerns relative to enforcement since entertainment and dancing may or may not occur nightly. Mayor Pro Tem Henn agreed and recommended that the site close at midnight. He noted the problems that occur on the Peninsula due to mixed-uses and facilities being open late.

Substitute motion by Council Member Webb, seconded by Council Member Gardner to adopt Resolution No. 2010-131 approving Use Permit No. UP2010-015, including revisions to the conditions of approval to require 1 parking space for every 35 square feet of net public area, allow valet parking until 2:00 a.m., and modify Condition No. 5 to only allow the applicant to keep the patio open until midnight.

The substitute motion failed by the following roll call vote:

Ayes: Mayor Pro Tem Henn, Council Member Webb, Council Member Gardner
Noes: Council Member Selich, Council Member Rosansky, Mayor Curry, Council Member Daigle

The motion carried by the following roll call vote:

Ayes: Council Member Selich, Council Member Rosansky, Mayor Curry, Council Member Daigle
Noes: Mayor Pro Tem Henn, Council Member Webb, Council Member Gardner

18. **AGREEMENT TO PROVIDE SANITARY SEWER SERVICES TO CANYON FAIRWAY COMMUNITY.** ***[100-2010]***

City Manager Kiff provided the staff report. In compliance with California Constitution Article XIIId (Proposition 218), City Clerk Brown reported that no protests were received.

Mayor Curry opened the public hearing. Hearing no testimony, he closed the public hearing.

Motion by Council Member Webb, seconded by Council Member Rosansky to direct staff to access sewer fees for the Canyon Fairway Community Association per Title 14 of the City's Municipal Code since there was an absence of a majority protest.

The motion carried by the following roll call vote:

Ayes: Council Member Selich, Council Member Rosansky, Mayor Pro Tem Henn, Mayor Curry, Council Member Webb, Council Member Gardner, Council Member Daigle

XVI.

Attachment No. PC 7

Parking Management Plan

Parking Management Program
2800 West Coast Highway
China Palace
November 23, 2010

The following Parking Management Program for the eating and drinking establishment, located at 2800 West Coast Highway, is provided per Section 20.66.100 (Modification or Waiver of Off-Street Parking Requirements) of the Zoning Code. The Parking Management Program will employ the following management mechanisms to mitigate impacts associated with a modification of the off-street parking spaces as required by Chapter 20.66 of the Zoning Code:

Off-Site Parking

- 30 off-site parking spaces shall be provided at 2750 West Coast Highway. The use of the off-site parking spaces will be off-set by the business that utilizes them (the bank at 2750 West Coast Highway and the subject establishment, China Palace, located at 2800 West Coast Highway).
- The property owner of 2750 West Coast Highway may terminate this arrangement at any time. The establishment's use of these spaces shall no longer be valid if the tenant at 2750 West Coast Highway expands their operation hours later than 6:00 p.m.
- If at any time the bank, located at 2750 West Coast Highway, extends its hours of operation beyond 6:00 p.m., or if Applicant's possession of the parking lot is terminated, or if the agreement is terminated for any reason, then the live entertainment and dancing rights of the Applicant to operate under the above-referenced Use Permit shall immediately terminate until replacement off-site parking, acceptable to the Planning Director, is obtained for the subject property.
- The applicant shall provide signage at 2750 West Coast Highway indicating that overnight parking is not permitted at the off-site parking lot and vehicles will be subject to tow if left overnight.

Municipal Parking Spaces

- 13 employee parking spaces are waived by Variance No. VA1112 and provided off-site at the Avon municipal parking lot at 200 Tustin Avenue. The applicant shall pay in-lieu fees to the City for these spaces on an annual basis.

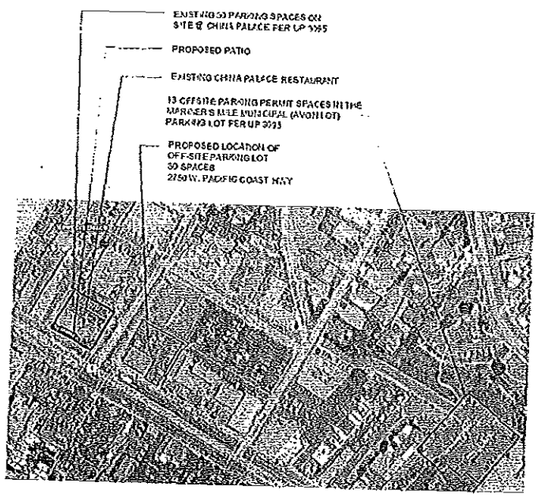
On-Site Parking and Valet Service

- Valet service is required on-site during operating hours from 11:00 a.m. to 2:00 a.m. to ensure that all 30 parking spaces provided on-site are accessible for customers of the eating and drinking establishment.
- Valet parking is not permitted at the off-site location.
- Valet service shall not impact the public right-of-way. Vehicle staging, drop-off, and pick-up shall occur on-site only.

- The applicant shall discourage patrons from crossing Riverside Avenue at mid-block locations and shall direct patrons to utilize nearby crosswalks.
- The applicant shall provide signage on-site indicating the location of additional parking available at the off-site parking lot.
- The signage for take-out service parking shall be removed from the ADA access pathway near the entrance to the establishment.

Attachment No. PC 8

Project Plans



VICINITY MAP / AERIAL PHOTOGRAPH

APPROVED BY:

- ☐ Planning Director
- ☐ Planning Commission
- ☒ As Submitted
- ☐ Zoning Administrator
- ☒ City Council
- ☐ As Modified

Refer to: ☒ Resolution ☐ Approval Letter

# of Pgs Approved: 2 Date: 11/23/10

BUILDING DATA	
NO. OF STORIES:	
TYPE OF CONSTRUCTION:	
OCCUPANCY GROUP:	A2
FIRE SPRINKLERS:	NO
FIRE ALARM:	NO

AREA SUMMARY FOR CHINA PALACE RESTAURANT

LOT AREA:	16,769 S.F.	
EXISTING BUILDING:	5317 S.F.	
APPROVED NET PUBLIC AREA:	2129 S.F.	
EXISTING LANDSCAPING:	2,645 S.F.	2,645 S.F. + 333 S.F.
EXISTING RAISED PLANTERS	333 S.F.	2978 S.F. = 17.8 %
EXISTING PAVING:	8,464 S.F. = 50.4 %	
BUILDING	5,260 S.F. (5,317 - 57)	
PROPOSED INTERIOR DINING AREA (NET PUBLIC AREA):	2,042 S.F.	
PROPOSED OUTDOOR PATIO:	619 S.F. (87 S.F. + 532 S.F. ACCESSORY OUTDOOR DINING)	
PROPOSED LANDSCAPING:	1,750 S.F.	
PROPOSED RAISED PLANTER / FIRE FEATURE:	458 S.F.	1,750 S.F. + 458 S.F. 2,208 S.F. = 13.2 %

1. ALL WORK TO COMPLY WITH 2007 CALIFORNIA BUILDING CODES AND TITLE 24 2008 CALIFORNIA ENERGY EFFICIENCY STANDARDS
2. MAXIMUM OCCUPANT SHALL BE POSTED IN EACH DINING & WAITING AREA PER CBC 1004.3
3. OCCUPANT LOAD PER TABLE 1004.1.1

NET PUBLIC AREA (INTERIOR DINING AREA WITH NON FIXED SEATING):	2,059 S.F. / 15 = (4)
PATIO AREA (OUTDOOR DINING AREA WITH NON-FIXED SEATING)	619 S.F. / 15 = 42
NON PUBLIC AREAS:	653 S.F. / 100 = 6
RESTROOMS:	460 S.F. / 0 = 0
STORAGE:	528 S.F. / 300 = 3
KITCHEN:	1358 S.F. / 200 = 7
TOTAL OCCUPANT LOAD:	197

4. TWO EXITS REQUIRED AND PROVIDED AT MAIN ENTRANCE AND 2nd EXIT (NW CORNER) WITH PANIC HARDWARE PER CBC 1003.1.9

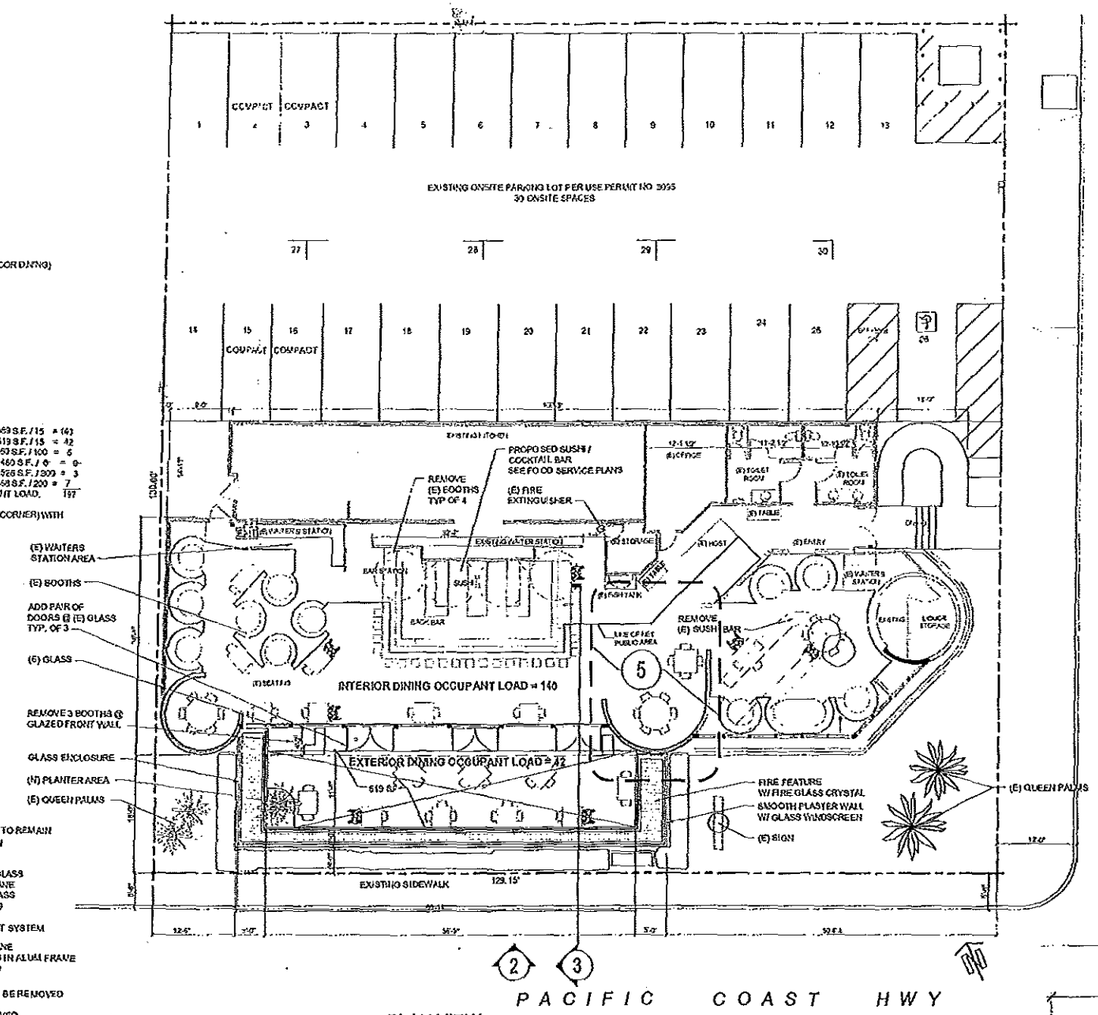
PATIO AREA SUMMARY FOR CHINA PALACE RESTAURANT

2,129 S.F. NET PUBLIC AREA PER USE PERMIT NO. 3095

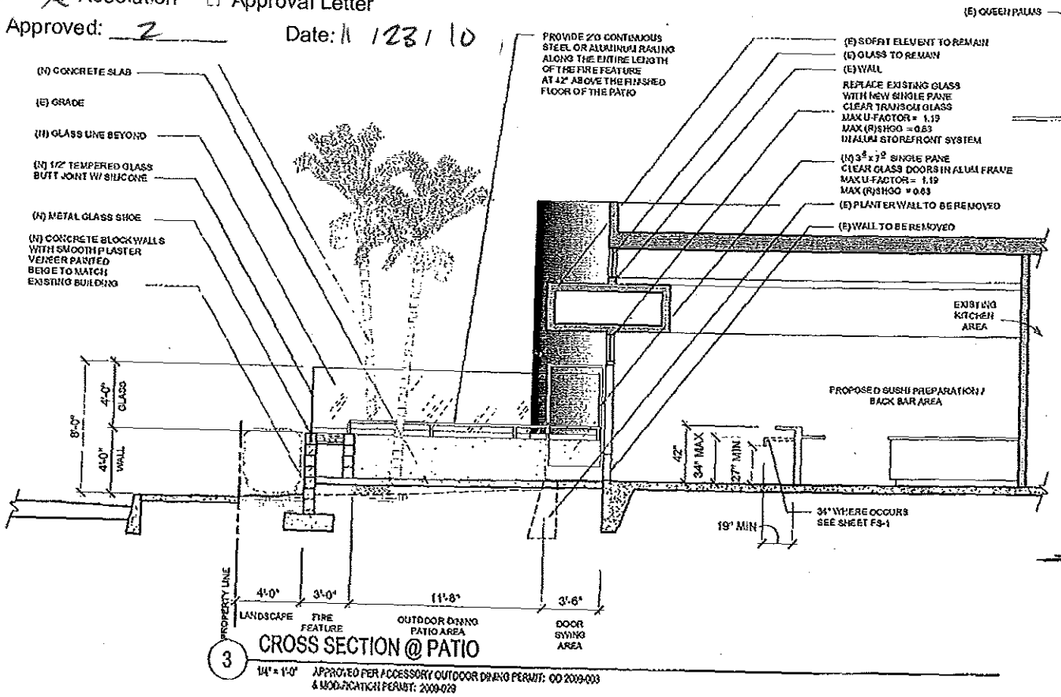
532 S.F. ALLOWED PATIO AREA PER 25% OF ORIGINAL N.P.A. [1]
+ 87 S.F. (3) x 29 S.F. BOOTH PROJECTIONS REMOVED FROM INTERIOR N.P.A. [2]
619 S.F. PATIO AREA ALLOWED

[1] NOTE: ACCESSORY OUTDOOR DINING PERMIT: OD 2009-003 APPROVED 1/7/2010

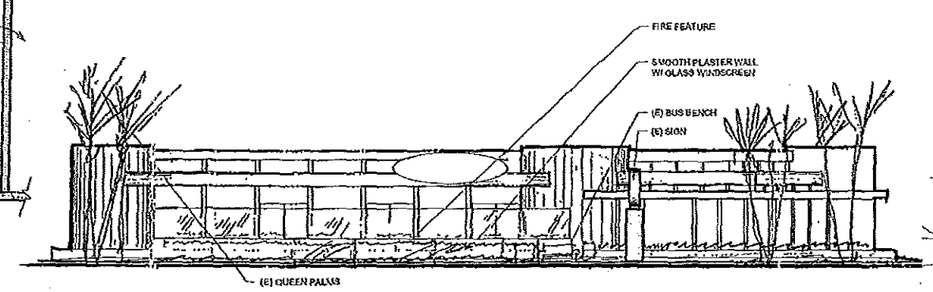
[2] NOTE: EXISTING 'NET PUBLIC AREA' OF 87 S.F. (3 - 29 S.F. BOOTH PROJECTIONS) TRANSFERRED TO THE ALLOWED PATIO AREA



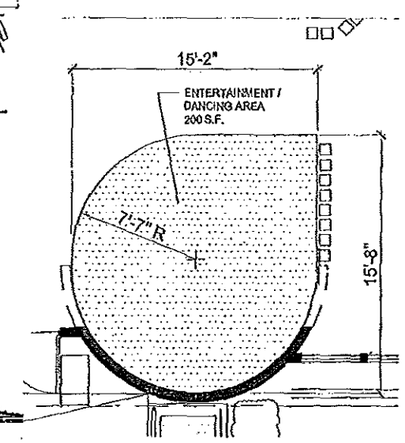
1 PLAN VIEW
1" = 10'-0"



3 CROSS SECTION @ PATIO
1/4" = 1'-0" APPROVED PER ACCESSORY OUTDOOR DINING PERMIT: OD 2009-003 & MODIFICATION PERMIT: 2009-029



2 WEST ELEVATION
1" = 10'-0"



5 ENTERTAINMENT AREA
SCALE: 1/4" = 1'-0"

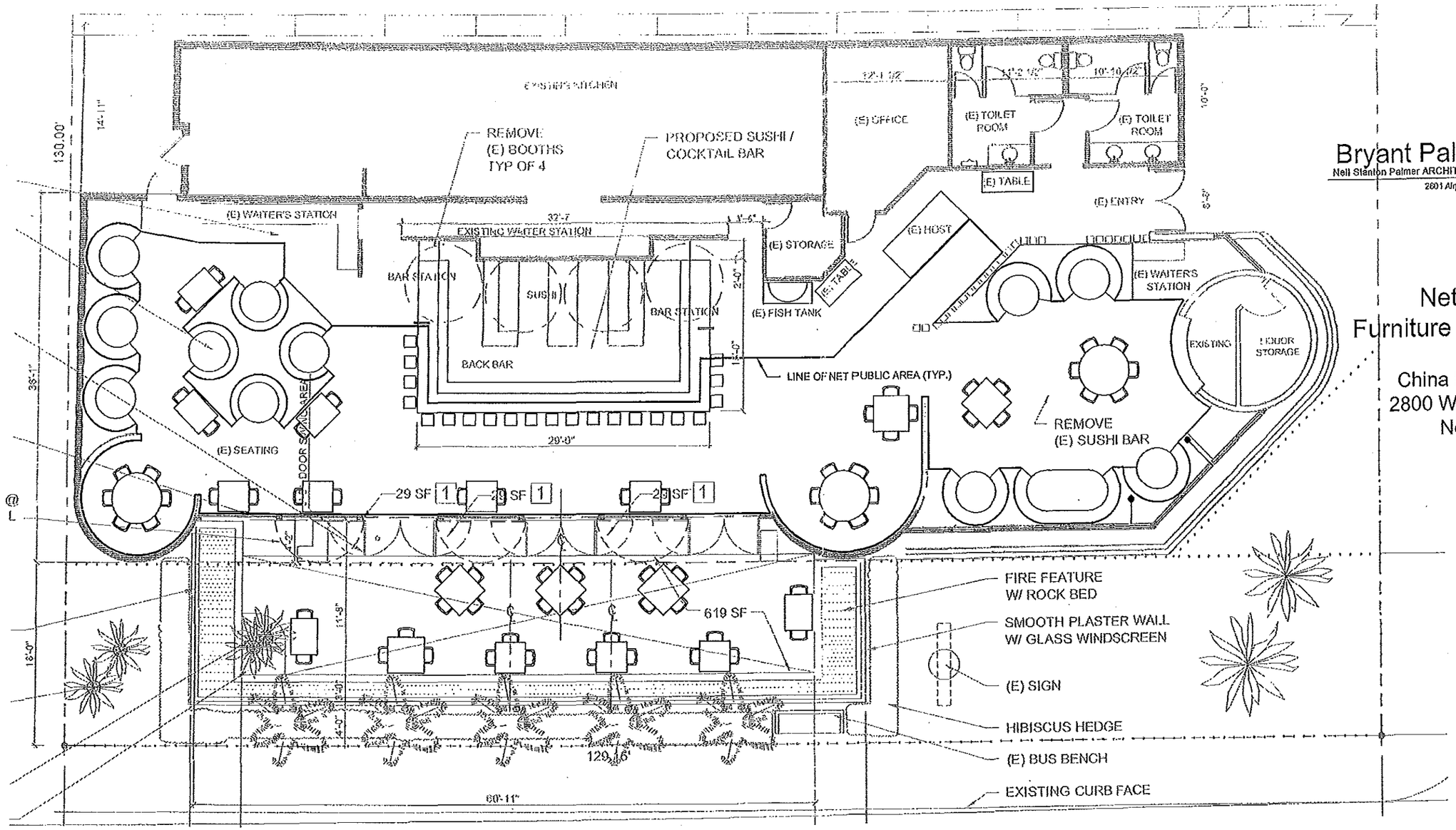
BPS
Bryant Palmer Soto Inc.
ARCHITECTS / PLANNERS

5-25-10

China Palace Patio

China Palace Restaurant
2800 W Pacific Coast Hwy.
Newport Beach

PA2010-082 for UP2010-015
2800 W Coast Highway
China Palace



BPS

Bryant Palmer Soto Inc.

Neil Stanton Palmer ARCHITECTS / Jack K. Bryant ENGINEERS

2601 Airport Drive, Suite 310, Torrance, CA 90505
Telephone: (310) 326-9111
Fax: (310) 326-0271

5-25-10

China Palace
Net Public Area &
Furniture Layout Exhibit

China Palace Restaurant
2800 W Pacific Coast Hwy.
Newport Beach

PATIO AREA SUMMARY FOR CHINA PALACE RESTAURANT

2,129 S.F. NET PUBLIC AREA PER USE PERMIT NO. 3095

532 S.F. ALLOWED PATIO AREA PER 25% OF ORIGINAL N.P.A. [1]
+ 87 S.F. (3) x 29 S.F. BOOTH PROJECTIONS REMOVED FROM INTERIOR N.P.A. [2]
619 S.F. PATIO AREA ALLOWED

[1] NOTE: ACCESSORY OUTDOOR DINING PERMIT: OD 2009-003
APPROVED 1/7/2010

[2] NOTE: EXISTING "NET PUBLIC AREA" OF 87 S.F.
(3 - 29 S.F. BOOTH PROJECTIONS)
TRANSFERRED TO THE ALLOWED PATIO AREA

Total Net Public Area: 2,042 S.F.

PROPOSED INTERIOR NET PUBLIC AREA & FURNITURE LAYOUT EXHIBIT

1 of 1

SCALE: 1" = 10'-0"

PA 2009-113
FOR ILLUSTRATION PURPOSES ONLY

ADDITIONAL MATERIALS RECEIVED

STAFF PRESENTATION

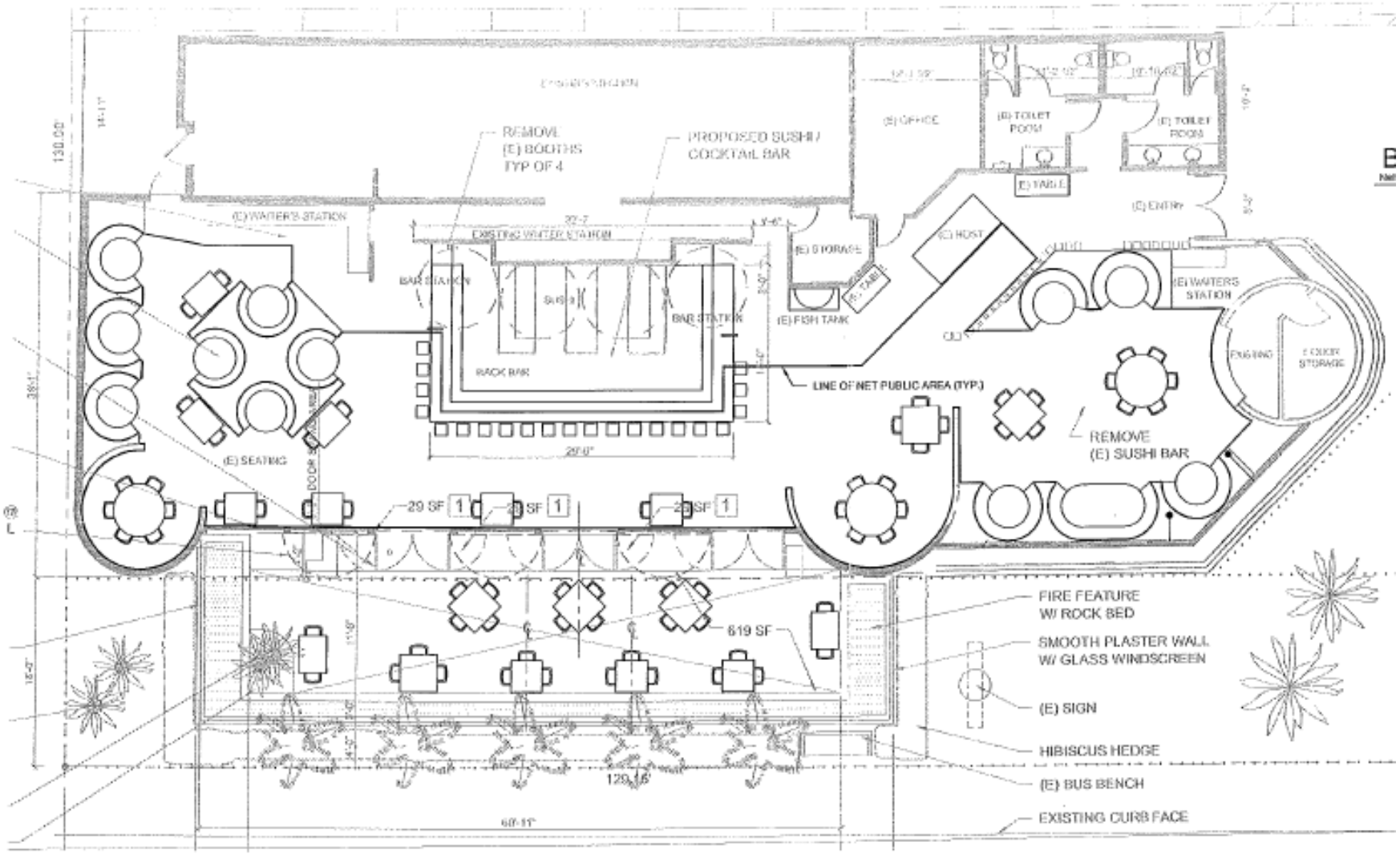
Planning Commission July 19, 2012

Coast Point (China Palace) Live Ent./Dancing Use Permit Review Use Permit No. UP2010-015 (PA2010-082)

Vicinity Map

- Approved by City Council November 23, 2011
- 400 sq ft of dance area
- Closing Hours:
  - Live Entertainment/Dancing-1:00 a.m.
  - Restaurant-2:00 a.m.
  - Outdoor patio-12:00 midnight with live entertainment/dancing

Use Permit No. UP2010-015


REMOVE
(E) BOOTHS
TYP OF 4
PROPOSED SUSHI /
COCKTAIL BAR
(E) OFFICE
(E) TOILET ROOM
(E) TOILET ROOM
(E) TABLE
(E) ENTRY
(E) WATER'S STATION
EXISTING WATER STATION
(E) STORAGE
(E) HOST
BAR STATION
BAR STATION
(E) FISH TANK
(E) WATER'S STATION
EXISTING
COOLER STORAGE
RACK BAR
LINE OF NET PUBLIC AREA (TYP.)
REMOVE
(E) SUSHI BAR
(E) SEATING
DOOR
29 SF 1
29 SF 1
29 SF 1
619 SF
FIRE FEATURE
W/ ROCK BED
SMOOTH PLASTER WALL
W/ GLASS WINDSCREEN
(E) SIGN
HIBISCUS HEDGE
(E) BUS BENCH
EXISTING CURB FACE
130.00'
129.16'
60'-11"

Floor Plan

- Provided a live entertainment permit August 15, 2011.
- Provided an off-site parking letter
- Demonstrated the ability to offer valet service when parking demand was high.
- Revised the occupancy calculations
- Provided a security plan March 5, 2012.
- Removed take-out signage
- Purchased 13 annual parking passes for 2012.

Actions Taken by Applicant

Police

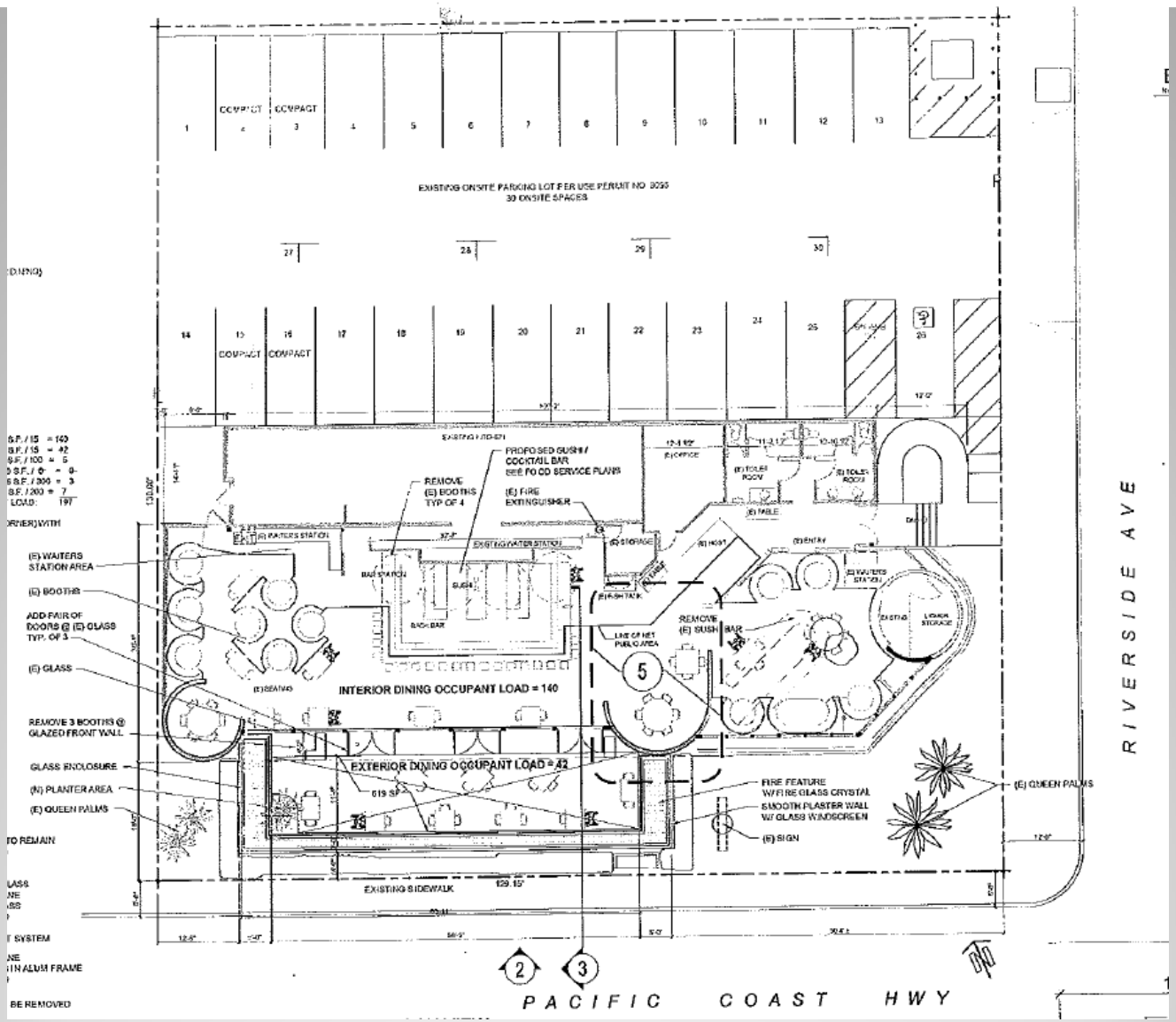
- 11 calls for service
- No objections to the operations as approved under the Use Permit
- PD to review sales receipts and in six months to ensure compliance in accordance with Condition No. 20

Code Enforcement

- One violation-temporary banners December, 2011
- Removed happy hour signage

PD/Code Enforcement

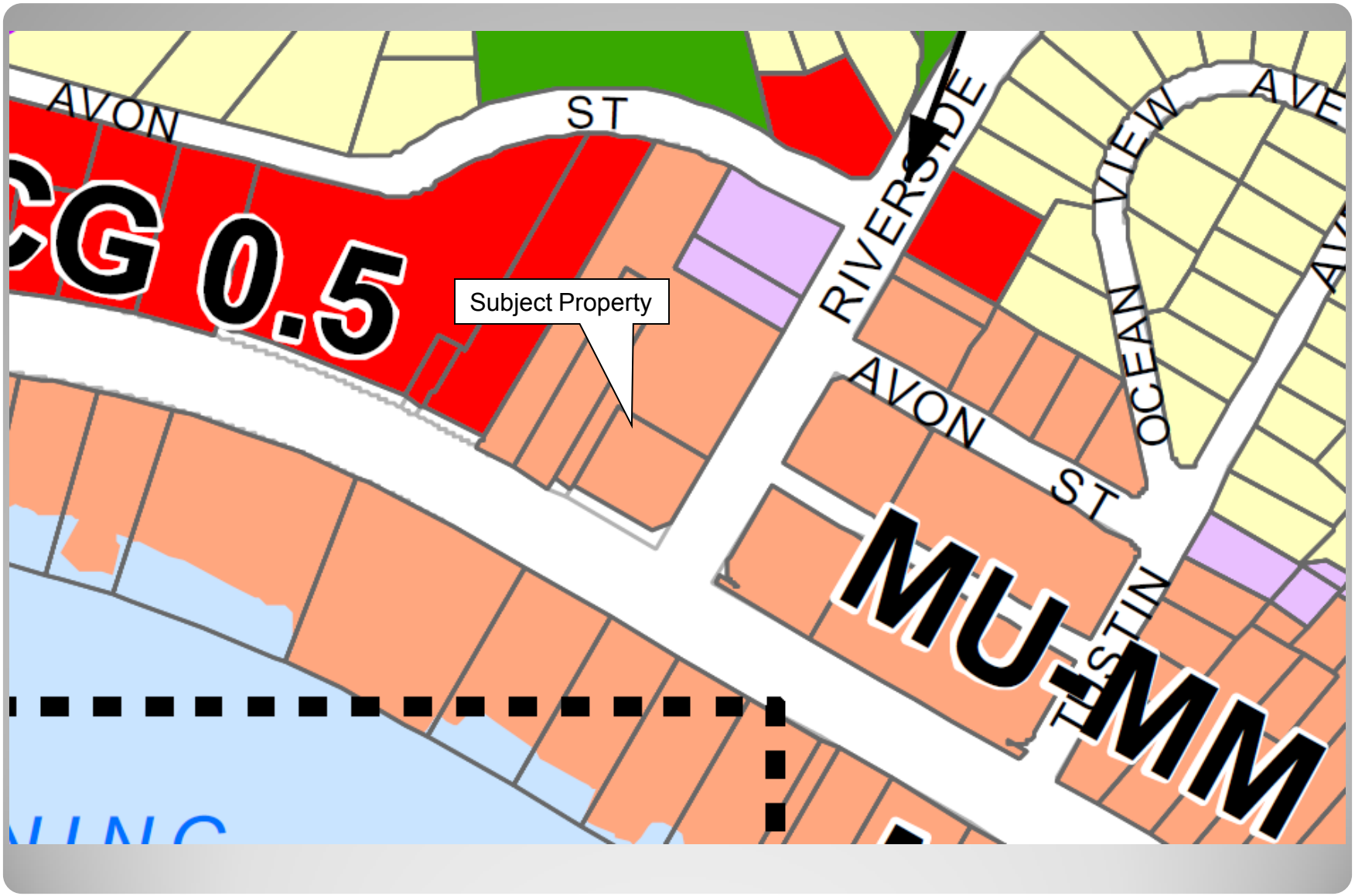
- End



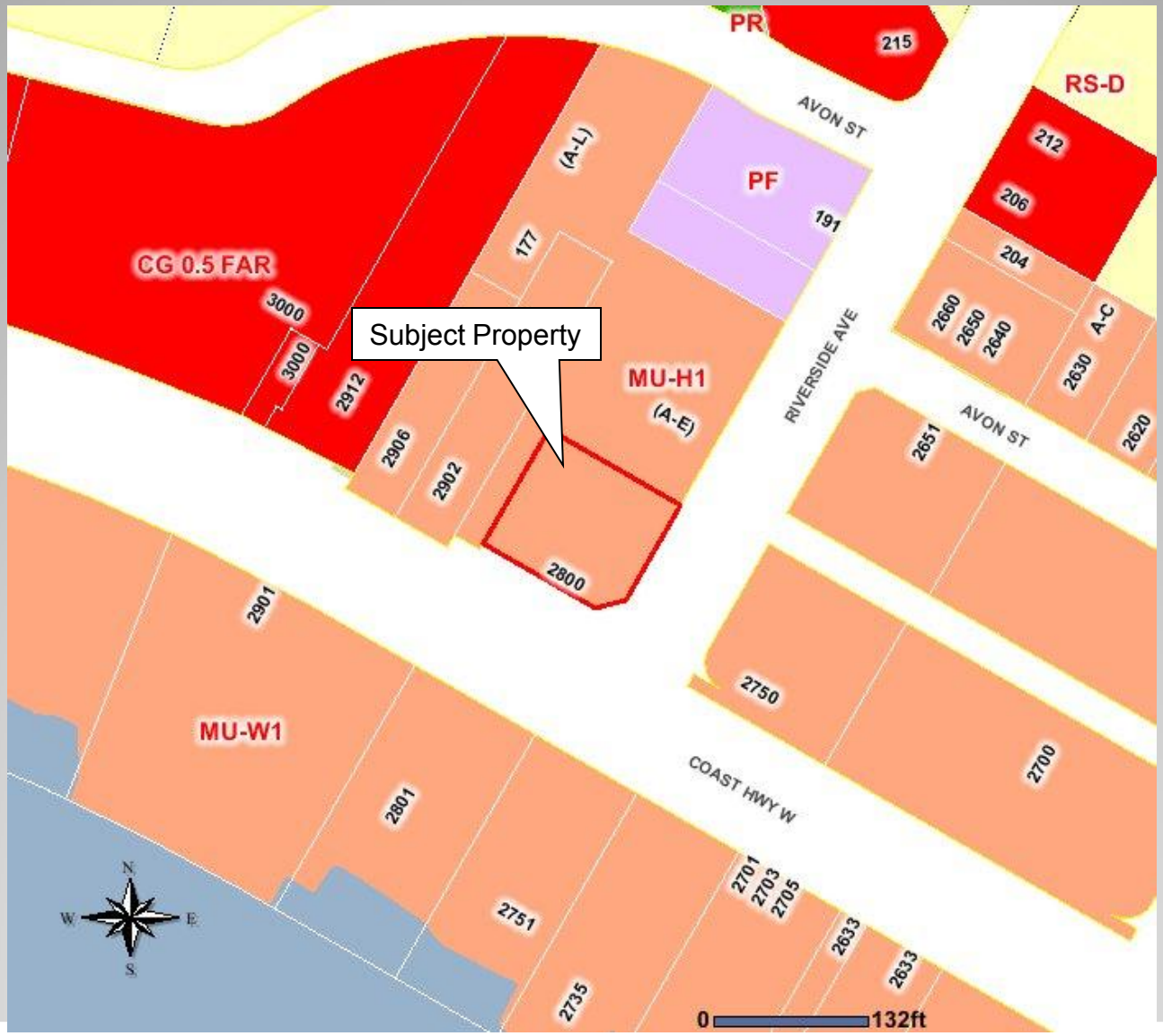
Existing Site Plan

Restaurants in the Area

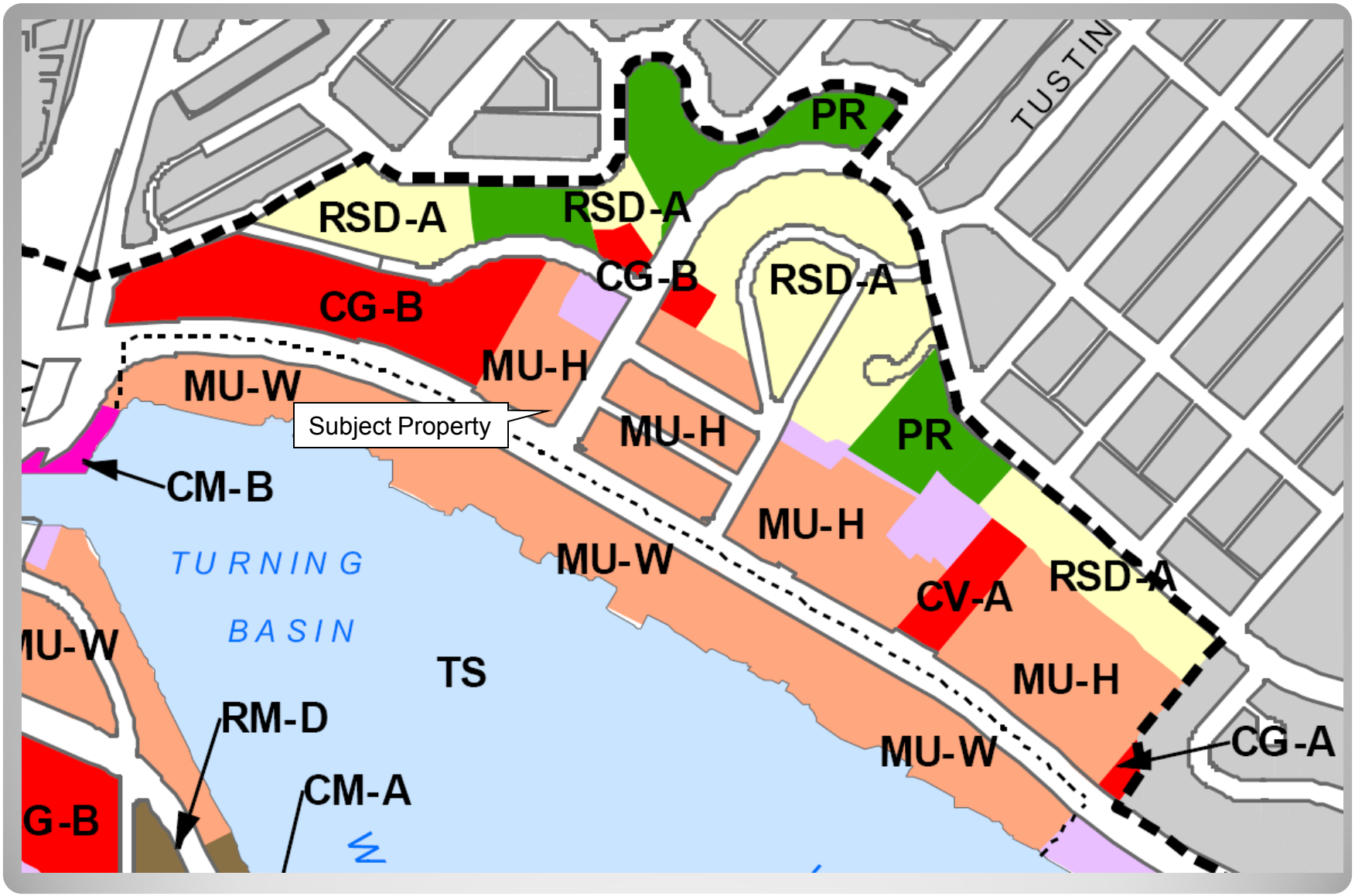
Off-Site Parking
149 Riverside Ave
MISCELLANEOUS
STREET
AVON ST
215
212
206
204
191
177
(A-L)
149
(A-E)
RIVERSIDE AVE
2660
2650
2640
2630
42
3000
3000
2912
2906
2902
2901
SEWER
STREET
2800
STREET
STREET
2651
8
7
UTILITIES
STREET
STREET
COAST HWY W
2750
STREET
STREET
2919
0
103ft


AVON
ST
CG 0.5
Subject Property
RIVERSIDE
OCEAN VIEW
AVE
AVON
ST
MU-MM
TUSTIN

Zoning Map



Current General Plan Map



Current CLUP

CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT
July 19, 2012
Agenda Item 5

SUBJECT: Wireless Telecommunications Facilities Ordinance (PA2012-057)
- Code Amendment No. 2012-004

PLANNER: Janet Johnson Brown, Associate Planner
(949) 644-3236, jbrown@newportbeachca.gov

PROJECT SUMMARY

An amendment to the Newport Beach Municipal Code ("NBMC") to update regulations regarding wireless telecommunication facilities ("telecom facilities"). Regulations currently contained in Chapter 15.70 would be updated and relocated to Title 20 (Planning and Zoning). Chapter 15.70 would be rescinded in its entirety.

RECOMMENDED ACTION

1) Conduct a public hearing; and

2) Adopt Resolution No. ___ (Attachment No. PC 1) recommending that City Council approve an amendment to the NBMC to update regulations regarding telecom facilities, and consolidate all provisions currently contained in Title 13 (Streets, Sidewalks and Public Property) and Title 15 (Buildings and Construction) within a proposed new chapter in Title 20 (Chapter 20.49 Wireless Telecommunications Facilities); and repeal Chapter 15.70 in its entirety.

INTRODUCTION

Project Description

The proposed code amendment is a comprehensive update to the existing Wireless Telecommunications Facilities Ordinance (the telecom ordinance). The amendment is intended to balance the needs of the community and the increasing demand for wireless networks, while mitigating the impact of telecom facilities in the community through effective design and screening techniques. The proposed amendment is also intended to reflect changes in federal and state law.

Currently, provisions regulating telecom facilities are contained in Chapter 15.70, as well as Chapter 13.20 (Public Rights-of-Way) that regulates installations in the public right-of-way. While no changes will be made to Chapter 13.20, the proposed update would consolidate all provisions regulating telecom facilities into a new chapter in the Zoning Code and new or modified telecom facilities would be regulated as land uses.

Background

The current regulations for telecom facilities were adopted by City Council in October 2002. Prior to that time, all telecom facilities were processed as a ministerial project through a building permit application. At the time Chapter 15.70 was adopted, state and federal case law suggested cities were somewhat limited in how telecom facilities could be regulated. More recent case law favors more appropriate local control to ensure the compatibility of telecom facilities with surrounding land uses. The typical land use evaluation process by local jurisdictions through the Zoning Code is also supported by current case law and it is a process commonly used today.

The City's existing telecom ordinance does not reflect current case law, and it has not been updated to reflect new industry practices, changes in federal law or changes in state law since its adoption in 2002. Under the existing regulations, all applications for a telecom facility are reviewed by the "Planning Director" (now considered the Community Development Director) as a "telecom permit" to determine if the proposed facility conforms to the technology, height, location and design standards of the code. The Community Development Director is designated as the review authority for proposed telecom facilities that meet established criteria. The City Council is the review authority for telecom facilities that do not conform to the height, location and/or design standards, and for facilities that are more noticeable and aesthetically conspicuous (such as a false tree, monopole, or lattice tower). Neither review process requires a public notice or a public hearing.

At the March 27, 2012, City Council Study Session, staff presented an overview of the existing telecom ordinance, and identified sections that could be updated to reflect current case law, as well as areas of the code that could be improved based upon staff's experience with applying existing regulations. Staff proposed that the telecom ordinance be updated to address a variety of identified issues, and that all regulations related to telecom facilities be consolidated into the Zoning Code. At the conclusion of the study session, City Council requested staff to proceed with revisions to the telecom ordinance as recommended.

Federal Law and Radio Frequency Emissions Safety

In 1996, the U.S. Congress added a section to the Communications Act of 1934 to promote the expansion of personal wireless communications service, adding Section 332(c)(7). This section preserves local zoning authority over the "placement, construction, and modification of personal wireless service facilities," while imposing certain federal requirements. Specifically, Section 332(c)(7) requires that state or local government decisions regarding telecom facilities shall not:

a. Unreasonably discriminate among providers of functionally equivalent services; or
b. Prohibit or have the effect of prohibiting the provision of personal wireless services; or

c. Regulate the placement, construction, and modification of personal wireless facilities on the basis of the environmental effects of radio frequency (RF) emissions to the extent that such facilities comply with the Federal Communications Commission's (FCC) regulations concerning such emissions.

Congress has delegated sole national authority to the FCC to set radio frequency standards in the United States. While federal law prohibits a City from setting its own RF emissions safety standards (or even adopting the FCC's standards as its own), it does permit a City to determine whether a proposed telecom facility meets applicable FCC regulations. Once the review authority is satisfied that the RF emissions of a proposed telecom facility are within the federal thresholds, a City's review of a proposed project can only be based on applicable zoning criteria as set forth in local ordinances.

DISCUSSION

The following discussion highlights the key issues with the existing telecom ordinance, and the proposed revision in the draft ordinance to address these issues.

1. Public Notice/Public Hearing Process and Review Authority

a. *Existing Provisions:* The current regulations do not provide a process or requirement for public notices or public hearings for telecom permit applications. The Community Development Director is the review authority for telecom facilities that conform to the requirements of the code, and notices of a public meeting are only mailed when a special review is required by City Council for larger, more conspicuous types of telecom facilities (e.g., a false tree, monopole, or lattice tower), or a facility proposed to be located in certain residential zoning districts.

b. *Proposed Revision:* The draft ordinance requires that all applicants for a proposed telecom facility must apply for a Minor Use Permit, Conditional Use Permit, or Limited Term Permit, depending on the location, design, method of installation, and duration of a proposed telecom facility. All applications would require a public notice and public hearing[1] consistent with provisions in the Zoning Code, and the Zoning Administrator or Planning Commission is the designated review authority. This proposed revision would provide for public input through the public hearing process.

2. Appeal Process

a. *Existing Provisions:* Currently, only the applicant may appeal a decision on a telecom permit application reviewed by the Community Development Director.

[1] Applications for a Limited Term Permit for a facility proposed to operate less than 90 days do not require a public hearing.

b. *Proposed Revision:* The draft ordinance includes an appeal process that is consistent with the Zoning Code, which would allow any interested party to initiate an appeal. Decisions of the Zoning Administrator may be appealed to the Planning Commission, and decisions of the Planning Commission may be appealed to the City Council, consistent with the City's current practice for other types of development applications.

3. Installations in the Public Right-of-Way

a. *Existing Provisions:* The existing code does not provide specific procedures for applications to install a telecom facility in the public right-of-way.

b. *Proposed Revision:* The draft ordinance includes a process, design standards and criteria for the installation of telecom facilities in the public right-of-way, consistent with procedures for installations on private property (i.e. public hearings would be conducted, and a ministerial encroachment permit would still be required).

4. Design Standards and Criteria

a. *Existing Provisions:* Existing design standards do not reflect changes in technology, and do not effectively encourage telecom facilities to be camouflaged or designed to look as inconspicuous as possible.

b. *Proposed Revision:* The design standards have been updated to reflect technological changes. Design criteria have been included to encourage camouflage design techniques based on the method of installation. Proposed telecom facilities that are designed to make the installation, operations and appearance of the facility as inconspicuous as possible and visually compatible with the surrounding area are subject to public review before the Zoning Administrator, whereas telecom facilities that are more visually conspicuous are subject to public review before the Planning Commission.

5. Deviation to Height Limitations and Location Requirements

a. *Existing Provisions:* The existing ordinance does not provide a process for a project proponent to request to modify or deviate from the allowed height limits or prohibited location requirements.

b. *Proposed Revision:* By placing regulations for telecom facilities in the Zoning Code, a project proponent seeking to exceed the height requirement could submit a Variance application. Such an application would be processed no differently than other Variance applications and a public hearing before the Planning Commission would result.

6. Setback Requirements

a. *Existing Provisions:* The existing ordinance requires that setbacks be measured from the part of the telecom facility closest to the applicable lot line or structure, and prohibits the location of a telecom facility within any required setback established by the Zoning Code, unless given special approval by the City Council.

Proposed Revision: The setback requirements in the draft ordinance have been updated to provide an additional setback or "fall zone" for ground-mounted "wireless towers"[2] for safety purposes in the event of involuntary damage where the "wireless tower" topples or falls over. The new required setback would be the greater distance of either the required setback established in the Zoning Code, or 110 percent (110%) of the height of the "wireless tower," unless the review authority determines a smaller setback is appropriate. For an example, in a nonresidential district where the required setback is five feet and a freestanding "wireless tower" is proposed to be 25 feet in height, the "wireless tower" must be set back a minimum of 27.5 feet from the property line.

7. Modification of Existing Telecom Facilities

a. *Existing Provisions:* The existing ordinance includes provisions which allows the City to review and modify a telecom permit based on "changed circumstances" such as an increase in the height or size of any part of the facility; additional impairment of the views from surrounding properties, an increase in size or change in shape of the antenna or supporting structure; change in color or materials; change in location; or increase in signal output above permissible exposure limits established by FCC guidelines.

b. *Proposed Revision:* The draft ordinance includes regulations consistent with new federal law[3] regarding the operation and modification of existing telecom facilities. Criteria is included in the draft ordinance establishing what constitutes a substantial change to an existing telecom facility, including increasing or decreasing by five percent (5%) or more the height, width, or depth in any direction of any portion of the existing "wireless tower" or "base station." When modifications to the physical dimensions of an existing telecom facility are less than five percent (5%), the proposed modifications would be subject to ministerial review and approval (e.g. a building permit or encroachment permit). Changes to an existing telecom facility that are five percent (5%) or more would be considered a substantial change and shall require the processing of a new discretionary permit application consistent with the provisions of the draft ordinance. The five percent (5%) threshold is proposed to minimize aesthetic impacts and protect public views in the community.

---

[2] "Wireless towers" are defined in the draft telecom ordinance as "any structure built for the sole or primary purpose of supporting antennas used to provide wireless services authorized by the FCC."
[3] Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 regarding deployment of telecom facilities was signed into effect February 22, 2012.

8. Zoning District Land Uses and Permit Requirements

In addition to amending the Zoning Code to add the proposed new Chapter 20.49, the allowed uses and permit requirement tables in the following sections would be updated to reflect the zoning districts in which telecom facilities are allowed and the permit required to establish the telecom facility.

Section 20.18.020	Residential Zoning Districts Land Uses and Permit Requirements
Section 20.20.020	Commercial Zoning Districts Land Uses and Permit Requirements
Section 20.22.020	Mixed-Use Zoning Districts Land Uses and Permit Requirements
Section 20.24.020	Industrial Zoning Districts Land Uses and Permit Requirements
Section 20.26.020	Special Purpose Zoning Districts Land Uses and Permit Requirements

Under the existing and proposed telecom ordinance, telecom facilities are allowed in all commercial, mixed-use, and industrial zoning districts, as well as on properties zoned for public facilities, private institutions, and active public or private recreational uses.

a. *Existing Provisions:* Under the existing telecom ordinance, telecom facilities are prohibited in the following locations unless given special approval by City Council: "on common area lots or other non-residential lots within residential districts; within any required setback established in the Zoning Code; or, on multifamily structures on lots zoned MFR." Telecom facilities are prohibited on "residential lots[4]" and in the "Open Space-Passive (OSP) zoning district, unless facilities are co-located on an existing utility tower within a utility easement area."

b. *Proposed Revision:* "Prohibited Locations" has been updated to prohibit telecom facilities on properties zoned for single-family development, two-family development, or multi-unit residential developments consisting of four dwelling units or less, and to include an exception to allow telecom facilities in an Open Space zoning district when collocated on an existing telecom facility or site (e.g., the Laidlaw Gas Recovery Facility in the Newport Coast area is located on land designated as Open Space, but contains four different telecom facilities). The "General Development and Design Standards" includes a provision that all telecom facilities comply with the required setback established for the zoning district in which the facility is proposed to be located.

The summary above represents the key changes to the draft telecom ordinance and permitted uses of the Zoning Code. Due to the complexity of the changes, a

[4] Under Section 15.70.030 (Definitions) a "residential lot" means a lot containing, or zoned for, one or more dwelling units in the R-1, R-1.5, R-2, or in the residential portions of the PC of SP Districts.

strikeout/underline version of Chapter 15.70 could not be prepared. For this reason, staff has prepared a table (Attachment No. PC 2) that lists each section of the existing telecom ordinance and the proposed new or modified sections, and provides more detail regarding the proposed changes or additions. A copy of Chapter 15.70, the existing telecom ordinance is attached (Attachment No PC 3), as well as a draft copy of the proposed new telecom ordinance, Chapter 20.49 (Exhibit "A" of the draft Resolution).

Environmental Review

Staff recommends that the Planning Commission adopt the draft resolution recommending that City Council find this code amendment is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because the code amendment in and of itself has no potential for resulting in physical changes to the environment, directly or indirectly. Furthermore, each application submitted for a new or modified telecom facility will be reviewed individually to determine if the project is subject to CEQA and requires additional environmental review, or if the project is exempt from CEQA. For these reasons, this code amendment is not subject to CEQA.

Public Notice

Notice of this Planning Commission hearing was provided as a one-eighth page display ad in the Daily Pilot on July 7, 2012, as required by the NBMC and Government Code Section 65091. Notice was also provided on the City's website.

Prepared by:

Janet Johnson Brown
Associate Planner

Submitted by:

Brenda Wisneski, AICP, Deputy Director

ATTACHMENTS

PC 1 Draft Resolution
PC 2 Summary of Proposed Changes to Telecom Ordinance
PC 3 Existing Chapter 15.70

Attachment No. PC 1

Draft Resolution

RESOLUTION NO. ____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH RECOMMENDING CITY COUNCIL ADOPTION OF CODE AMENDMENT NO. 2012-004 UPDATING REGULATIONS FOR WIRELESS TELECOMMUNICATIONS FACILITIES (PA2012-057)

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

SECTION 1. STATEMENT OF FACTS.

1. Chapter 15.70 ("Wireless Telecommunications Facilities") of the Newport Beach Municipal Code ("NBMC") was adopted by the Newport Beach City Council in October 2002, and has not been modified since adoption.

2. At the March 27, 2012, City Council Study Session, the Newport Beach City Council directed staff to prepare revisions to the existing regulations for Wireless Telecommunications Facilities ("Telecom Facilities").

3. City staff has prepared a comprehensive update to the existing regulations for Telecom Facilities, and consolidated all provisions currently contained in Chapter 13.20 (Public Rights-of-Way) and Chapter 15.70 (Wireless Telecommunications Facilities) into a new chapter in the Zoning Code (Chapter 20.49 Wireless Telecommunications Facilities).

4. Chapter 20.66 of the City's Zoning Code requires the Planning Commission to conduct one or more public hearings before making a recommendation to City Council on a proposed zoning code amendment.

5. A public hearing was held on July 19, 2012, 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.

The Planning Commission recommends that the City Council find this code amendment is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because the code amendment in and of itself has no potential for resulting in physical changes to the environment, directly or indirectly. Furthermore, each application submitted for a new or modified Telecom Facility will be reviewed individually to determine if the project is subject to CEQA and requires additional environmental review, or if the project is exempt from CEQA. For these reasons, this code amendment is not subject to CEQA.

SECTION 3. FINDINGS.

1. The code amendment reflects changes in federal and state law enacted since adoption of Chapter 15.70, as well as advances in technology and industry practices.

2. The code amendment includes a requirement for public notices and public hearings that will provide a process where the public will have an opportunity to effectively participate in the review process.

3. The code amendment is intended to balance the needs of the community and the increasing demand for wireless networks, while evaluating the compatibility of a Telecom Facility with surrounding land uses. The regulations and development standards set forth in Chapter 20.49 are intended to mitigate the impact of Telecom Facilities in the community through effective location, design and screening techniques.

4. The code amendment will not constitute a hazard to public convenience, health, interest, safety, or general welfare of the community because the regulations establish effective location, design and operational criteria that are intended to protect the public health in compliance with safety standards established by the Federal Communications Commission ("FCC"), and to improve the aesthetics of Telecom Facilities in the community. The regulations and design standards set forth in Chapter 20.49 are not intended to limit an individual's ability to receive wireless telecommunications services nor create unfair competition among wireless telecommunication service providers.

5. Section 704 of the 1996 Telecommunications Act (47 U.S.C. Section 332(c)) preempts local regulation of the placement, construction, and modification of Telecom Facilities on the basis of the environmental effects of radio frequency emissions to the extent that such Facilities comply with the applicable FCC regulations.

6. Consolidating all regulations and development standards for Telecom Facilities from Chapter 15.70 and Chapter 13.20 of the NBMC into a new chapter in the Zoning Code (Chapter 20.49) will allow for consistent and efficient administration of the code.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

The Planning Commission of the City of Newport Beach hereby recommends that the City Council of the City of Newport Beach approve Code Amendment No. 2012-004 as shown in Exhibit "A" and Exhibit "B," and repeal Chapter 15.70 of the Newport Beach Municipal Code in its entirety.

PASSED, APPROVED AND ADOPTED THIS 19th DAY OF JULY, 2012.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY:_____
Michael Toerge, Chairman

BY:_____
Fred Ameri, Secretary

_____
Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"

Chapter 20.49 – Wireless Telecommunications Facilities

Sections:

20.49.010 – Purpose and Intent
20.49.020 – General Provisions
20.49.030 – Definitions
20.49.040 – Available Technology
20.49.050 – Location Preferences
20.49.060 – General Development and Design Standards
20.49.070 – Permit Review Procedures
20.49.080 – Permit Implementation, Time Limits, Duration, and Appeals
20.49.090 – Agreement for Use of City-owned or City-held Trust Property
20.49.100 – Modification of Existing Telecom Facilities
20.49.110 – Operational and Radio Frequency Compliance and Emissions Report
20.49.120 – Right to Review or Revoke Permit
20.49.130 – Removal of Telecom Facilities

20.49.010 – Purpose and Intent.

A. Purpose. The purpose of this Chapter is to provide for wireless telecommunication facilities ("Telecom Facilities") on public and private property consistent with federal law while ensuring public safety, reducing the visual effects of telecom equipment on public streetscapes, protecting scenic, ocean and coastal public views, and otherwise mitigating the impacts of such facilities. More specifically, the regulations contained herein are intended to:

1. Encourage the location of Antennas in non-residential areas.
2. Strongly encourage Collocation at new and existing Antenna sites.
3. Encourage Telecom Facilities to be located in areas where adverse impacts on the community and public views are minimized.

B. The provisions of this Chapter are not intended and shall not be interpreted to prohibit or to have the effect of prohibiting telecom services. This Chapter shall be applied to providers, operators, and maintainers of wireless services regardless of whether authorized by state or federal regulations. This Chapter shall not be applied in such a manner as to unreasonably discriminate among providers of functionally equivalent telecom services.

20.49.020 – General Provisions.

A. Applicability. These regulations are applicable to all Telecom Facilities providing voice and/or data transmission such as, but not limited to, cell phone, internet and radio relay stations.

B. Permit and/or Agreement Required.

1. Prior to construction of any Telecom Facility in the City, the applicant shall obtain a Minor Use Permit (MUP), Conditional Use Permit (CUP), or Limited Term Permit (LTP), depending on the proposed location and Antenna Classes, in accordance with Section 20.49.070 (Permit Review Procedures).

2. Applicants who obtain a MUP, CUP or LTP (and an encroachment permit, if required) for any Telecom Facility approved to be located on any City-owned property or City-held Trust property, shall enter into an agreement prepared and executed by the City Manager or its designee prior to construction of the Facility, consistent with Section 20.49.090 (Agreement for Use of City-owned or City-held Trust Property).

C. Exempt Facilities. The following types of facilities are exempt from the provisions of this Chapter:

1. Amateur radio antennas and receiving satellite dish antennas, and citizen band radio antennas regulated by Section 20.48.190 (Satellite Antennas and Amateur Radio Facilities).
2. Dish and other antennas subject to the FCC Over-the-Air Reception Devices ("OTARD") rule, 47 C.F.R. § 1.4000 that are designed and used to receive video programming signals from (a) direct broadcast satellite services, or (b) television broadcast stations, or (c) for wireless cable service.
3. During an emergency, as defined by Title 2 of the NBMC, the City Manager, Director of Emergency Services or Assistant Director of Emergency Services shall have the authority to approve the placement of a Telecom Facility in any district on a temporary basis not exceeding ninety (90) calendar days from the date of authorization. Such authorization may be extended by the City on a showing of good cause.
4. Facilities exempt from some or all of the provisions of this Chapter by operation of state or federal law to the extent so determined by the City.
5. Systems installed or operated at the direction of the City or its contractor.

D. Other Regulations. Notwithstanding the provisions of this Chapter, all Telecom Facilities within the City shall comply with the following requirements:

1. Rules, regulations, policies, or conditions in any permit, license, or agreement issued by a local, state or federal agency which has jurisdiction over the Telecom Facility.
2. Rules, regulations and standards of the Federal Communications Commission (FCC) and the California Public Utilities Commission (CPUC).

E. Regulations not in Conflict or Preempted. All Telecom Facilities within the City shall comply with the following requirements unless in conflict with or preempted by the provisions of this Chapter:

1. All applicable City design guidelines and standards.
2. Requirements established by any other provision of the Municipal Code and by any other ordinance and regulation of the City.

F. Legal Nonconforming Facility. Any Telecom Facility that is lawfully constructed, erected, or approved prior to the effective date of this Chapter, or for which the application for a proposed Telecom Facility is deemed complete prior to the effective date of this Chapter, in compliance with all applicable laws, and which Facility does not conform to the requirements of this Chapter shall be accepted and allowed as a legal nonconforming Facility if otherwise approved and constructed. Legal nonconforming Telecom Facilities shall comply at all times with the laws, ordinances, and regulations in effect at the time the application was deemed complete, and any applicable federal and state laws as they may be amended or enacted, and shall at all times comply with any conditions of approval.

20.49.030 – Definitions.

For the purposes of this Chapter, the following definitions shall apply:

Antenna. Antenna means a device used to transmit and/or receive radio or electromagnetic waves between earth and/or satellite-based systems, such as reflecting discs, panels, microwave dishes, whip antennas, Antennas, arrays, or other similar devices.

Antenna Array. Antenna Array means Antennas having transmission and/or reception elements extending in more than one direction, and directional Antennas mounted upon and rotated through a vertical mast or tower interconnecting the beam and Antenna support, all of which elements are deemed to be part of the Antenna.

Antenna Classes. Antenna Classes are Telecom Facilities and the attendant Support Equipment separated into distinct "antenna classes."

Base Station. Base Station means the electronic equipment at a Telecom Facility installed and operated by the Telecom Operator that together perform the initial signal transmission and signal control functions. Base Station does not include the Antennas and Antenna support structure, or the Support Equipment, nor does it include any portion of DAS.

City-owned or City-held Trust Property. City-owned or City-held Trust Property means all real property and improvements owned, operated or controlled by the City, other than the public right-of-way, within the City's jurisdiction, including but is not limited to City Hall, Police and Fire facilities, recreational facilities, parks, libraries, monuments, signs, streetlights and traffic control standards.

Collocation. Collocation means an arrangement whereby multiple Telecom Facilities are installed on the same building or structure.

Distributed Antenna System, DAS. Distributed Antenna System (DAS) means a network of one or more Antennas and fiber optic nodes typically mounted to streetlight poles, or utility structures, which provide access and signal transfer services to one or more third-party wireless service providers. DAS also includes the equipment location, sometimes called a "hub" or "hotel" where the DAS network is interconnected with third-party wireless service providers to provide the signal transfer services.

FCC. FCC means the Federal Communications Commission, the federal regulatory agency charged with regulating interstate and international communications by radio, television, wire, satellite, and cable.

Feasible. Feasible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account environmental, physical, legal and technological factors.

Lattice Tower. Lattice Tower means a freestanding open framework structure used to support Antennas, typically with three or four support legs of open metal crossbeams or crossbars.

Monopole. Monopole means a single free-standing pole or pole-based structure solely used to act as or support a Telecom Antenna or Antenna Arrays.

Operator or Telecom Operator. Operator or Telecom Operator means any person, firm, corporation, company, or other entity that directly or indirectly owns, leases, runs, manages, or otherwise controls a Telecom Facility or facilities within the City.

Public Right-of-Way. Public Right-of-Way or ("PROW") means the improved or unimproved surface of any street, or similar public way of any nature, dedicated or improved for vehicular, bicycle, and/or pedestrian related use. PROW includes public streets, roads, lanes, alleys, sidewalks, medians, parkways and landscaped lots.

Stealth or Stealth Facility. Stealth or Stealth Facility means a Telecom Facility in which the Antenna, and the Support Equipment, are completely hidden from view in a monument, cupola, pole-based structure, or other concealing structure which either mimics, or which also serves as, a natural or architectural feature. Concealing structures which are obviously not such a natural or architectural feature to the average observer do not qualify within this definition.

Support Equipment. Support Equipment means the physical, electrical and/or electronic equipment included within a Telecom Facility used to house, power, and/or contribute to the processing of signals from or to the Facility's Antenna or Antennas, including but not limited to cabling, air conditioning units, equipment cabinets, pedestals, and electric service meters. Support Equipment does not include the Base Station, DAS, Antennas or the building or structure to which the Antennas are attached.

Telecommunication(s) Facility, Telecom Facility, Telecom Facilities, Wireless Telecommunications Facility, or Facility. Telecommunication(s) Facility, Telecom Facility, Telecom Facilities, Wireless Telecommunications Facility, or simply Facility or Facilities means an installation that sends and/or receives wireless radio frequency signals or electromagnetic waves, including but not limited to directional, omni-directional and parabolic antennas, structures or towers to support receiving and/or transmitting devices, supporting equipment and structures, and the land or structure on which they are all situated. The term does not include mobile transmitting devices, such as vehicle or hand held radios/telephones and their associated transmitting antennas.

Utility Pole. Utility Pole means a single freestanding pole used to support services provided by a public or private utility provider.

Utility Tower. Utility Tower shall mean an open framework structure (see lattice tower) or steel pole used to support electric transmission facilities.

Wireless Tower. Wireless Tower means any structure built for the sole or primary purpose of supporting Antennas used to provide wireless services authorized by the FCC. A Distributed Antenna System (DAS) installed pursuant to a Certificate of Public Convenience and Necessity (CPCN) issued by the California Public Utilities Commission on a water tower, utility tower, street light, or other structures built or rebuilt or replaced primarily for a purpose other than supporting wireless services authorized by the FCC, including any structure installed pursuant to California Public Utility Code Section 7901, is not a Wireless Tower for purposes of this definition. For an example only, a prior-existing light standard which is replaced with a new light standard to permit the addition of Antennas shall not be considered a Wireless Tower, but rather a replacement light standard.

20.49.040 – Available Technology.

All Telecom Facilities approved under this Chapter shall utilize the most efficient, diminutive, and least obtrusive available technology in order to minimize the number of Telecom Facilities in the City and reduce their visual impact on the community and public views.

20.49.050 – Location Preferences.

A. Preferred Locations. The following is the order of preference for the location and installation of Telecom Facilities, from highest priority location and technique to lowest. Antenna Classes are the Telecom Facilities and their attendant accessory/Support Equipment separated into the following distinct Antenna Classes based on observed aesthetic impacts, as follows:

Class 1 (Camouflaged/Screened): A Telecom Facility with Antennas mounted on an existing or proposed non-residential building or other structure not primarily intended to be an antenna support structure. The Antennas, Base Station, and Support Equipment are fully screened so that they are not visible to the general public. Typical examples include:

- Wall or roof mounted Antennas that are screened behind radio-frequency transparent, visually-opaque screen walls that match or complement existing exterior surfaces of the building or structure to which they are attached.
- Antennas designed to be incorporated within an architectural feature of a building or structure such as a steeple, cross, cupola, sign, monument, clock tower or other architectural element.
- Base Station equipment that is contained within an existing structure, or placed into a new attached structure that matches or complements the existing exterior surfaces of the building or structure

Class 2 (Collocation): A Telecom Facility with Antennas and/or Base Stations co-located on an approved existing Telecom Facility and mounted in the same manner with materially the same or improved screening, or the same camouflage design techniques as the approved or existing Telecom Facility. Class 2 Collocation Telecom Facilities also may incorporate flush-to-grade underground Base Station enclosures including flush-to-grade vents, or vents that extend no more than 24 inches above the finished grade and are screened from public view.

Class 3 (Visible): A Telecom Facility with Antennas mounted on an existing non-residential building, structure, pole, light standard, Utility Tower, and/or Lattice Tower. The structure is treated with some camouflage design techniques, but the Antenna panels and some portions of the pole, light standards, Utility Tower, or Lattice Tower are still visible. Typical examples include:

- Antennas mounted on the exterior of an existing building so that the panels are visible, but painted to match the color and texture of the building or structure.
- Antennas flush-mounted atop an existing pole or light standard that are unscreened or un-camouflaged, or attached to an existing pole or light standard utilizing a cylindrical Antenna unit that replicates the diameter and color of the pole or standards.
- Antenna panels installed on existing electrical or other Utility Towers, or existing Lattice Towers.

Class 4 (Freestanding Structure): A Facility with Antennas mounted on a new freestanding structure constructed for the sole or primary purpose of supporting the Telecom Facility. The Telecom Facility is designed to replicate a natural feature or is a Monopole or Lattice Tower. The Antennas are either unscreened and visible, or camouflaged/designed to blend in with their surroundings. Typical examples include:

- Antennas mounted inside or behind elements that replicate natural features such as rocks and shrubbery and located in hillsides or other natural areas where the Telecom Facility blends into the surrounding vegetation or topography (e.g. false rocks or shrubbery).
- A Telecom Facility consisting of Antennas mounted on or inside a freestanding structure that uses camouflage to disguise the Antennas (e.g. monotree, flagpole, or other freestanding structure).
- A Telecom Facility consisting of Antennas on the exterior of a freestanding structure that is unscreened/un-camouflaged (e.g. Monopoles or Lattice Tower).

Class 5 (Temporary): A Wireless Tower, Antennas and/or Base Station, and associated Support Equipment system that is a temporary Telecom Facility on a site until a permanent (separately approved) Telecom Facility to provide coverage for the same general area is operational but such placement of a temporary Telecom Facility shall not exceed 1 year, consistent with Section 20.52.040. A Wireless Tower, Antennas and/or Base Station, and associated Support Equipment system that is a temporary Telecom Facility located on a site in connection with a special event, as that term may be defined in Municipal Code Section 11.03.020 (General Provisions), may be allowed only upon approval of a Special Events Permit, as regulated by Chapter 11.03. Class 5 installations include but are not limited to equipment mounted on trailers, trucks, skids, or similar portable platforms.

B. Prohibited Locations. Telecom Facilities are prohibited in the following locations:

1. On properties zoned for single-unit or two-unit residential development, including equivalent PC District designation.
2. On properties zoned for multi-unit residential development and mixed-use development consisting of four (4) dwelling units or less.
3. In the Open Space (OS) zoning district, unless Telecom Facilities are collocated on an existing Utility Tower within a utility easement area, or collocated on an existing Telecom Facility.

C. Installations in the Public Right-of-Way. All Telecom Facilities proposed to be located in the public right-of way shall comply with the provisions of Title 13, and notwithstanding any provisions contained in Title 13 to the contrary, shall be subject to the following:

1. All Support Equipment shall be placed below grade in the public right-of-way where the existing utility services (e.g., telephone, power, cable TV) are located underground. Exception: Any pedestal meter required for the purpose of providing electrical service power for the proposed Telecom Facility may be allowed to be installed above ground in a public right-of-way.
2. Whenever Feasible, new Antennas proposed to be installed in public right-of-way shall be placed on existing or replacement utility structures, light standards, or other existing vertical structures.
3. Any proposed installation in the public right-of-way shall comply with all requirements of the Americans with Disability Act (ADA), and all other laws, rules, and regulations.

D. Collocation Installations.

1. When Required. To limit the adverse visual effects of and proliferation of individual Telecom Facilities in the City, a new Telecom Facility proposed within one thousand (1,000) feet of an existing Telecom Facility shall be required to collocate on the same building or structure as the existing Telecom Facility. Exception: If the reviewing authority determines, based on compelling evidence submitted by the applicant, that Collocation of one or more new Telecom Facilities within one thousand (1000) feet of an existing Telecom Facility is not Feasible, and all findings required to grant approval of a MUP, CUP or LTP for a Telecom Facility can be met, then such Collocation shall not be required.
2. Condition Requiring Future Collocation. In approving a Telecom Facility, the review authority may impose a condition of approval providing for future Collocation of Telecom Facilities by other carriers at the same site.

20.49.060 – General Development and Design Standards.

A. General Criteria. All Telecom Facilities shall employ design techniques to minimize visual impacts and provide appropriate screening to result in the least intrusive means of providing the service. Such techniques shall be employed to make the installation, appearance and operations of the Telecom Facility as visually inconspicuous as possible. To the greatest extent Feasible, Telecom Facilities shall be designed to minimize the visual impact of the Telecom Facility by means of location, placement, height, screening, landscaping, and camouflage, and shall be compatible with existing architectural elements, building materials, other building characteristics, and the surrounding area. Where an existing structure is replaced to allow for the addition of a Telecom Facility, the replacement structure shall retain as its primary use and purpose that of the prior-existing structure. For an example, where a streetlight standard is replaced with a different streetlight standard to allow for the additional installation of Antennas, the primary use shall remain as a streetlight.

In addition to the other design standards of this Section, the following criteria shall be considered by the review authority in connection with its processing of any MUP, CUP or LTP for a Telecom Facility:

1. Blending. The extent to which the proposed Telecom Facility blends into the surrounding environment or is architecturally compatible and integrated into the structure.
2. Screening. The extent to which the proposed Telecom Facility is concealed, screened or camouflaged by existing or proposed new topography, vegetation, buildings or other structures.
3. Size. The total size of the proposed Telecom Facility, particularly in relation to surrounding and supporting structures.
4. Location. Proposed Telecom Facilities shall be located so as to utilize existing natural or man-made features in the vicinity of the Telecom Facility, including topography, vegetation, buildings, or other structures to provide the greatest amount of visual screening and blending with the predominant visual backdrop.

B. Public View Protection. Telecom Facilities involving a site adjacent to an identified public view point or corridor, as identified in General Plan Policy NR 20.3 (Public Views), shall be reviewed to evaluate the potential impact to public views consistent with Section 20.30.100 (Public View Protection).

C. Height. All Telecom Facilities shall comply with Antenna height restrictions, if any, required by the Federal Aviation Administration, and shall comply with Section 20.30.060.E. (Airport Environs Land Use Plan (AELUP) for John Wayne Airport and Airport Land Use Commission (ALUC) Review Requirements) as may be in force at the time the Telecom Facility is permitted or modified.

1. Maximum Height. Antennas shall be installed at the minimum height possible to provide average service to the Telecom Operator's proposed service area. In any case, no Antenna or other telecom equipment or screening structure shall extend higher than the following maximum height limits:

    a. Telecom Facilities installed on existing streetlight standards, traffic control standards, Utility Poles, Utility Towers or other similar structures within the public right-of-way shall not exceed 35 feet in height above the finished grade.
    b. Telecom Facilities may be installed on existing Utility Poles or Utility Towers that exceed 35 feet above the finished grade where the purposes of the existing Utility Pole or Utility Tower is to carry electricity or provide other wireless data transmission provided that the top of the Antenna does not extend above the top of the Utility Pole or Utility Tower.
    c. Telecom Facilities installed in ground-mounted flagpoles may be installed at a maximum height of 35 feet in nonresidential districts only, and shall not exceed 24 inches in width at the base of the flagpole and also shall not exceed 20 inches in width at the top of the flagpole. As a condition of approval, flagpole sites shall comply with 4 U.S.C. § 1 *et seq.* (the "U.S. Flag Code").
    d. Telecom Facilities may be installed on buildings or other structures to extend up to 5 feet above the base height limit established in Part 2 (Zoning Districts, Allowable Uses, and Zoning District Standards) for the zoning district in which the Telecom Facility is located.
    e. Applications for the installation of Telecom Facilities proposed to be greater than 5 feet above the base height limit may be installed up to the maximum height limit for the zoning district in which the Telecom Facility is located in accordance with Section 20.30.060.C.2 (Height Limit Areas), subject to review and action by the Planning Commission. The Planning Commission may approve or conditionally approve a CUP for a Telecom Facility to exceed the base height limit by more than 5 feet after making all of the required findings in Section 20.49.070.H (Permit Review Procedures).

2. Over-Height Buildings or Structures. Stealth Telecom Facilities may be installed within or on structures that are permitted to exceed the height limit for the zoning district in which the structure is located, either by right under Title 20 or which have received a discretionary approval, so long as the height of the structure is not being increased. The standard of review shall be based on the type of installation and Antenna Classes being used.

D. Setbacks. Proposed Telecom Facilities shall comply with the required setback established by the development standards for the zoning district in which the Telecom Facility is proposed to be located. Setbacks shall be measured from the part of the Telecom Facility closest to the applicable lot line or structure. For ground-mounted Wireless Towers installed on public property or private property, unless the review authority determines a smaller setback would be appropriate based on the surrounding development or uses, the setback

shall be the greater of: a) the required setback established by the development standards for the zoning district in which the Telecom Facility is proposed to be located; or b) 110% of the maximum height of the Wireless Tower including any Antenna or Antenna enclosures attached thereto.

E. Design Techniques. Design techniques shall result in the installation of a Telecom Facility that is in scale with the surrounding area, hides the installation from predominant views from surrounding properties, and prevents the Telecom Facility from visually dominating the surrounding area. Design techniques may include the following:

1. Screening elements to camouflage, disguise, or otherwise hide the Telecom Facility from view from surrounding uses.
2. Painting and/or coloring the Telecom Facility to blend into the predominant visual backdrop.
3. Siting the Telecom Facility to utilize existing features (buildings, topography, vegetation, etc.) to screen, camouflage, or hide the Telecom Facility.
4. Utilizing simulated natural features (trees, rocks, etc.) to screen, camouflage, or hide the Telecom Facility.
5. Providing Telecom Facilities of a size that, as determined by the City, is not visually obtrusive such that any effort to screen the Telecom Facility would create greater visual impacts than the Telecom Facility itself.

F. Screening Standards. Following is a non-exclusive list of potential design and screening techniques that should be considered based on the following Antenna Classes:

1. For Class 1 (Camouflaged/Screened) Antenna Installations:
   a. All Telecom Facility components, including all Antenna panels and Support Equipment, shall be fully screened, and mounted either inside the building or structure, or behind the proposed screening elements and not on the exterior face of the building or structure.
   b. Screening materials shall match in color, size, proportion, style, and quality with the exterior design and architectural character of the structure and the surrounding visual environment. If determined necessary by the reviewing authority, screening to avoid adverse impacts to views from land or buildings at higher elevations shall be required.
   c. In conditions where the Antennas and Support Equipment are installed within a new freestanding structure, (an architectural feature such as a steeple, religious symbol or tower, cupola, clock tower, sign, etc.), the installation shall blend in the predominant visual backdrop so it appears to be a decorative and attractive architectural feature.

2. For Class 2 (Collocation) Antenna Installations:
   a. A Collocation installation shall use screening methods materially similar to those used on the existing Telecom Facility and shall not diminish the screening of the existing Telecom Facility.
   b. If determined necessary by the review authority, use of other improved and appropriate screening methods may be required to screen the Antennas, Base Station, and Support Equipment from public view.

3. For Class 3 (Visible) Antenna Installations:
   a. Building or structure mounted Antennas shall be painted or otherwise coated to match or complement the predominant color of the structure on which they are mounted and shall be compatible with the architectural texture and materials of the building to which the

Antennas are mounted. No cables and mounting brackets or any other associated equipment or wires shall be visible from above, below or the side of the Antennas.

b. All Antenna components and Support Equipment shall be treated with exterior coatings of a color and texture to match the predominant visual background and/or adjacent architecture so as to visually blend in with the surrounding development. Subdued colors and non-reflective materials that blend with surrounding materials and colors shall be used.
c. Antenna installations in the public right-of-way and/or on an existing or replacement streetlight pole or traffic control standard shall be limited to Antennas, Supporting Equipment, and cable components that are compatible in scale and proportion to streetlights and traffic control standards and the poles on which they are mounted. All transmission or amplification equipment such as remote radio units, tower mounted amplifiers and surge suppressors shall be mounted inside the streetlight pole or traffic control standard without increasing the pole width or shall be mounted in a flush-to-grade enclosure adjacent to the base of the pole.
d. Antenna installations on existing or replacement streetlight poles, traffic control standards, or Utility Poles shall be screened by means of canisters, radomes, shrouds other screening measures whenever Feasible, and treated with exterior coatings of a color and texture to match the existing pole. If Antennas are proposed to be installed without screening, they shall be flush-mounted to the pole and shall be treated with exterior coatings of a color and texture to match the existing pole.
e. Antennas shall be mounted on existing poles wherever Feasible. If a new pole is proposed to replace the existing pole, the replacement pole shall be consistent with the size, shape, style and design of the existing pole, including any attached light arms.

4. For Class 4 (Freestanding Structure) Antenna Installations:
   a. For a false rock, the proposed screen structure shall match in scale and color other rock outcroppings in the general vicinity of the proposed site. A false rock screen may not be considered appropriate in areas that do not have natural rock outcroppings.
   b. The installation of a false tree (such as but without limitation a monopine or monopalm, or false shrubbery) shall be designed for and located in a setting that is compatible with the proposed screening method. Such installations shall be situated so as to utilize existing natural or manmade features including topography, vegetation, buildings, or other structures to provide the greatest amount of visual screening. For false trees or shrubbery installations, all Antennas and Antenna supports shall be contained within the canopy of the tree design, and other vegetation comparable to that replicated in the proposed screen structure shall be prevalent in the immediate vicinity of the antenna site, and the addition of new comparable living vegetation may be necessary to enhance the false tree or shrubbery screen structure.
   c. The installation of a new Monopole or Lattice Tower is prohibited unless the applicant by use of compelling evidence can show to the satisfaction of the review authority that higher priority locations or Stealth Facilities are either not available or are not Feasible.

5. For Class 5 (Temporary) Antenna Installations:
   a. A temporary Telecom Facility installation may require screening to reduce visual impacts depending on the duration of the permit and the setting of the proposed site. If screening methods are determined to be necessary by the review authority, the appropriate screening methods will be determined through the permitting process reflecting the temporary nature of the Telecom Facility.

6. Support Equipment. All Support Equipment associated with the operation of any Telecom Facility including but not limited to the Base Station shall be placed or mounted in the least visually obtrusive location possible, and shall be screened from view. The following is a non-exclusive list of potential screening techniques that may be utilized based on the type of installation:

   a. Building-Mounted Facilities. For building or structure-mounted Antenna installations, Support Equipment for the Telecom Facility may be located inside the building, in an underground vault, or on the roof of the building that the Telecom Facility is located on, provided that both the equipment and screening materials are painted the color of the building, roof, and/or surroundings. All screening materials for roof-mounted Telecom Facilities shall be of a quality and design compatible with the architecture, color, texture and materials of the building to which it is mounted. If determined necessary by the review authority, screening to avoid adverse impacts to views from land or buildings at higher elevations shall be required.

   b. Freestanding Facilities. For freestanding Telecom Facilities installations, not mounted on a building or structure, Support Equipment for the Telecom Facility:

      - Shall be visually screened by locating the Support Equipment in a fully enclosed building or in an underground vault, or
      - Shall be screened in a security enclosure consisting of walls and/or landscaping to effectively screen the Support Equipment at the time of installation. All wall and landscaping materials shall be selected so that the resulting screening will be visually integrated with the architecture and landscape architecture of the surroundings.
      - Screening enclosures may utilize graffiti-resistant and climb-resistant vinyl-clad chain link with a “closed-mesh” design (i.e. one-inch gaps) or may consist of an alternate enclosure design approved by the review authority. In general, the screening enclosure shall be made of non-reflective material and painted or camouflaged to blend with surrounding materials and colors.

   c. Installations in a Public Right-of-Way. Support Equipment approved to be located above ground in a public right-of-way shall be painted or otherwise coated to be visually compatible with the existing or replacement pole, lighting and/or traffic signal equipment without substantially increasing the width of the structure.

G. Night Lighting. Telecom Facilities shall not be lighted except for security lighting at the lowest intensity necessary for that purpose or as may be required by the U.S. Flag Code. Such lighting shall be shielded so that direct illumination does not directly shine on nearby properties. The review authority shall consult with the Police Department regarding proposed security lighting for Telecom Facilities on a case-by-case basis.

H. Signs and Advertising. No advertising signage or identifying logos shall be displayed on any Telecom Facility except for small identification, address, warning, and similar information plates. Such information plates shall be identified in the telecom application and shall be subject to approval by the review authority. Signage required by state or federal regulations shall be allowed in its smallest permissible size.

I. Nonconformities. A proposed Telecom Facility shall not create any new or increased nonconformities as defined in the Zoning Code, such as, but not limited to, a reduction in and/or elimination of, required parking, landscaping, or loading zones.

J. Maintenance. The Telecom Operator shall be responsible for maintenance of the Telecom Facility in a manner consistent with the original approval of the Telecom Facility, including but not limited to the following:

1. Any missing, discolored, or damaged camouflage or screening shall be restored to its original permitted condition.
2. All graffiti on any components of the Telecom Facility shall be removed promptly in accordance the Newport Beach Municipal Code.
3. All landscaping required for the Telecom Facility shall be maintained in a healthy condition at all times, and shall be promptly replaced if dead or dying.
4. All Telecom Facilities shall be kept clean and free of litter.
5. All equipment cabinets shall display a legible contact number for reporting maintenance problems to the Facility Operator.
6. If a flagpole is used for a Telecom Facility, flags shall be flown and shall be properly maintained at all times. The use of the United States flag shall comply with the provisions of the U.S. Flag Code.

20.49.070 – Permit Review Procedures.

The procedures and requirements for preparation, filing, and processing of a permit application for a Telecom Facility shall be as specified in Chapter 20.50 (Permit Application Filing and Processing) unless otherwise noted below.

A. Permit Required. All applicants for Telecom Facilities shall apply for a MUP, CUP or LTP, from the Community Development Department, depending on the Antenna Class, height, and duration, as specified in the table below:

Table 4-1
Permit Requirements for Telecom Facilities

Antenna Class	Location of Proposed Telecom Facility		
	Located in a Nonresidential District more than 150 feet from a Residential (or Equivalent PC) District or Open Space District or Public Park or Public Facility zoned PR or PF	Located inside or within 150 feet of any Open Space District or Public Park or Public Facility zoned PR or PF	Located inside or within 150 feet of any Residential District or Equivalent PC District
Class 1 Antenna (a) (Camouflaged/Screened)	MUP	MUP	MUP
Class 2 Antenna (a) (b) (Collocation)	MUP	MUP	CUP
Class 3 Antenna (a) (Visible)	MUP	MUP	CUP

Antenna Class	Location of Proposed Telecom Facility		
Class 4 Antenna (a) (c) (Freestanding Structure)	MUP	CUP	CUP
Class 5 Antenna (a) (c) (d) (Temporary)	LTP	LTP	LTP

(a) Any application for a Telecom Facility that proposes to exceed the base height limit of the applicable zoning district in which the Telecom Facility is located by greater than five (5) feet shall require review and action of a CUP by the Planning Commission. Pursuant to this provision, an application that would otherwise be subject to review by the Zoning Administrator would become subject to review by the Planning Commission. The Planning Commission may approve or conditionally approve a CUP, subject to the required findings in Subparagraph H, below.

(b) The review procedure for Collocated Telecom Facilities shall be consistent with the applicable review procedure as identified elsewhere in this table depending on the type of installation and Antenna Class being proposed for the Collocation, unless the Collocated Telecom Facility meets the requirements of California Government Code § 65850.6, or involves the Collocation of new transmission equipment and is consistent with the provisions in Section 20.49.100 (Modification of Existing Telecom Facilities).

(c) Antennas mounted on or within flagpoles, and temporary Telecom Facilities shall not be permitted on properties either used or zoned residentially.

(d) Temporary Telecom Facilities shall be subject to the standard of review for an LTP, pursuant to Section 20.52.040 (Limited Term Permits).

B. Application Submission Requirements for Telecom Facilities on City-owned or City-held Trust Properties. Prior to the submittal for any application for any Telecom Facility located on any City-owned property or City-held trust property, the applicant shall first obtain written authorization from the City Manager or its designee to submit an application.

C. Fee. All costs associated with the permit application review shall be the responsibility of the applicant, including any expense incurred for any outside technical or legal services in connection with the application.

D. Review Process. Review of applications for all Telecom Facilities in City shall be consistent with Chapter 20.50 (Permit Application Filing and Processing), and the FCC Declaratory Ruling FCC 09-99 ("Shot Clock") deadlines.

E. Review of Collocated Facilities. Notwithstanding any provision of this Chapter to the contrary, pursuant to California Government Code section 65850.6 (as amended or superseded), the addition of a new Telecom Facility to an existing Telecom Facility resulting in the establishment of a Collocated Telecom Facility shall be a permitted use not requiring a discretionary permit provided the underlying Telecom Facility was granted a discretionary permit and was subject to either an environmental impact report, mitigated negative declaration or negative declaration. If such a Collocated Telecom Facility does not satisfy all of the requirements of Government Code section 65850.6, it shall be reviewed pursuant the review procedures contained in Section 20.49.070 (Permit Review Procedures).

F. Emergency Communications Review. At the time an application is submitted to the Community Development Department, a copy of the Plans, Map, and Emission Standards shall be sent to the Chief of the Newport Beach Police Department. The Police Department or its designee shall review the plan's potential conflict with emergency communications.

The review may include a pre-installation test of the Telecom Facility to determine if any interference exists. If the Police Department determines that the proposal has a high probability that the Telecom Facility will interfere with emergency communications devices, the applicant shall work with the Police Department to avoid interference. .

G. Public Notice and Public Hearing Requirements. An application for a Telecom Facility shall require a public notice, and a public hearing shall be conducted, in compliance with Chapter 20.62 (Public Hearings).

H. Required Findings for Telecom Facilities. The following findings shall apply to all Telecom Facilities:

1. General. The review authority indicated in Table 4-1 may approve or conditionally approve an application for a Telecom Facility only after first finding each of the required findings for a MUP or CUP pursuant to Section 20.52.020 (Conditional Use Permits and Minor Use Permits), or an LTP pursuant to Section 20.52.040 (Limited Term Permits), and each of the following:

a. The proposed Telecom Facility is visually compatible with the surrounding neighborhood.
b. The proposed Telecom Facility complies with the technology, height, location and design standards, as provided for in this Chapter.
c. An alternative site(s) located further from a Residential District, Public Park or Public Facility cannot feasibly fulfill the coverage needs fulfilled by the installation at the proposed site.
d. An alternative Antenna construction plan that would result in a higher priority Antenna Class category for the proposed Telecom Facility is not available or reasonably Feasible and desirable under the circumstances.

2. Findings to Increase Height. The review authority may approve, or conditionally approve an application for a Telecom Facility which includes a request to exceed the base height limit for the zoning district in which the Telecom Facility is located by more than 5 feet only after making each of the following findings in addition to the required findings above, as well the required findings for a MUP or CUP pursuant to Section 20.52.020 (Conditional Use Permits and Minor Use Permits), or an LTP pursuant to Section 20.52.040 (Limited Term Permits):

a. The increased height will not result in undesirable or abrupt scale changes or relationships being created between the proposed Telecom Facility and existing adjacent developments or public spaces.
b. Establishment of the Telecom Facility at the requested height is necessary to provide service.

20.49.080 – Permit Implementation, Time Limits, Extensions, and Appeals.

A. The process for implementation or “exercising” of permits issued for a Telecom Facility, time limits, and extensions, shall be in accordance with Chapter 20.54 (Permit Implementation, Time Limits, and Extensions).

B. Appeals. Any appeal of the decision of the review authority of an application for a Telecom Facility shall be processed in compliance with Chapter 20.64 (Appeals).

20.49.090 – Agreement for Use of City-Owned or City-Held Trust Property.

When applying for a permit pursuant to this Chapter, all Telecom Facilities located on City-owned or City-held trust property shall require a license agreement approved as to form by the City Attorney, and as to substance (including, but not limited to, compensation, term, insurance requirements, bonding requirements, and hold harmless provisions) by the City Manager, consistent with provisions in the City Council Policy Manual.

Prior to entering into an agreement, the applicant shall obtain a MUP, CUP or LTP. Upon the issuance of a MUP, CUP or LTP, as required, and upon entering into an agreement, the applicant shall obtain any and all other necessary permits, including, encroachment permits for work to be completed in the public right-of-way, building permits, etc. All costs of said permits shall be at the sole and complete responsibility of the applicant. All work shall be performed in accordance with the applicable City standards and requirements.

20.49.100 – Modification of Existing Telecom Facilities.

Notwithstanding any provision in this Chapter of the Zoning Code, a request for a modification of an existing Wireless Tower or Base Station that involves:

a. The Collocation of new transmission equipment;
b. The removal of existing transmission equipment; or
c. The replacement of existing transmission equipment

shall be subject to a ministerial review and approval without the processing of a discretionary permit provided that such modification does not substantially change any of the physical dimensions of such Wireless Tower or Base Station from the dimensions approved as part of the original discretionary permit for the Wireless Tower or Base Station.

However, any modification to a Wireless Tower or Base Station which substantially changes the physical dimensions of either the Wireless Tower or Base Station, and any other modification to a Telecom Facility that does not qualify as a Wireless Tower or Base Station, shall be subject to the permits and authorizations required by this Chapter.

“Substantially Change the Physical Dimensions” means any of the following, and refers to a single change, or a series of changes over time (whether made by the same or different entities) viewed against the City approval(s) for the Wireless Tower or Base Station as existing on February 22, 2012, that individually or cumulatively have any of the effects described below:

a. Changing any physical dimension of the Wireless Tower or Base Station in a manner that creates a violation of any safety code adopted by the City, or by the state or federal government.
b. Changing the physical dimension of a Stealth Facility on a Wireless Tower, where the changes would be inconsistent with the design of the Stealth Facility, or make the Wireless Tower more visible.
c. Changing the physical dimension would require work that would intrude upon the public right-of-way, or any environmentally sensitive area.
d. Increasing or decreasing by five percent (5%) or more any of the following:

- The height, width, or depth in any direction of any portion of the Wireless Tower or Base Station; or
- The area required for structures required to support the Wireless Tower, including but not limited to guy wires as approved and constructed through the discretionary permit process

Provided that in no event shall the height is increased to exceed the maximum height permitted in the applicable zoning district under the City's regulations.

e. Increasing by more than five percent (5%) any of the height, width, depth or area encompassed within any structure or object enclosing the Wireless Tower, such as a fence or line of shrubs or bushes.
f. Increasing any of an existing Antenna Array's depth, circumference, or horizontal radius from the Wireless Tower in any direction by more than five percent (5%).
g. Adding more than two Antenna Arrays to an existing Wireless Tower, or adding Antenna Arrays that, if the Antenna Array were an existing Antenna Array, would be of such depth, circumference or radius as to fall outside of item f (above), unless such Antenna Arrays were approved pursuant to Government Code Section 65850.6.
h. The mounting of the new or replacement transmission equipment would involve installing new equipment cabinet(s) not permitted under the initial approval and that will not fit within the existing enclosure for the Wireless Tower or Base Station, or would require installation of a new cabinet or enclosure, excluding new equipment and cabinets that will be installed underground. (Note: the proposed installation of a power back-up system [i.e., gas/diesel generator, fuel cell, battery system, etc.] is not Collocation of new transmission equipment.)
i. Any increase in any physical dimension of a Wireless Tower or Base Station or any equipment related thereto or any enclosure thereof at a Legal Nonconforming Facility.

Each application submitted under this section for a modification to an existing Wireless Tower or Base Station shall be accompanied by:

1. A detailed description of the proposed modifications to the existing Telecom Facility(ies);
2. A photograph or description of the Wireless Tower as originally constructed, if available; a current photograph of the existing Wireless Tower and/or Base Station; and, a graphic depiction of the Wireless Tower and/or Base Station after modification showing all relevant dimensions;
3. A detailed description of all construction that will be performed in connection with the proposed modification; and
4. A written statement signed and stamped by a professional engineer, licensed and qualified in California, attesting that the proposed modifications to be performed will not trigger discretionary review under this section.

Any permit issued will be conditioned, and may be revoked, and the Telecom Facility required to be removed or restored to its pre-modification condition if:

a. Any material statement made with respect to the Telecom Facility is false; or
b. The modifications as actually made would have triggered a discretionary review.

20.49.110 – Operational and Radio Frequency Compliance and Emissions Report.

At all times, the operator shall ensure that its Telecom Facilities shall comply with the most current regulatory, operations standards, and radio frequency emissions standards adopted by

the FCC. The operator shall be responsible for obtaining and maintaining the most current information from the FCC regarding allowable radio frequency emissions and all other applicable regulations and standards. Said information shall be made available by the operator upon request at the discretion of the Community Development Director.

Within thirty (30) days after installation of a Telecom Facility, a radio frequency (RF) compliance and emissions report prepared by a qualified RF engineer acceptable to the City shall be submitted in order to demonstrate that the Telecom Facility is operating at the approved frequency and complies with FCC standards for radio frequency emissions safety as defined in 47 C.F.R. § 1.1307 *et seq*. Such report shall be based on actual field transmission measurements of the Telecom Facility operating at its maximum effective radiated power level, rather than on estimations or computer projections. If the report shows that the Telecom Facility does not comply with the FCC's 'General Population/Uncontrolled Exposure' standard as defined in 47 C.F.R. § 1.1310 Note 2 to Table 1, the Director shall require that use of the Telecom Facility be suspended until a new report has been submitted confirming such compliance.

Upon any proposed increase of at least ten percent (10%) in the effective radiated power or any proposed change in frequency use of the Telecom Facility by the Telecom Operator, the Telecom Operator shall be required to provide an updated certified radio frequency (RF) compliance and RF emissions safety report.

A qualified independent radio frequency engineer, selected and under contract to the City, may be retained to review said certifications for compliance with FCC regulations. All costs associated with the City's review of these certifications shall be the responsibility of the permittee, which shall promptly reimburse City for the cost of the review.

20.49.120 – Right to Review or Revoke Permit.

The reservation of right to review any permit for a Telecom Facility granted by the City is in addition to, and not in lieu of, the right of the City to review and revoke or modify any permit granted or approved hereunder for any violations of the conditions imposed on such permit.

20.49.130 – Removal of Telecom Facilities.

A. Discontinued Use. Any Telecom Operator who intends to abandon or discontinue use of a Telecom Facility must notify the Community Development Director by certified mail no less than thirty (30) days prior to such abandonment or discontinuance of use. The Telecom Operator or owner of the affected real property shall have ninety (90) days from the date of abandonment or discontinuance, or a reasonable additional time as may be approved by the Community Development Director, within which to complete one of the following actions:

1. Reactivate use of the Telecom Facility;
2. Transfer the rights to use the Telecom Facility to another Telecom Operator and the Telecom Operator immediately commences use within a reasonable period of time as determined by the Community Development Director;
3. Remove the Telecom Facility and restore the site.

B. Abandonment. Any Telecom Facility that is not operated for transmission and/or reception for a continuous period of ninety (90) days or whose Telecom Operator did not remove the Telecom Facility in accordance with Subsection A shall be deemed abandoned. Upon a

finding of abandonment, the City shall provide notice to the Telecom Operator last known to use such Facility and, if applicable, the owner of the affected real property, providing thirty days from the date of the notice within which to complete one of the following actions:

1. Reactivate use of the Telecom Facility;
2. Transfer the rights to use the Telecom Facility to another Telecom Operator who has agreed to reactivate the Telecom Facility within 30 days of the transfer;
3. Remove the Telecom Facility and restore the site.

C. Removal by City.

1. The City may remove an abandoned Telecom Facility, repair any and all damage to the premises caused by such removal, and otherwise restore the premises as is appropriate to be in compliance with applicable codes at any time after thirty (30) days following the notice of abandonment.
2. If the City removes the Telecom Facility, the City may, but shall not be required to, store the removed Telecom Facility or any part thereof. The owner of the premises upon which the abandoned Telecom Facility was located and all prior operators of the Telecom Facility shall be jointly liable for the entire cost of such removal, repair, restoration and storage, and shall remit payment to the City promptly after demand therefore is made. In addition, the City Council, at its option, may utilize any financial security required in conjunction with granting the telecom permit as reimbursement for such costs. Also, in lieu of storing the removed Telecom Facility, the City may convert it to the City's use, sell it, or dispose of it in any manner deemed by the City to be appropriate.

D. City Lien on Property. Until the cost of removal, repair, restoration and storage is paid in full, a lien shall be placed on the abandoned personal property and any real property on which the Telecom Facility was located for the full amount of the cost of removal, repair, restoration and storage. The City Clerk shall cause the lien to be recorded with the Orange County Recorder, with the costs of filing, processing, and release of such City Lien being added to the other costs listed in this Section D.

EXHIBIT "B"

Section 20.18.020	Residential Zoning Districts Land Uses and Permit Requirements
Section 20.20.020	Commercial Zoning Districts Land Uses and Permit Requirements
Section 20.22.020	Mixed-Use Zoning Districts Land Uses and Permit Requirements
Section 20.24.020	Industrial Zoning Districts Land Uses and Permit Requirements
Section 20.26.020	Special Purpose Zoning Districts Land Uses and Permit Requirements

A. 20.18.020 Residential Zoning Districts Land Uses and Permit Requirements.

A. Allowed Land Uses.

1. Table 2-1 indicates the uses allowed within each residential zoning district and the permit required to establish the use, if any, in compliance with Part 5 of this title (Planning Permit Procedures).

2. Residential uses represent the primary allowed use, and only those additional uses that are complementary to, and can exist in harmony with, the residential character of each zoning district may be allowed as accessory, conditionally permitted, and/or temporary uses.

B. Prohibited Land Uses. A table cell with "—" means that the listed land use is prohibited in that zoning district.

C. Applicable Regulations. The last column in the table ("Specific Use Regulations") may include a reference to additional regulations that apply to the use.

TABLE 2-1 ALLOWED USES AND PERMIT REQUIREMENTS	**Residential Zoning Districts Permit Requirements *** **P Permitted by Right** **CUP Conditional Use Permit (Section 20.52.020)** **CUP-HO Conditional Use Permit in Residential Zoning Districts (Section 20.52.030)** **MUP Minor Use Permit (Section 20.52.020)** **LTP Limited Term Permit (Section 20.52.040)** **— Not Allowed ***				
Land Use See Part 7 of this title for land use definitions. See Chapter 20.12 for unlisted uses.	**R-A**	**R-1****	**R-BI R-2**	**RM RMD**	**Specific Use Regulations**
Residential Uses					
Home Occupations	P	P	P	P	Section 20.48.110
Single-Unit Dwellings—Attached	—	—	P	P	Section 20.48.180
Single-Unit Dwellings—Detached	P	P	P	P	Section 20.48.180
Multi-Unit Dwellings	—	—	—	P	
Two-Unit Dwellings	—	—	P	P	Section 20.48.180
Accessory Dwelling Units	MUP	MUP	—	—	

Visitor Accommodations, Residential					
Bed and Breakfast Inns	—	—	CUP-HO	CUP-HO	Section 20.48.060
Short-Term Lodging	—	—	P	P	Chapter 5.95
Care Uses					
Adult Day Care					
Small (6 or fewer)	P	P	P	P	Section 20.48.070
Large (7 to 14)	MUP	MUP	MUP	MUP	Section 20.48.070
Child Day Care					
Small (8 or fewer)	P	P	P	P	Section 20.48.070
Large (9 to 14)	MUP	MUP	MUP	MUP	Section 20.48.070
Day Care, General	—	—	CUP-HO	CUP-HO	
Residential Care Facilities					
Limited (6 or fewer) Licensed	P	P	P	P	Section 20.48.170
Limited (6 or fewer) Unlicensed	—	—	—	CUP-HO	Section 20.48.170
General (7 or more) Licensed	—	—	—	CUP-HO	Section 20.48.170
General (7 or more) Unlicensed	—	—	—	CUP-HO	Section 20.48.170
Integral Facilities/Integral Uses	—	—	—	CUP-HO	Section 20.48.170
Parolee-Probationer Home	—	—	—	—	
Other Uses					
Parking Facility	MUP	MUP	MUP	MUP	
Convalescent Facilities	—	—	—	CUP	
Utilities, Minor	P	P	P	P	
Utilities, Major	CUP	CUP	CUP	CUP	
Wireless Telecommunication Facilities	—	—	—	MUP/CUP/LTP	Chapter 20.49
~~Wireless Telecommunication Facilities~~	~~See Chapter 15.70~~				
Accessory Structures and Uses	P	P	P	P	
Animal-Keeping	P	P	P	P	Section 20.48.040
Personal Property Sales	P	P	P	P	Section 20.48.150
Special Events	See Chapter 11.03				

Temporary Uses	LTP	LTP	LTP	LTP	Section 20.52.040

* Uses Not Listed. Land uses that are not listed in the table above, or are not shown in a particular zoning district, are not allowed, except as provided by Chapter 20.12 (Interpretation of Zoning Code Provisions).

** Includes R-1-6,000, R-1-7,200, and R-1-10,000.

A. 20.20.020 Commercial Zoning Districts Land Uses and Permit Requirements.

A. Allowed Land Uses. Tables 2-4 and 2-5 indicate the uses allowed within each zoning district and the permit required to establish the use, if any, in compliance with Part 5 of this title (Planning Permit Procedures).

B. Prohibited Land Uses. Any table cell with "—" means that the listed land use is prohibited in that specific zoning district.

C. Applicable Regulations. The last column in the tables ("Specific Use Regulations") may include a reference to additional regulations that apply to the use.

TABLE 2-4 ALLOWED USES AND PERMIT REQUIREMENTS	**Commercial Office Zoning Districts Permit Requirements ***				
	P	**Permitted by Right**			
	CUP	**Conditional Use Permit (Section 20.52.020)**			
	MUP	**Minor Use Permit (Section 20.52.020)**			
	LTP	**Limited Term Permit (Section 20.52.040)**			
	—	**Not allowed ***			
Land Use **See Part 7 of this title for land use definitions.** **See Chapter 20.12 for unlisted uses.**	**OA**	**OG**	**OM**	**OR**	**Specific Use Regulations**
Industry, Manufacturing and Processing, and Warehousing Uses					
Handicraft Industry	P	—	—	—	
Industry, Small (less than 5,000 sq. ft.)	MUP	—	—	—	
Personal Storage (mini storage)	P	—	—	—	
Research and Development, General	P	P	P	P	
Research and Development, Restricted	MUP	MUP	MUP	MUP	
Recreation, Education, and Public Assembly Uses					
Assembly/Meeting Facilities					

Small—5,000 sq. ft. or less (religious assembly may be larger than 5,000 sq. ft.)	CUP	CUP	CUP	CUP	
Commercial Recreation and Entertainment	—	—	—	CUP	
Cultural Institutions	P	—	—	P	
Schools, Public and Private	CUP	CUP	—	CUP	
Schools, Related to Medical Professions	MUP	MUP	MUP	MUP	
Retail Trade Uses					
Alcohol Sales (off-sale)	MUP	MUP	MUP	MUP	Section 20.48.030
Alcohol Sales (off-sale), Accessory Only	P	MUP	MUP	P	
Retail Sales (less than 10,000 sq. ft.)	MUP	P	P	P	
Retail Sales (10,000 sq. ft. or greater)	CUP	—	—	—	
Pharmacy, Medical Supplies	P	P	P	P	
Service Uses—Business, Financial, Medical, and Professional					
ATM	P	P	P	P	
Convalescent Facilities	—	—	P	—	
Emergency Health Facilities/Urgent Care	P	P	P	P	
Financial Institutions and Related Services	P	P	P	P	
Hospitals	—	—	CUP	—	
Offices—Business	P	P	P	P	
Offices—Corporate	P	P	—	P	
Offices—Medical and Dental	P	P	P	P	
Offices—Professional	P	P	P	P	
Outpatient Surgery Facility	P	P	P	P	
Service Uses—General					
Ambulance Services	P	—	P	—	

Animal Sales and Services					
Animal Boarding/Kennels	P	—	—	CUP	Section 20.48.050
Animal Grooming	P	MUP	—	MUP	Section 20.48.050
Veterinary Services	P	CUP	CUP	CUP	Section 20.48.050
Artists' Studios	P	P	—	P	
Catering Services	P	P	—	P	
Day Care—General	MUP	MUP	MUP	MUP	
Eating and Drinking Establishments					
Accessory Food Service (open to public)	P	P	P	P	Section 20.48.090
Bars, Lounges, and Nightclubs	CUP	—	—	CUP	Section 20.48.090
Fast Food (no late hours) (1)(2)	P/MUP	P/MUP	—	—	Section 20.48.090
Fast Food (with late hours) (1)	MUP	MUP	—	—	Section 20.48.090
Food Service (no alcohol, no late hours) (1)(2)	P/MUP	P/MUP	P/MUP	P/MUP	Section 20.48.090
Food Service (no late hours) (1)	MUP	MUP	MUP	MUP	Section 20.48.090
Food Service (with late hours) (1)	CUP	CUP	CUP	CUP	Section 20.48.090
Take-Out Service, Limited (2)	P/MUP	P/MUP	P/MUP	P/MUP	Section 20.48.090
Emergency Shelters	P	—	—	—	Section 20.48.100
Funeral Homes and Mortuaries, without crematorium	MUP	MUP	MUP	MUP	
Funeral Homes and Mortuaries, with crematorium	CUP	CUP	CUP	CUP	
Health/Fitness Facilities					
Small—2,000 sq. ft. or less	P	P	P	P	
Large—Over 2,000 sq. ft.	MUP	MUP	MUP	MUP	
Laboratories	P	P	P	P	
Maintenance and Repair Services	P	P	—	P	
Massage Establishments	MUP	MUP	MUP	MUP	Chapter 5.50 Section 20.48.120
Massage Services, Accessory	MUP	MUP	MUP	MUP	Section 20.48.120
Personal Services, General	P	P	P	P	

Personal Services, Restricted	MUP	MUP	MUP	MUP	
Postal Services	P	P	P	P	
Printing and Duplicating Services	P	P	P	P	
Smoking Lounges	—	—	—	—	
Visitor Accommodations, Nonresidential					
Hotels, Motels, and Time Shares	CUP	—	CUP	—	
Transportation, Communications, and Infrastructure Uses					
Communication Facilities	P	P	—	P	
Heliports and Helistops (3)	CUP	—	CUP	CUP	
Parking Facilities	MUP	MUP	MUP	MUP	
Parking Structures, adjacent to residential district	—	CUP	CUP	—	
Utilities, Minor	P	P	P	P	
Utilities, Major	CUP	CUP	CUP	CUP	
Wireless Telecommunication Facilities	CUP/MUP/LTP	CUP/MUP/LTP	CUP/MUP/LTP	CUP/MUP/LTP	Chapter 20.49
~~Wireless Telecommunication Facilities~~	~~Chapter 15.70~~				
Vehicle Rental, Sale, and Service Uses					
Vehicle Sales, Office Only	P	P	—	P	
Vehicle/Equipment Rentals					
Office Only	P	P	—	P	
Vehicles for Hire	CUP	—	—	—	
Vehicle/Equipment Rentals and Sales	CUP	—	—	—	
Vehicle/Equipment Repair					
General	CUP	—	—	—	
Limited	MUP	—	—	—	
Vehicle/Equipment Services					
Automobile Washing/Detailing, self-service or accessory	MUP	MUP	—	MUP	
Service Stations	CUP	—	—	—	Section 20.48.210

Other Uses					
Accessory Structures and Uses	P	P	P	P	
Drive-Through Facilities	MUP	MUP	MUP	MUP	Section 20.48.080
Outdoor Storage and Display	P	P	P	P	Section 20.48.140
Special Events	Chapter 11.03				
Temporary Uses	LTP	LTP	LTP	LTP	Section 20.52.040

* Uses Not Listed. Land uses that are not listed in the table above, or are not shown in a particular zoning district are not allowed, except as otherwise provided by Section 20.12.020 (Rules of Interpretation).

(1) Late Hours. Facilities with late hours shall mean facilities that offer service and are open to the public past 11:00 p.m. any day of the week.

(2) Permitted or Minor Use Permit Required.

a. A minor use permit shall be required for any use located within five hundred (500) feet, property line to property line, of any residential zoning district.

b. A minor use permit shall be required for any use that maintains late hours.

(3) Applicants for City approval of a heliport or helistop shall provide evidence that the proposed heliport or helistop complies fully with State of California permit procedures and with all conditions of approval imposed by the Federal Aviation Administration (FAA), the Airport Land Use Commission for Orange County (ALUC), and by the Caltrans Division of Aeronautics.

TABLE 2-5 ALLOWED USES AND PERMIT REQUIREMENTS	**Commercial Retail Zoning Districts** **Permit Requirements ***					
	P Permitted by Right **CUP Conditional Use Permit (Section 20.52.020)** **MUP Minor Use Permit (Section 20.52.020)** **LTP Limited Term Permit (Section 20.52.040)** **— Not allowed ***					
Land Use **See Part 7 of this title for land use definitions.**	**CC**	**CG**	**CM**	**CN**	**CV**	**Specific Use Regulations**

See Chapter 20.12 for unlisted uses.						
Industry, Manufacturing and Processing, and Warehousing Uses						
Handicraft Industry	P	P	P	P	P	
Recreation, Education, and Public Assembly Uses						
Assembly/Meeting Facilities	CUP	CUP	CUP	CUP	CUP	
Commercial Recreation and Entertainment	CUP	CUP	CUP	CUP	CUP	
Cultural Institutions	P	P	MUP	—	P	
Schools, Public and Private	—	CUP	CUP	CUP	CUP	
Retail Trade Uses						
Alcohol Sales (off-sale)	MUP	MUP	MUP	MUP	MUP	Section 20.48.030
Alcohol Sales (off-sale), Accessory Only	P	P	P	P	P	
Bulk merchandise	—	P	—	P	—	
Marine Rentals and Sales						
Boat Rentals and Sales	—	CUP	CUP	—	CUP	
Marine Retail Sales	P	P	P	—	P	
Retail Sales	P	P	P	P	—	
Visitor-Serving Retail	P	—	—	—	P	
Service Uses—Business, Financial, Medical, and Professional						
ATM	P	P	P	P	P	
Emergency Health Facility/Urgent Care (above 1st floor only)	MUP	MUP	—	—	MUP	
Financial Institutions	P	P	—	P	P	

and Related Services						
Offices—Corporate (above 1st floor only)	P	P	P	P	—	
Offices—Business	P	P	P	P	P	
Offices—Medical and Dental	P	P	—	P	P	
Offices—Professional (above 1st floor only)	P	P	P	P	P	
Outpatient Surgery Facility (above 1st floor only)	MUP	MUP	P	—	—	
Service Uses—General						
Ambulance Services	—	MUP	—	—	—	
Animal Sales and Services						
Animal Boarding/Kennels	CUP	CUP	—	CUP	—	Section 20.48.050
Animal Grooming	P	P	—	P	P	Section 20.48.050
Animal Retail Sales	P	P	—	P	P	Section 20.48.050
Veterinary Services	CUP	CUP	—	CUP	—	Section 20.48.050
Artists' Studios	P	P	P	P	P	
Catering Services	—	P	P	P	P	
Day Care, General	MUP	MUP	—	MUP	MUP	
Eating and Drinking Establishments						
Accessory Food Service (open to public)	P	P	P	P	P	Section 20.48.090
Bars, Lounges, and Nightclubs	CUP	CUP	CUP	CUP	CUP	Section 20.48.090
Fast Food (no late hours) (1)(2)	P/MUP	P/MUP	P/MUP	P/MUP	P/MUP	Section 20.48.090
Fast Food (with	MUP	MUP	MUP	MUP	MUP	Section

late hours) (1)						20.48.090
Food Service (no alcohol, no late hours) (1)(2)	P/MUP	P/MUP	P/MUP	P/MUP	P/MUP	Section 20.48.090
Food Service (no late hours) (1)	MUP	MUP	MUP	MUP	MUP	Section 20.48.090
Food Service (with late hours) (1)	CUP	CUP	CUP	CUP	CUP	Section 20.48.090
Take-Out Service, Limited (2)	P/MUP	P/MUP	P/MUP	P/MUP	P/MUP	Section 20.48.090
Funeral Homes and Mortuaries, without crematorium	—	MUP	—	—	—	
Funeral Homes and Mortuaries, with crematorium	—	CUP	—	—	—	
Health/Fitness Facilities						
Small—2,000 sq. ft. or less	P	P	P	P	P	
Large—Over 2,000 sq. ft.	MUP	MUP	MUP	MUP	MUP	
Laboratories	—	P	—	—	—	
Maintenance and Repair Services	P	P	—	P	—	
Marine Services						
Boat Storage	—	—	CUP	—	—	
Boat Yards	—	—	CUP	—	—	
Entertainment and Excursion Services	—	—	P	—	P	Title 17
Marine Service Stations	—	—	CUP	—	CUP	
Water Transportation Services	—	—	MUP	—	MUP	

Massage Establishments	MUP	MUP	—	MUP	MUP	Chapter 5.50 Section 20.48.120
Massage Services, Accessory	MUP	MUP	—	MUP	MUP	Section 20.48.120
Nail Salons	P	P	—	P	P	
Personal Services, General	P	P	—	P	P	
Personal Services, Restricted	MUP	MUP	—	MUP	MUP	
Studio	P	P	—	P	P	
Postal Services	P	P	—	P	P	
Printing and Duplicating Services	P	P	—	P	—	
Recycling Facilities						
Collection Facility—Small	MUP	MUP	—	MUP	—	Section 20.48.160
Smoking Lounges	—	—	—	—	—	
Visitor Accommodations						
Bed and Breakfast Inns	MUP	MUP	MUP	—	MUP	Section 20.48.060
Hotels and Motels	CUP	CUP	CUP	—	CUP	
RV Parks	—	—	—	—	CUP	
Time Share Facilities	—	CUP	—	—	CUP	Section 20.48.220
Transportation, Communications, and Infrastructure Uses						
Communication Facilities	MUP	P	MUP	—	P	
Marinas	Title 17					
Marina Support Facilities	—	—	MUP	—	MUP	
Parking Facilities	MUP	MUP	MUP	MUP	MUP	
Parking Structure, adjacent to	CUP	CUP	—	CUP	CUP	

residential zoning district						
Utilities, Minor	P	P	P	P	P	
Utilities, Major	CUP	CUP	CUP	CUP	CUP	
Wireless Telecommunication Facilities	MUP/CUP/LTP	MUP/CUP/LTP	MUP/CUP/LTP	MUP/CUP/LTP	MUP/CUP/LTP	Chapter 20.49
~~Wireless Telecommunication Facilities~~	~~Chapter 15.70~~					
Vehicle Rental, Sale, and Service Uses						
Vehicle/Equipment Rentals						
General	—	CUP	—	—	CUP	
Office Only	P	P	P	P	P	
Limited	P	P	P	—	P	
Vehicles for Hire	—	CUP	—	—	CUP	
Vehicle/Equipment Repair						
General	—	CUP	—	—	—	
Limited	MUP	MUP	MUP	—	—	
Vehicle Sales, Office Only	P	P	P	P	P	
Vehicle/Equipment Services						
Automobile Washing/Detailing, full service	—	MUP	—	MUP	MUP	
Automobile Washing/Detailing, self-service or accessory	P	P	—	P	MUP	
Service Stations	CUP	CUP	—	CUP	CUP	Section 20.48.210
Other Uses						
Accessory Structures and Uses	P	P	P	P	P	

Drive-Through Facilities	MUP	MUP	MUP	MUP	MUP	Section 20.48.080
Special Events	Chapter 11.03					
Outdoor Storage and Display	P	P	P	P	P	Section 20.48.140
Temporary Uses	LTP	LTP	LTP	LTP	LTP	Section 20.52.040

* Uses Not Listed. Land uses that are not listed in the table above, or are not shown in a particular zoning district, are not allowed, except as otherwise provided by Section 20.12.020 (Rules of Interpretation).

(1) Late Hours. Facilities with late hours shall mean facilities that offer service and are open to the public past 11:00 p.m. any day of the week.

(2) Permitted or Minor Use Permit Required.

a. A minor use permit shall be required for any use located within five hundred (500) feet, property line to property line, of any residential zoning district.

b. A minor use permit shall be required for any use that maintains late hours.

A. 20.22.020 Mixed-Use Zoning Districts Land Uses and Permit Requirements.

A. Allowed Land Uses. Tables 2-8, 2-9, and 2-10 indicate the uses allowed within each zoning district and the permit required to establish each use, in compliance with Part 5 of this title (Planning Permit Procedures).

B. Prohibited Land Uses. Any table cell with "—" means that the listed land use is prohibited in that specific zoning district.

C. Applicable Regulations. The last column in the tables ("Specific Use Regulations") may include a reference to additional regulations that apply to the use.

TABLE 2-8 ALLOWED USES AND PERMIT REQUIREMENTS	**Mixed-Use Zoning Districts Permit Requirements**				
	P	**Permitted by Right**			
	CUP	**Conditional Use Permit (Section 20.52.020)**			
	MUP	**Minor Use Permit (Section 20.52.020)**			
	LTP	**Limited Term Permit (Section 20.52.040)**			
	—	**Not Allowed ***			
Land Use **See Part 7 of this title for land use definitions.** **See Chapter 20.12 for unlisted uses.**	**MU-V**	**MU-MM (6)**	**MU-DW**	**MU-CV/15th St. (7)**	**Specific Use Regulations**
Industry, Manufacturing and Processing, Warehousing Uses					
Handicraft Industry	P	P	P	P	
Industry, Marine-Related	—	CUP	—	MUP	
Research and Development	P	P	P	P	
Recreation, Education, and Public Assembly Uses					
Assembly/Meeting Facilities	CUP	CUP	CUP	CUP	
Commercial Recreation and Entertainment	CUP	CUP	CUP	CUP	
Cultural Institutions	P	P	P	P	
Schools, Public and Private	CUP	CUP	CUP	CUP	
Residential Uses					

Single-Unit Dwellings					
Located on 1st floor	—	—	—	P (3)	Section 20.48.130
Located above 1st floor	P (1)	—	—	P (3)	Section 20.48.130
Multi-Unit Dwellings					
Located on 1st floor	—	P (1)(2)	P (1)	P (3)	Section 20.48.130
Located above 1st floor	P (1)	P (1)(2)	P (1)	P (3)	Section 20.48.130
Two-Unit Dwellings					
Located on 1st floor	—	—	—	P (3)	Section 20.48.130
Located above 1st floor	P (1)	—	—	P (3)	Section 20.48.130
Home Occupations	P	P (1)	P	P	Section 20.48.130
Live-Work Units	P	P (1)(2)	P	P (3)	
Care Uses					
Adult Day Care					
Small (6 or fewer)	P	P	P	P	
Child Day Care					
Small (8 or fewer)	P	P	P	P	Section 20.48.070
Day Care, General	—	MUP	—	MUP	Section 20.48.070
Retail Trade Uses					
Alcohol Sales (off-sale)	MUP	MUP	—	MUP	Section 20.48.030
Alcohol Sales (off-sale), Accessory Only	P	P	P	P	
Marine Rentals and Sales					
Boat Rentals and Sales	CUP	P	—	CUP	
Marine Retail Sales	P	P	P	P	

Retail Sales	P	P	P	P	
Service Uses—Business, Financial, Medical, and Professional					
ATMs	P	P	P	P	
Emergency Health Care/Urgent Care	MUP	MUP	MUP	MUP	
Financial Institutions and Related Services	P	P	P	P	
Offices—Business	P	P	P	P	
Offices—Medical and Dental	P	P	P	P	
Offices—Professional	P	P	P	P	
Service Uses—General					
Animal Sales and Services					
Animal Grooming	P	P	P	P	Section 20.48.050
Animal Retail Sales	P	P	—	P	Section 20.48.050
Veterinary Services	—	CUP	CUP	—	Section 20.48.050
Artists' Studios	P	P	P	P	
Eating and Drinking Establishments					
Accessory food service (open to public)	P	P	P	P	Section 20.48.090
Fast Food (no late hours) (4)(5)	P/MUP	P/MUP	—	P/MUP	Section 20.48.090
Fast Food (with late hours) (4)	MUP	MUP	—	MUP	Section 20.48.090
Food Service (no late hours) (4)(5)	P/MUP	P/MUP	—	P/MUP	Section 20.48.090
Food Service (with late hours) (4)	CUP	CUP	—	CUP	Section 20.48.090
Take-Out Service, Limited (5)	P/MUP	P/MUP	—	P/MUP	Section 20.48.090
Health/Fitness Facilities					
Small—2,000 sq. ft. or less	P	P	MUP	P	

Large—Over 2,000 sq. ft	CUP	CUP	—	CUP	
Laboratories	—	—	P	—	
Maintenance and Repair Services	P	P	—	P	
Marine Services					
Entertainment and Excursion Services	P	P	—	P	Title 17
Marine Service Stations	CUP	—	—	—	
Personal Services					
Massage Establishments	MUP	MUP	MUP	MUP	Chapter 5.50 Section 20.48.120
Massage Services, Accessory	MUP	MUP	MUP	MUP	Section 20.48.120
Nail Salons	P	P	P	P	
Personal Services, General	P	P	P	P	
Personal Services, Restricted	MUP	MUP	MUP	MUP	
Studio	MUP	MUP	MUP	MUP	
Postal Services	P	P	P	P	
Printing and Duplicating Services	P	P	P	P	
Smoking Lounges	—	—	—	—	
Visitor Accommodations					
Hotels, Motels, and Time Shares	CUP	CUP	—	CUP	
Bed and Breakfast Inns	—	CUP	—	—	
Transportation, Communications, and Infrastructure Uses					
Parking Facility	MUP	MUP	MUP (2)	MUP (2)	
Marinas	Title 17				
Marina Support Facilities	MUP	MUP	—	MUP	
Utilities, Minor	P	P	P	P	
Utilities, Major	CUP	CUP	CUP	CUP	

Wireless Telecommunication Facilities	MUP/CUP/LTP	MUP/CUP/LTP	MUP/CUP/LTP	MUP/CUP/LTP	Chapter 20.49
~~Wireless Telecommunication Facilities~~	~~Chapter 15.70~~				
Vehicle Rental, Sale, and Service Uses					
Vehicle/Equipment Rentals					
Office Only	P	P	P	P	
Limited (no outdoor storage)	—	MUP	—	—	
Vehicle/Equipment Repair					
Limited	—	MUP	—	—	
Vehicle Sales	—	CUP	—	—	
Vehicle Sales, Office Only	P	P	P	—	
Vehicle/Equipment Services					
Automobile Washing	—	CUP	—	—	
Service Stations	—	CUP	—	—	Section 20.48.210
Other Uses					
Accessory Structures and Uses	MUP	MUP	MUP	MUP	
Outdoor Storage and Display	MUP	MUP	MUP	MUP	Section 20.48.140
Personal Property Sales	P	P	P	P	Section 20.48.150
Special Events	Chapter 11.03				
Temporary Uses	LTP	LTP	LTP	LTP	Section 20.52.040

* Uses Not Listed. Land uses that are not listed in the table above, or are not shown in a particular zoning district, are not allowed, except as otherwise provided by Section 20.12.020 (Rules of Interpretation).

(1) Allowed only as part of a mixed-use development. Refer to Section 20.48.130 (Mixed-Use Projects) for additional development standards.

(2) Not allowed to front onto Coast Highway. Coast Highway frontage shall be limited to nonresidential uses. See Table 2-10 (Development Standards for Vertical and Horizontal Mixed-Use Zoning Districts).

(3) Not allowed on lots at street intersections unless part of a mixed-use or live-work structure.

(4) Late Hours. Facilities with late hours shall mean facilities that offer service and are open to the public after 11:00 p.m. any day of the week.

(5) Permitted or Minor Use Permit Required.

a. A minor use permit shall be required for any use located within five hundred (500) feet, property line to property line, of any residential zoning district.

b. A minor use permit shall be required for any use that maintains late hours.

(6) Properties fronting on Coast Highway shall be developed with nonresidential uses as allowed in Table 2-9. Properties to the rear of the commercial frontage may be developed for freestanding nonresidential uses, multi-unit residential dwelling units, or mixed-use structures that integrate multi-unit residential above the ground floor with nonresidential uses on the ground floor. See Table 2-10 (Development Standards for Vertical and Horizontal Mixed-Use Zoning Districts).

(7) Mixed-use or commercial structures are required on lots at street intersections and are allowed, but not required, on other lots.

TABLE 2-9 **ALLOWED USES AND PERMIT REQUIREMENTS**	**Mixed-Use Zoning Districts** **Permit Requirements**		
	P **CUP** **MUP** **LTP** **—**	**Permitted by Right** **Conditional Use Permit (Section 20.52.020)** **Minor Use Permit (Section 20.52.020)** **Limited Term Permit (Section 20.52.040)** **Not allowed ***	
Land Use **See Part 7 of this title for land use definitions.** **See Chapter 20.12 for unlisted uses.**	**MU-W1 (5)(6)**	**MU-W2**	**Specific Use Regulations**
Industry, Manufacturing and Processing, Warehousing Uses			
Handicraft Industry	P	P	
Industry, Marine-Related	P	P	
Research and Development	P	P	

Recreation, Education, and Public Assembly Uses			
Assembly/Meeting Facilities			
Small—5,000 sq. ft. or less (religious assembly may be larger than 5,000 sq. ft.)	CUP	CUP	
Commercial Recreation and Entertainment	CUP	CUP	
Cultural Institutions	P	P	
Parks and Recreational Facilities	CUP	CUP	
Schools, Public and Private	CUP	CUP	
Residential Uses			
Single-Unit Dwellings			
Located on 1st floor	—	—	
Located above 1st floor	P (1)	P (2)	Section 20.48.130
Multi-Unit Dwellings			
Located on 1st floor	—	—	
Located above 1st floor	P (1)	P (2)	Section 20.48.130
Two-Unit Dwellings			
Located on 1st floor	—	—	
Located above 1st floor	P (1)	P (2)	
Home Occupations	P	P (2)	Section 20.48.110
Care Uses			
Adult Day Care			
Small (6 or fewer)	P	P	
Child Day Care			
Small (8 or fewer)	P	P	Section 20.48.070
Day Care, General	—	MUP	Section 20.48.070
Retail Trade Uses			
Alcohol Sales (off-sale)	MUP	MUP	Section 20.48.030

Alcohol Sales (off-sale), Accessory Only	P	P	
Marine Rentals and Sales			
Boat Rentals and Sales	P	P	
Marine Retail Sales	P	P	
Retail Sales	P	P	
Visitor-Serving Retail	P	P	
Service Uses—Business, Financial, Medical, and Professional			
ATMs	P	P	
Emergency Health Facilities/Urgent Care	—	P	
Financial Institutions and Related Services (above 1st floor only)	P	P	
Offices—Business	P	P	
Offices—Medical and Dental (above 1st floor only)	—	P	
Offices—Profession	P	P	
Service Uses—General			
Animal Retail Sales	MUP	MUP	Section 20.48.050
Artists' Studios	P	P	
Eating and Drinking Establishments			
Accessory Food Service (open to public)	P	P	Section 20.48.090
Fast Food (no late hours) (3)(4)	P/MUP	P/MUP	Section 20.48.090
Fast Food (with late hours) (3)	MUP	MUP	Section 20.48.090
Food Service (no alcohol, no late hours) (3)(4)	P/MUP	P/MUP	Section 20.48.090
Food Service (no late hours) (3)	MUP	MUP	Section 20.48.090
Food Service (with late hours) (3)	CUP	CUP	Section 20.48.090
Take-Out Service—Limited (3) (4)	P/MUP	P/MUP	Section 20.48.090

Health/Fitness Facilities			
Small—2,000 sq. ft. or less	P	P	
Maintenance and Repair Services	P	P	
Marine Services			
Boat Storage	CUP	CUP	
Boat Yards	CUP	CUP	
Entertainment and Excursion Services	P	P	
Marine Service Stations	CUP	CUP	
Water Transportation Services	P	P	
Personal Services			
Massage Establishments	MUP	MUP	Chapter 5.50 Section 20.48.120
Massage Services, Accessory	MUP	MUP	Section 20.48.120
Nail Salons	P	P	
Personal Services, General	P	P	
Personal Services, Restricted	MUP	MUP	
Smoking Lounges	—	—	
Visitor Accommodations			
Hotels, Motels, Bed and Breakfast Inns, and Time Shares	CUP	CUP	
Transportation, Communications, and Infrastructure			
Parking Facilities	MUP	MUP	
Communication Facilities	P	P	
Heliports and Helistops (7)	CUP	CUP	
Marinas	Title 17		
Marina Support Facilities	MUP	MUP	
Utilities, Minor	P	P	
Utilities, Major	CUP	CUP	
Wireless Telecommunication Facilities	MUP/CUP/LTP	MUP/CUP/LTP	Chapter 20.49
~~Wireless Telecommunication Facilities~~	~~Chapter 15.70~~		

Other Uses			
Accessory Structures and Uses	MUP	MUP	
Outdoor Storage and Display	MUP	MUP	Section 20.48.140
Personal Property Sales	P	P	Section 20.48.150
Special Events	Chapter 11.03		
Temporary Uses	LTP	LTP	Section 20.52.040

* Uses Not Listed. Land uses that are not listed in the table above, or are not shown in a particular zoning district, are not allowed, except as otherwise provided by Section 20.12.020 (Rules of Interpretation).

(1) May only be located on lots with a minimum of two hundred (200) lineal feet of frontage on Coast Highway. Refer to Section 20.48.130 (Mixed-Use Projects) for additional development standards.

(2) May only be located above a commercial use and not a parking use. Refer to Section 20.48.130 (Mixed-Use Projects) for additional development standards.

(3) Late Hours. Facilities with late hours shall mean facilities that offer service and are open to the public past 11:00 p.m. any day of the week.

(4) Permitted or Minor Use Permit Required.

a. A minor use permit shall be required for any use located within five hundred (500) feet, property line to property line, of any residential zoning district.

b. A minor use permit shall be required for any use that maintains late hours.

(5) Approval of a minor site development review, in compliance with Section 20.52.080, shall be required prior to any development to ensure that the uses are fully integrated and that potential impacts from their differing activities are fully mitigated.

(6) A minimum of fifty (50) percent of the square footage of a mixed-use development shall be used for nonresidential uses.

(7) Applicants for City approval of a heliport or helistop shall provide evidence that the proposed heliport or helistop complies fully with State of California permit procedures and with any and all conditions of approval imposed by the Federal Aviation Administration (FAA), the Airport Land Use Commission for Orange County (ALUC), and by the Caltrans Division of Aeronautics.

A. 20.24.020 Industrial Zoning District Land Uses and Permit Requirements.

A. Allowed Land Uses. Table 2-12 indicates the uses allowed within each zoning district and the permit required to establish each use, in compliance with Part 5 of this title (Planning Permit Procedures).

B. Prohibited Land Uses. Any table cell with "—" means that the listed land use is prohibited in that specific zoning district.

C. Applicable Regulations. The last column in the tables ("Specific Use Regulations") may include a reference to additional regulations that apply to the use.

TABLE 2-12 ALLOWED USES AND PERMIT REQUIREMENTS	**Industrial Zoning District Permit Requirements**	
	P	**Permitted by Right**
	CUP	**Conditional Use Permit (Section 20.52.020)**
	MUP	**Minor Use Permit (Section 20.52.020)**
	LTP	**Limited Term Permit (Section 20.52.040)**
	—	**Not allowed ***
Land Use **See Part 7 of this title for land use definitions.** **See Chapter 20.12 for unlisted uses.**	**IG**	**Specific Use Regulations**
Industry, Manufacturing and Processing, Warehousing Uses		
Food Processing	P	
Handicraft Industry	P	
Industry		
Small—10,000 sq. ft. or less	P	
Large—Over 10,000 sq. ft.	MUP	
Personal Storage (Mini Storage)	MUP	
Research and Development, General	P	
Research and Development, Restricted	MUP	
Warehousing		
Small—10,000 sq. ft. or less	P	

Large—Over 10,000 sq. ft	MUP	
Wholesaling	P	
Recreation, Education, and Public Assembly Uses		
Assembly/Meeting Facilities	CUP	
Retail Trade Uses		
Alcohol Sales (off-sale)	MUP	Section 20.48.030
Alcohol Sales (off-sale), Accessory Only	P	
Building Materials and Services	P	
Contractor's Storage Yards	MUP	
Marine Rentals and Sales		
Boat Rentals and Sales	MUP	
Marine Retail Sales	P	
Retail Sales	P	
Service Uses—Business, Financial, Medical, and Professional		
ATMs	P	
Offices—Business and Professional	P	
Service Uses—General		
Ambulance Services	P	
Animal Sales and Services		
Animal Boarding/Kennels	MUP	Section 20.48.050
Animal Grooming	P	Section 20.48.050
Animal Hospitals/Clinics	MUP	Section 20.48.050
Animal Retail Sales	P	Section 20.48.050
Catering Services	P	
Eating and Drinking Establishments		
Take-Out Service—Limited	P	Section 20.48.090
Funeral Homes and Mortuaries	CUP	
Health/Fitness Facilities		
Small—2,000 sq. ft. or less	P	
Large—Over 2,000 sq. ft.	MUP	
Laboratories	P	

Maintenance and Repair Services	P	
Marine Services		
Boat Storage	MUP	
Boat Yards	MUP	
Personal Services		
Studios	P	
Postal Services	P	
Printing and Duplicating Services	P	
Recycling Facilities		
Collection Facility—Large	CUP	Section 20.48.160
Collection Facility—Small	MUP	Section 20.48.160
Transportation, Communications, and Infrastructure Uses		
Communication Facilities	P	
Heliports and Helistops (1)	CUP	
Parking Facilities	P	
Utilities, Minor	P	
Utilities, Major	CUP	
Wireless Telecommunication Facilities	MUP/CUP/LTP	Chapter 20.49
~~Wireless Telecommunication Facilities~~	~~Chapter 15.70~~	
Vehicle Rental, Sale, and Service Uses		
Vehicle/Equipment Rentals		
Office Only	P	
Limited	P	
Vehicles for Hire	CUP	
Vehicle/Equipment Rentals and Sales	MUP	
Vehicle/Equipment Repair		
General	CUP	
Limited	MUP	
Vehicle/Equipment Services		
Automobile Washing/Detailing	MUP	
Service Stations	CUP	Section 20.48.210

Vehicle Storage	MUP	
Other Uses		
Accessory Structures and Uses	P	
Caretaker Residence	P	
Drive-Through Facilities	CUP	Section 20.48.080
Outdoor Storage and Display	MUP	Section 20.48.140
Special Events	Chapter 11.03	
Temporary Uses	LTP	Section 20.52.040

* Uses Not Listed. Land uses that are not listed in the table above, or are not shown in a particular zoning district, are not allowed, except as otherwise provided by Section 20.12.020 (Rules of Interpretation).

(1) Applicants for City approval of a heliport or helistop shall provide evidence that the proposed heliport or helistop complies fully with State of California permit procedures and with any and all conditions of approval imposed by the Federal Aviation Administration (FAA), the Airport Land Use Commission for Orange County (ALUC), and by the Caltrans Division of Aeronautics.

A. 20.26.020 Special Purpose Zoning Districts Land Uses and Permit Requirements.

A. Allowed Land Uses. Table 2-14 indicates the uses allowed within each zoning district and the permit required to establish each use, in compliance with Part 5 of this title (Planning Permit Procedures).

B. Prohibited Land Uses. Any table cell with "—" means that the listed land use is prohibited in that specific zoning district.

C. Applicable Regulations. The last column in the tables ("Specific Use Regulations") may include a reference to additional regulations that apply to the use.

TABLE 2-14 ALLOWED USES AND PERMIT REQUIREMENTS	**Special Purpose Zoning Districts** **Permit Requirements** **P Permitted by Right** **CUP Conditional Use Permit (Section 20.52.020)** **MUP Minor Use Permit (Section 20.52.020)** **LTP Limited Term Permit (Section 20.52.040)** **— Not allowed ***				
Land Use **See Part 7 of this title for land use definitions.** **See Chapter 20.12 for unlisted uses.**	**OS**	**PF**	**PI**	**PR**	**Specific Use Regulations**
Recreation, Education, and Public Assembly Uses					
Assembly/Meeting Facilities	—	MUP	MUP	MUP	
Commercial Recreation and Entertainment	—	—	MUP	CUP	
Cultural Institutions	—	MUP	MUP	MUP	
Parks and Recreational Facilities					
Active	—	MUP	MUP	MUP	
Passive	MUP	MUP	MUP	MUP	
Marine and Wildlife Preserves	MUP	—	—	—	
Schools, Public and Private	—	MUP	MUP	—	
Care Uses					

Congregate Care Home	—	—	MUP	—	
Convalescent Facilities	—	—	MUP	—	
Day Care, General	—	MUP	MUP	—	Section 20.48.070
Emergency Health Facility/Urgent Care	—	—	MUP	—	
Hospital	—	—	MUP	—	
Residential Care, Accessory Use Only	—	MUP	MUP	—	
Retail Trade Uses					
Alcohol Sales (on-sale), Accessory Only	—	—	MUP	CUP	
Service Uses—General					
Eating and Drinking Establishments					
Accessory (open to public)	—	—	MUP	MUP	Section 20.48.090
Emergency Shelters	—	—	P	—	Section 20.48.100
Governmental Facilities	—	MUP	—	MUP	
Marine Services—Boat Storage and Boat Yard, Accessory Only	—	MUP	MUP	MUP	
Transportation, Communications, and Infrastructure					
Parking Facilities, Accessory Only	—	MUP	MUP	MUP	
Heliports and Helistops (1)	—	MUP	—	—	
Marinas	MC Title 17				
Marina Support Facilities	—	MUP	MUP	MUP	
Utilities, Minor	P	P	P	P	
Utilities, Major	CUP	CUP	CUP	CUP	
Wireless Telecommunication Facilities	— (2)	MUP/CUP/LTP	MUP/CUP/LTP	MUP/CUP/LTP	Chapter 20.49
~~Wireless Telecommunication Facilities~~	~~Chapter 15.70~~				

Other Uses					
Accessory Structures and Uses	MUP	MUP	MUP	MUP	
Special Events	Chapter 11.03				
Temporary Uses	LTP	LTP	LTP	LTP	Section 20.52.040

* Uses Not Listed. Land uses that are not listed in the table above, or are not shown in a particular zoning district, are not allowed, except as otherwise provided by Section 20.12.020 (Rules of Interpretation).

(1) Applicants for City approval of a heliport or helistop shall provide evidence that the proposed heliport or helistop complies fully with State of California permit procedures and with any and all conditions of approval imposed by the Federal Aviation Administration (FAA), the Airport Land Use Commission for Orange County (ALUC), and by the Caltrans Division of Aeronautics.

(2) Wireless Telecommunication Facilities are prohibited in the OS Zoning District unless collocated on an existing Utility Tower within a utility easement area, or collocated on an existing Telecom Facility (Section 20.49.050.B)

Attachment No. PC 2

Summary of Proposed Changes to
Telecom Ordinance

ATTACHMENT No. PC 2

Summary of Proposed Changes to Telecom Ordinance

Existing Section **Proposed Section**	**Proposed Changes/Comments**
15.70.010 Purpose and Intent *Replaced by* 20.49.010 Purpose and Intent	No policy change; minor wording changes to state the provisions of this Chapter apply to all providers and operators of wireless services whether authorized by state or federal regulations.
15.70.020 General Provisions *Replaced by* 20.49.020 General Provisions	• Revised to require an application for a conditional use permit (CUP), minor use permit (MUP), or limited term permit for any telecom facility, depending on method of installation, or duration of telecom facility. • Revised to include requirement for encroachment permits for facilities located in the public right-of-way. • Revised to include requirement of a license agreement for any facility located on City-owned property. • Updated to identify types of facilities that are exempt from regulations of this Chapter. Includes exemption of systems installed or operated by the City (as currently provided for in existing Section 15.70.110). • Provision added regarding legal nonconforming facilities.
15.70.030 Definitions *Replaced by* 20.49.030 Definitions	• Definitions added to reflect current industry standards (words such as “base station,” “wireless tower,” or “distributed antenna system (DAS)”). • Definitions updated to ensure consistency with Chapter 13.20 (Public Rights-of-Way) of the NBMC. • Definitions added to identify types of telecom facilities as an antenna class based on aesthetic impacts and method of installation.
15.70.040 Available Technology *Replaced by* 20.49.040 Available Technology	No policy change; minor wording changes only.
15.70.050 Height and Location *Replaced by* 20.49.050 Location Preferences	• Height regulations moved to “Development and Design Standards” in proposed Section 20.49.060 (page 2).
	• Location categories (such as a “wall, roof or existing co-location structure or site”) identified as a new distinct antenna class. Examples of typical telecom facilities provided for each antenna class. • Minor changes to priority order of location preference of a telecom facility, based on antenna class. • Prohibited locations updated to prohibit telecom facilities on single-family development, two-family development, or multi-unit residential developments consisting of 4 dwelling units or less. Exception to allow telecom facilities in an Open Space zoning district when collocated on an existing nonconforming telecom facility or site. • Regulations for installations in the public right-of-way added.

Existing Section **Proposed Section**	**Proposed Changes/Comments**

15.70.060 Design Standards
Replaced by
20.49.060 General Development and Design Standards
	• Height regulations moved to this section (from existing Section 15.70.050).
	• Height subsection revised to allow telecom facility antennas, equipment, or screen structures to be installed:
	  • up to 5 feet above base height limit for the zoning district in which the telecom facility is located with approval of MUP, or
	  • up to the maximum height limit with approval of a CUP.
	For example, for a commercial retail zoning district within the Shoreline Height Limit Zone, the base height limit is 26 feet with a flat roof, or 31 feet with a sloped roof, and the maximum height limit is 35 feet with a flat roof, or 40 feet with a sloped roof. The existing telecom ordinance allows antennas to be installed up to the maximum height limit, or in this example up to 35 feet if disguised or screened within a flat roof structure or 40 feet if disguised or screened within a sloped roof structure.
	• Provision added to require telecom facilities to comply with Airport Environs Land Use Plan and Airport Land Use Commission review requirements.
	• Setback requirements updated to require an additional setback or "fall zone" for ground-mounted "wireless towers" in the event of involuntary damage, which would be the greater distance of either the required setback established by the Zoning Code or 110% of the height of the "wireless tower."
	• Detailed design and screening techniques added based on antenna class.
	• Requirement added for evaluation of potential impacts to public views.
	• Maintenance requirements added.

15.70.070 Permit Review Procedures *Replaced by* 20.49.070 Permit Review Procedures	• Table added to reflect type of permit required based on location of facility, and antenna class (i.e., MUP, CUP, or LTP). • Public notice and public hearing requirements added, consistent with Chapter 20.62 of the Zoning Code. All applications for a telecom facility require a public hearing before the Zoning Administrator or Planning Commission, with appeal provisions to the City Council. • Findings for telecom facilities added, including additional findings for applications which request to exceed height limits.
15.70.080 Radiation Report	• Radiation report requirements moved to proposed Section 20.49.110 (page 3).
Proposed New Section 20.49.080 Permit Implementation, Time Limits, Duration, and Appeals	• Process for implementation of permits, time limits, and extensions for telecom facilities added, consistent with Chapter 20.54 of Zoning Code. • Appeal procedures consistent with Chapter 20.64 of the Zoning Code added, allowing any interested party to appeal a decision on an application.
15.70.090 Right to Review or Revoke Permit	• Regulations regarding the right to remove or revoke a telecom permit granted by the City revised and moved to proposed Section 20.49.120 (page 3). • Regulations regarding changed circumstances updated and moved to proposed Section 20.49.100 (page 3).

Existing Section **Proposed Section**	**Proposed Changes/Comments**
Proposed New Section 20.49.090 Agreement for Use of City-owned or City-held Trust Property	• Proposed Section 20.49.090 added, requiring a license agreement for any telecom facility located on City property. • Procedure for processing license agreements described in Council Policy L-23.
15.70.100 Removal of Telecom Facilities	• Section 15.70.100 moved to proposed Section 20.49.130 (below).
Proposed New Section 20.49.100 Modification of Existing Telecom Facilities	• Proposed Section 20.49.100 added to provide regulations consistent with federal law for modifications to existing telecom facilities. • Modifications to existing facilities that do not "substantially change the physical dimensions" of the telecom facility are subject to a ministerial review and approval and do not require processing of a discretionary permit, as required by federal regulations. • Changes to existing facilities that meet the criteria of "substantially change the physical dimensions" by increasing or decreasing by 5% or more the height, width, or depth in any direction of any portion of the existing "wireless tower" or "base station" will require the processing of a new discretionary permit.
15.70.110 Exemption for City Systems	• Section 15.70.110 (Exemption for City Systems) relocated and updated in proposed Section 20.49.020 (General Provisions).
Proposed New Section 20.49.110 Operational and Radio Frequency Compliance and Radiation Report	• Radiation report requirements unchanged from existing Section 15.70.080. • Provision added to require compliance with the most current regulatory and operational standards adopted by the FCC. • Provision added to require an updated RF compliance report be prepared and submitted upon any proposed increase of at least 10% in effective radiated power or change in frequency use of the telecom facility.
Proposed New Section 20.49.120 Right to Review or Revoke Permit	• Moved from existing Section 15.70.090 to proposed new section. • Provisions regarding "changed circumstance" (subsection A.) deleted. • No policy change or revisions to provision regarding right to revoke or modify permit (subsection B.).
Proposed New Section 20.49.130 Removal of Telecom Facilities	• Moved from existing Section 15.70.100 to this proposed new section. • No policy change; minor revisions to text providing Community Development Director the ability to exercise discretion as to what constitutes a "reasonable period of time" when an operator proposes to transfer rights to another operator.

The “Allowed Uses and Permit Requirements” tables in the following sections of the Zoning Code would be updated to reflect the zoning districts in which telecom facilities are allowed and the permit required to establish a telecom facility. Under the existing and proposed telecom ordinance, telecom facilities are allowed in all commercial, mixed-use, and industrial zoning districts, as well as on properties zoned for public facilities, private institutions, and active public or private recreational uses.

Table	**Existing Code Section**
Table 2-1 Residential Zoning Districts	Section 20.18.020 – Residential Zoning Districts Land Uses and Permit Requirements
Table 2-4 Commercial Office Zoning Districts Table 2-5 Commercial Retail Zoning Districts	Section 20.20.020 – Commercial Zoning Districts Land Uses and Permit Requirements
Tables 2-8 and 2-9 Mixed-Use Zoning Districts	Section 20.22.020 – Mixed-Use Zoning Districts Land Uses and Permit Requirements
Table 2-12 Industrial Zoning District	Section 20.24.020 – Industrial Zoning Districts Land Uses and Permit Requirements
Table 2-14 Special Purpose Zoning Districts	Section 20.26.020 – Special Purpose Zoning Districts Land Uses and Permit Requirements

Attachment No. PC 3

Existing Chapter 15.70

Chapter 15.70
WIRELESS TELECOMMUNICATION FACILITIES

Sections:

15.70.010 Purpose and Intent.
15.70.020 General Provisions.
15.70.030 Definitions.
15.70.040 Available Technology.
15.70.050 Height and Location.
15.70.060 Design Standards.
15.70.070 Permit Review Procedures.
15.70.080 Radiation Report.
15.70.090 Right to Review or Revoke Permit.
15.70.100 Removal of Telecom Facilities.
15.70.110 Violation a Misdemeanor.

15.70.010 Purpose and Intent.

A. Purpose. The purpose of this chapter is to provide for wireless telecommunication ("telecom") facilities on public and private property consistent with federal law while ensuring public safety, reducing the visual effects of telecom equipment on public streetscapes, protecting scenic, ocean and coastal views, and otherwise mitigating the impacts of such facilities. More specifically, the regulations contained herein are intended to:

1. Encourage the location of antennas in non-residential areas.

2. Strongly encourage co-location at new and existing antenna sites.

3. Encourage telecom facilities to be located in areas where adverse impacts on the community and on public views are minimized.

B. The provisions of this chapter are not intended and shall not be interpreted to prohibit or to have the effect of prohibiting telecom services. This chapter shall not be applied in such a manner as to unreasonably discriminate among providers of functionally equivalent telecom services. (Ord. 2002-24 § 1 (part), 2002)

15.70.020 General Provisions.

A. Applicability. These regulations are applicable to telecom facilities providing voice and/or data transmission such as, but not limited to, cell phone and radio relay stations.

B. Exempt Facilities. Amateur radio and receiving satellite dish antennas regulated by Chapter 20.6l are exempt from the provisions of this chapter.

C. Permit Required. A permit shall be required for all telecom facilities regulated by this chapter in accordance with Section 15.70.070.

D. Other Regulations. All telecom facilities within the City shall comply with the provisions of this chapter and the following requirements:

1. Conditions in any permit or license issued by a local, state or federal agency which has jurisdiction over the telecom facility.

2. Rules, regulations and standards of the Federal Communications Commission (FCC) and the California Public Utilities Commission (CPUC).

3. Easements, covenants, conditions or restrictions on the underlying real property.

4. The Uniform Building Code, Uniform Fire Code, Uniform Mechanical Code and National Electrical Code, as amended by state or local law or regulation.

5. The provisions of Title 13 to the extent the telecom facilities are proposed to be located on or within the public right of way.

E. Regulations not in Conflict or Preempted. All telecom facilities within the City shall comply with the following requirements unless in conflict with or preempted by the provisions of this chapter:

1. Design guidelines or standards in any applicable specific plan within the Newport Beach Zoning Code (Title 20).

2. Requirements established by any other provision of the Municipal Code or by any other ordinance or regulation of the City, other than those listed in paragraph D of this section.

F. Setbacks. Setbacks shall be measured from the part of the telecom facility closest to the applicable lot line or structure.

G. Maintenance. The telecom operator shall maintain the telecom facility in a manner consistent with the original approval of the facility.

H. Non-Conformities. A proposed telecom facility shall not create any new or increased non-conformities as defined in the Zoning Code, such as, but not limited to, a reduction in and/or elimination of, parking, landscaping, or loading zones. (Ord. 2002-24 § 1 (part), 2002)

15.70.030 Definitions.

For the purposes of this chapter, certain terms shall have meanings as follows:

A. Antenna means a device used to transmit and/or receive radio or electromagnetic waves between earth and/or satellite-based systems, such as reflecting discs, panels, microwave dishes, whip antennas, antennas, arrays, or other similar devices.

B. Antenna Array shall mean antennas having active elements extending in more than one direction, and directional antennas mounted upon and rotated through a vertical mast or tower interconnecting the beam and antenna support, all of which elements are deemed to be part of the antenna.

C. City means the City of Newport Beach.

D. City Council or Council means the City Council of the City of Newport Beach.

E. City Property means all real property and improvements owned, operated or controlled by City, other than public right of way, within the City's jurisdiction. City Property includes, but is not limited to City Hall, Police and Fire facilities, recreational facilities, parks, libraries, streetlights and traffic lights.

F. Co-location means an arrangement whereby multiple telecom facilities owned or operated by different telecom operators share the same structure or site.

G. Department Director or Reviewing Department Director means either the Planning Director or the Public Works Director, as applicable.

H. FCC means the Federal Communications Commission.

I. Feasible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account environmental, physical, legal and technological factors.

J. Lattice Tower means an open framework structure used to support antennas, typically with three or four support legs.

K. Monopole means a single free-standing pole used to act as or support a telecom antenna or antenna arrays.

L. Operator or Telecom Operator means any person, firm, corporation, company, or other entity that directly or indirectly owns, leases, runs, manages, or otherwise controls a telecom facility or facilities within the City.

M. Planning Director means the Planning Director of the City or his or her designee.

N. Public Right of Way or ("PROW") means any public way, or rights-of-way, now laid out or dedicated, and the space on, above or below it, and all extensions thereof and additions thereto, owned, operated and/or controlled by the City or subject to an easement owned by City. PROW includes public streets, roads, lanes, alleys, sidewalks, medians, parkways and landscaped lots.

O. Public Works Director means the Public Works Director of the City or his or her designee.

P. Residential Lot means a lot containing, or zoned for, one or more dwelling units in the R-1, R-1.5, R-2, or in the residential portions of the PC or SP Districts.

Q. Reviewing Authority means the person or body authorized under the provisions of this chapter to review and act upon a telecom application, i.e. either a specified staff department director or the City Council.

R. Stealth or Stealth Facility means a telecom facility in which the antenna, and sometimes the support equipment, are hidden from view in a false tree, monument, cupola, or other concealing structure which either mimics, or which also serves as, a natural or architectural feature. Concealing structures which are obviously not such a natural or architectural feature to the average observer do not qualify within this definition.

S. Support Equipment means the physical, electrical and/or electronic equipment included within a telecom facility used to house, power, and/or process signals from or to the facility's antenna or antennas.

T. Telecommunication(s) Facility, Telecom Facility, Wireless Telecommunications Facility, or simply Facility means an installation that sends and/or receives wireless radio frequency signals or electromagnetic waves, including but not limited to directional, omni directional and parabolic antennas, structures or towers to support receiving and/or transmitting devices, supporting equipment and structures, and the land or structure on which they are all situated. The term does not include mobile transmitting devices, such as vehicle or hand held radios/telephones and their associated transmitting antennas.

U. Title 20 or Zoning Code means Title 20 of the Newport Beach Municipal Code.

V. Utility Tower shall mean an open framework structure or steel pole used to support electric transmission facilities.

W. Zoning District or District means an area of the City designated on the official Districting Maps and subject to a uniform set of permitted land uses and development standards. (Ord. 2002-24 § 1 (part), 2002)

15.70.040 Available Technology.

All telecom facilities approved under this Chapter shall utilize the most efficient and diminutive available technology in order to minimize the number of facilities and reduce their visual impact. (Ord. 2002-24 § 1 (part), 2002)

15.70.050 Height and Location.

A. Height.

1. Maximum Height. No antenna or other telecom equipment or screening structure shall extend higher than the following maximum height limits:

a. Thirty-five (35) feet for antennas on streetlights, traffic control standards, utility distribution poles, or other similar structures within the public right-of-way. Antennas may be placed on existing utility poles that exceed thirty-five (35) feet, where the purpose of the existing utility pole is to carry electricity, provided that the top of the antenna does not exceed the top of the pole.

b. For all other telecom facilities, the maximum height of antennas shall be the upper maximum building height allowed in the zoning district as specified in the Zoning Code (for example, no higher than thirty-five (35) feet in the "26/35 Foot Height Limitation Zone").

2. Over-Height Antennas. The City Council may approve antennas up to fifteen (15) feet above the preceding maximum building height limitations under the special review provisions of Section 15.70.070 of this Chapter.

3. "Stealth" Telecommunication Installations within Structures. Stealth facilities may be installed within structures that are permitted to exceed the above stated height limits, either by right under Title 20 or which have received a Use Permit.

B. Location.

1. Location Categories and Location Priorities. Locations for telecom facilities shall be selected according to the following priority order:

a. Wall, roof or existing co-location structure or site;

b. Existing pole, light standard, or utility tower;

c. Commercial sign or architectural feature;

d. New or existing "stealth" structure other than a false tree;

e. New false tree;

f. New "Slim Jim" monopole (i.e. with no antenna elements other than the pole itself);

g. New standard monopole with attached antenna elements;

h. New lattice tower.

2. Special Requirements. Proposals for telecom facilities at location categories "e" through "h" in Section 15.070.050B(1) shall require special review by the City Council under the provisions

of Section 15.70.070 of this chapter. In such cases, the applicant shall be required to show to the satisfaction of the Council that:

a. Higher priority locations are either not available or are not feasible;

b. Establishment of a facility on a new standard monopole or lattice tower is necessary to provide service; and

c. Lack of such a facility would result in a denial of service.

3. Other Locations Requiring Special Approval. Telecom facilities are prohibited in the following locations unless given special approval by the City Council under the provisions of Section 15.70.070:

a. On common area lots or other non-residential lots within residential districts.

b. Within any required setback established in the Zoning Code.

c. On multifamily structures on lots zoned MFR.

4. Prohibited Locations. Telecom facilities are prohibited in the following locations:

a. On residential lots.

b. In the Open Space-Passive (OSP) zoning district, unless facilities are co-located on an existing utility tower within a utility easement area.

C. Co-Location Requirements.

1. Co-Location Required. To limit the adverse visual effects of a proliferation of telecom sites in the City, a new telecom facility proposed within one thousand (1000) feet of an existing facility shall be required to co-locate on the same site as the existing facility unless the reviewing authority determines, based on evidence submitted by the applicant, that such co-location is not feasible.

2. Co-Location Limitations. No more than three telecom facilities may co-locate at a single site unless the reviewing authority finds that:

a. The net visual effect of locating an additional facility at a co-location site will be less than establishing a new location; or

b. Based on evidence submitted by the applicant, there is no available feasible alternate location for a proposed new facility.

3. Condition Requiring Future Co-Location. In approving a telecom facility, the reviewing authority may impose a condition of approval allowing future co-location of telecom facilities by other carriers at the same site. (Ord. 2002-24 § 1 (part), 2002)

15.70.060 Design Standards.

A. General Criteria. In addition to the other design standards of this Section, the following criteria shall be considered by the reviewing authority in connection with its processing of any telecom permit.

1. Blending. The extent to which the proposed facility blends into the surrounding environment or is architecturally integrated into structure.

2. Screening. The extent to which the proposed facility is concealed, screened or camouflaged by existing or proposed new topography, vegetation, buildings or other structures.

3. Size. The total size of the proposed facility, particularly in relation to surrounding and supporting structures.

B. Free-Standing Antennas. Antennas and any poles or other structures erected to support antennas shall be visually compatible with surrounding buildings and vegetation. The reviewing authority may require that the antenna be colored to blend into the sky or other background.

C. Roof-Mounted Antennas. Roof-mounted antennas, except whip antennas, shall be blended or screened from public view in a manner consistent with the building's architectural style, color and materials including, if determined necessary by the reviewing authority, screening to avoid adverse impacts to views from land or buildings at higher elevations.

D. Wall-Mounted Antennas. Wall-mounted antennas shall be painted to match the color of the wall on which they are mounted. Cables and mounting brackets shall be hidden. Shrouds may be required by the reviewing authority to screen wall-mounted antennas.

E. Support Equipment.

1. Building-Mounted Installations. For building-mounted installations, support equipment for the facility shall be placed within the building. If the reviewing authority determines that such building placement is not feasible, the equipment shall be roof-mounted in an enclosure or shall otherwise be screened from public view in a manner approved by the reviewing authority. Roof-mounted equipment shall comply with the height limits applicable to the building per the Zoning Code. All screening used in connection with a building-mounted facility shall be compatible with the architecture, color, texture and materials of the building to which it is mounted.

2. Ground-Mounted Installations. For ground-mounted installations, support equipment shall be screened in a security enclosure approved by the reviewing authority. Such screening enclosures may utilize graffiti-resistant and climb-resistant vinyl-clad chain link with a "closed-

mesh" design (i.e. one-inch gaps) or may consist of an alternate enclosure design approved by the reviewing authority. In general, the screening enclosure shall be made of non-reflective material and painted or camouflaged to blend with surrounding materials and colors. Buffer landscaping may also be required if the reviewing authority determines that additional screening is necessary due to the location of the site and that irrigation water is available.

3. Installations in Public Right-of-Way. Telecom Facilities and or support equipment proposed to be located in the public right-of-way shall comply with the provisions of Title 13. In addition, ground-mounted equipment in the public right-of-way shall comply with all requirements of the Americans with Disabilities Act (ADA).

F. Night Lighting. Telecom facilities shall not be lighted except for security lighting at the lowest intensity necessary for that purpose. Such lighting shall be shielded so that direct rays do not shine on nearby properties. The reviewing authority shall consult with the Police Department regarding proposed security lighting for telecom facilities on a case-by-case basis.

G. Signs and Advertising. No advertising signage or identifying logos shall be displayed on any telecom facility except for small identification, address, warning, and similar information plates. Such information plates shall be identified in the telecom application and shall be subject to approval by the reviewing authority. (Ord. 2002-24 § 1 (part), 2002)

15.70.070 Permit Review Procedures.

A. Reviewing Authority. All applicants for telecom facilities not within the public right-of-way shall apply for a permit from the Planning Department as follows:

1. Private or City-Owned Property. Facilities on private property or on City-owned property shall be reviewed by the Planning Director as a "Telecom Permit".

2. Referral to City Council. The Planning Director may refer any application to the City Council for special review under the procedures set out in Paragraph F of this Section.

B. Submission Requirements. Applications for telecom facilities shall be accompanied by the following documentation in a form and containing information acceptable to the reviewing authority:

1. Plans. Site Plans and Elevations drawn to scale.

2. Justification. A brief narrative, accompanied by written documentation where appropriate, which explains the purpose of the facility and validates the applicant's efforts to comply with the design, location, and co-location standards of this chapter.

3. Maps. A map or maps showing the geographic area to be served by the facility. In order to facilitate planning and gauge the need for future telecom facilities, the reviewing department

director may also require the operator to submit a comprehensive plan of the operator's existing and future facilities that are or may be placed within the city limits of Newport Beach.

4. Visual Simulations. Visual simulations showing "before" and "after" views of the proposed facility, unless the reviewing department director determines that such simulations are not necessary for the application in question. Consideration shall be given to views from both public areas and private residences.

5. Emission Standards and Non-Interference Data. Documentation showing the specific frequency range that the facility will use upon and throughout activation, certification that the facility will continuously comply with FCC emissions standards, and that use of the telecom facility will not interfere with other communication, radio, or television transmission or reception.

6. Property Ownership. Evidence of ownership of the real property on which the proposed telecom facility will be located, or if the applicant does not own the real property, the name and mailing address of the real property owner(s), and evidence of authorization from the real property owner to place the facility on the property.

7. Wind Load Calculations. For proposed antenna installations on new monopoles, utility poles, or other structures subject to wind loads, the applicant shall submit wind load calculations prepared or approved by an engineer registered in California. The wind load calculations shall show, to the satisfaction of the reviewing authority, that the resulting installation will be safe and secure under wind load conditions. The calculations shall take into account other existing attachments to the supporting structure and potential future antennas co-located on the structure by other operators.

8. Mailing List. If public notice is required by the reviewing authority, a list of property owners within three hundred (300) feet of the proposed telecom facility taken from the latest assessor rolls.

9. Supporting Materials. Additional supporting materials as deemed necessary by the reviewing department director to complete review of the proposal. Supporting materials may include, but are not limited to, color and material sample boards, proposed informational signage, and landscaping plans.

10. Fee. Applications shall be accompanied by a fee established by resolution of the City Council to defray all estimated costs and expenses incidental to review and processing of the application, including any expense incurred by the Police Department or for any outside technical or legal services to review the application. This fee shall be in addition to other fees required by the Municipal Code.

C. Review Process for Proposals on City Property. Review of telecom applications for facilities on City property shall be as follows:

1. Filing. Applications shall be submitted to the Planning Director for facilities on City property shall undergo initial staff review for compliance with the provisions of this Chapter and Title 13. Within thirty (30) days of filing, the reviewing department director shall notify the applicant in writing whether the application is complete. If an application is determined to be not complete, the notification shall identify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete.

2. Emergency Communications Review. At the same time as the Applicant submits an application to the Planning Director, the Applicant shall submit the Plans, Map, and Emission Standards and Non-Interference Data (parts 1, 3, and 5 of the Submission Requirements) to the Newport Beach Police Department. The Police Department or its designee shall review the plan's potential conflict with emergency communications. The review may include a pre-installation test of the facility to determine if any interference exists. If the Police Department determines that the proposal has a high probability that its facilities will interfere with emergency communications devices, the applicant shall be given the opportunity to modify the proposal, to avoid interference. If the proposal is not modified, the reviewing department director shall deny the proposal.

3. Director's Action. Within thirty (30) days of the determination that the application is complete, the Planning Director shall take action on the application based on the following criteria:

a. If the director determines that the facility conforms to the technology height, location and design standards of Sections 15.70.040, 15.70.050 and 15.70.060 of this chapter, he or she shall approve the application with or without conditions of approval.

b. If the director determines that the facility does not conform to one or more standards, he or she shall inform the applicant of the discrepancy and give the applicant the option of amending the application to eliminate the discrepancy. If the discrepancy is not eliminated, the director shall deny the application.

c. If the director determines that conformity to standards are in doubt, he or she shall refer the application to the City Council for Special Review under the procedures set out in Paragraph F of this Section.

4. Applicant Notification. After action on the application, the director shall cause the applicant to be notified in writing within five business days of the decision. The applicant may appeal decisions by the director in accordance with Paragraph E of this section.

5. City Manager Action. When a permit for a telecom facility on City-owned property or facilities is approved, the Planning Director shall forward the permit to the City Manager, who shall prepare and execute an Agreement based upon a term and rental amount adopted under City Council policy.

6. City Council Action. Where applicable (including proposals to site facilities in Location Categories in Section 15.70.050[B][1][e-h]), the City Manager shall forward the agreement and final telecom permit to the City Council for final approval. The City Council may approve, approve subject to modifications, or deny the agreement and telecom permit. The City Council retains the right to refuse approval of an agreement at any time and for any reason. Should the City Council deny the agreement, the agreement and permit shall not be executed.

7. Notification to Applicant. The City Clerk shall notify the applicant in writing within five business days of the City Council's decision.

D. Review Process for Private Property. Review of telecom applications for facilities on private property shall be as follows:

1. Filing. Submission of application to the Planning Director and initial staff review. Within thirty (30) days of filing, the Director shall cause the applicant to be notified in writing whether the application is complete. If an application is determined to be not complete, the notification shall identify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete.

2. Emergency Communications Review. At the same time as the Applicant submits an application to the Planning Director, the Applicant shall submit the Plans, Map, and Emission Standards and Non-Interference Data (parts 1, 3, and 5 of the Submission Requirements) to the Newport Beach Police Department. The Police Department or its designee shall review the plan's potential conflict with emergency communications. The review may include a pre-installation test of the facility to determine if any interference exists. If the Police Department determines that the proposal has a high probability that its facilities will interfere with emergency communications devices, the applicant shall work with the Police Department to modify the installation or location of facility to avoid interference to the maximum extent practicable.

3. Director's Action. Within thirty (30) days after the determination that the application is complete, the Planning Director shall approve, approve subject to conditions, or deny the telecom permit under the same procedures and criteria as set out in Paragraph C of this Section. The Director shall then cause the applicant to be notified in writing within five business days of the decision. The applicant may appeal decisions by the Director in accordance with Paragraph E of this Section.

E. Appeals to City Council. Within fourteen (14) days of the date of written notification of action by the reviewing department director, the applicant may appeal any denial of the application or any conditions of approval to the City Council. The City Council shall hear all appeals within sixty (60) days of filing of the appeal. The City Council's action on appeals shall be final. If the final action is denial, the City Council shall adopt a Resolution setting forth the reasons for denial.

F. Special Review by Council. Because of their potential for greater-than-usual visual or other impacts on nearby property owners, residents, and businesses, applications for the telecom facilities identified below shall require special review by the City Council.

1. Applicability. Proposals requiring special review include the following:

a. Telecom antennas up to fifteen (15) feet above the upper maximum height limit as provided in 15.70.050(A).

b. Telecom facilities at locations identified as requiring special review in Section 15.70.050(B).

c. Any telecom application which the department director determines requires special review in order to serve the public interest.

2. Special Review Procedures. Applications subject to special review shall be reviewed under the following procedures:

a. Notification describing the proposal and the date and time of City Council review shall be mailed at least ten (10) days in advance of the City Council review date to property owners of record within three hundred (300) feet of the proposed location of the telecom facility. However, such notification shall not constitute a public hearing notice and non-receipt of such notification shall in no way nullify any approval or denial of a telecom facility.

b. No formal public hearing shall be required in conjunction with review of a proposed telecom facility. However, the City Council may hear and consider comments from the public during its review of the application.

3. Council Action. The City Council shall take action on the telecom permit within sixty (60) days after the determination that the application is complete. Applications subject to special review may be approved by the City Council if it makes the following findings:

a. The approval is necessary to allow the facility to function as intended and identified alternatives to the proposal are not feasible.

b. The approved facility will not result in conditions which are materially detrimental to nearby property owners, residents, and businesses, nor to public health or safety.

The City Council may approve, approve subject to conditions, or deny the telecom permit.

4. Notification to Applicant. The City Clerk shall notify the applicant in writing within five business days of the City Council's decision. (Ord. 2002-24 § 1 (part), 2002)

15.70.080 Radio Frequency Compliance and Radiation Report.

Within thirty (30) days after installation of a telecom facility, a radio frequency (RF) compliance and radiation report prepared by a qualified RF engineer acceptable to the City shall be submitted in order to demonstrate that the facility is operating at the approved frequency and complies with FCC standards for radiation. If the report shows that the facility does not so comply, the reviewing director shall require that use of the facility be suspended until a new report has been submitted confirming such compliance. (Ord. 2002-24 § 1 (part), 2002)

15.70.090 Right to Review or Revoke Permit.

A. Changed Circumstance. Any telecom permit approved pursuant to this Chapter shall be granted by the City with the reservation of the right and jurisdiction to review and modify the permit (including the conditions of approval) based on changed circumstances. Changed circumstances include, but are not limited to, the following in relation to the telecom facility and its specifications in the approved application and/or conditions of approval:

1. An increase in the height or size of any part of the facility;

2. Additional impairment of the views from surrounding properties;

3. Increase in size or change in the shape of the antenna or supporting structure;

4. A change in the facility's color or materials;

5. A substantial change in location on the site;

6. An effective increase in signal output above the maximum permissible exposure (MPE) limits imposed by the radio frequency emissions guidelines of the FCC.

The operator shall notify the Reviewing Department Director of any proposal to cause one or more of the changed circumstances shown in 1-6 above. Any changed circumstance shall require the operator to apply for a modification of the original telecom permit. Before implementing any changed circumstance, the operator must obtain a modified telecom permit and any related building or other permits required by the City.

B. Additional Right to Revoke or Modify Permit. The reservation of right to review any telecom permit granted by the City is in addition to, and not in lieu of, the right of the City to review and revoke or modify any permit granted or approved hereunder for any violations of the conditions imposed on such permit. After due notice to the telecom operator, the City Council may revoke any telecom permit upon finding that the facility or the operator has violated any law regulating the telecom facility or has failed to comply with the requirements of this Chapter, the telecom permit, any applicable agreement, or any condition of approval. Upon such revocation, the City Council may require removal of the facility. (Ord. 2002-24 § 1 (part), 2002)

15.70.100 Removal of Telecom Facilities.

A. Discontinued Use. Any operator who intends to abandon or discontinue use of a telecom facility must notify the Planning Director by certified mail no less than thirty (30) days prior to such action. The operator or owner of the affected real property shall have ninety (90) days from the date of abandonment or discontinuance, or a reasonable time as may be approved by the Planning Director, within which to complete one of the following actions:

1. Reactivate use of the telecom facility;

2. Transfer the rights to use the telecom facility to another operator and the operator immediately commences use;

3. Remove the telecom facility and restore the site.

B. Abandonment. Any telecom facility that is not operated for a continuous period of one hundred eighty (180) days or whose operator did not remove the telecom facility in accordance with Subsection A shall be deemed abandoned. Upon a finding of abandonment, the City shall provide notice to the telecom carrier last known to use such facility and, if applicable, the owner of the affected real property, providing thirty days from the date of the notice within which to complete one of the following actions:

1. Reactivate use of the telecom facility;

2. Transfer the rights to use the telecom facility to another operator;

3. Remove the telecom facility and restore the site.

C. Removal by City.

1. The City may remove an abandoned facility, repair any and all damage to the premises caused by such removal, and otherwise restore the premises as is appropriate to be in compliance with applicable codes at any time after thirty (30) days following the notice of abandonment.

2. If the City removes the telecom facility, the City may, but shall not be required to, store the removed facility or any part thereof. The owner of the premises upon which the abandoned facility was located and all prior operators of the facility shall be jointly liable for the entire cost of such removal, repair, restoration and storage, and shall remit payment to the City promptly after demand therefore is made. In addition, the City Council, at its option, may utilize any financial security required in conjunction with granting the telecom permit as reimbursement for such costs. Also, in lieu of storing the removed facility, the City may convert it to the City's use, sell it, or dispose of it in any manner deemed by the City to be appropriate.

D. City Lien on Property. Until the cost of removal, repair, restoration and storage is paid in full, a lien shall be placed on the abandoned personal property and any real property on which the facility was

located for the full amount of the cost of removal, repair, restoration and storage. The City Clerk shall cause the lien to be recorded with the Orange County Recorder. (Ord. 2002-24 § 1 (part), 2002)

15.70.110 Exemption for City Systems.

Systems installed or operated at the direction of the City or its contractor shall be exempt from this chapter. (Ord. 2002-24 § 1 (part), 2002)

ADDITIONAL MATERIALS RECEIVED

STAFF PRESENTATION

City of Newport Beach
Planning Commission Meeting
July 19, 2012

Wireless Telecommunications Facilities Ordinance

Code Amendment No. 2012-004

Project Description

- Comprehensive update to existing Wireless Telecommunications Facilities Ordinance

- Intended to:
  - Balance needs of community
  - Increasing demand for wireless networks
  - Mitigate the impact of telecom facilities
  - Reflect changes in federal and state law

Project Description (continued)

- Existing regulations contained in Title 15 and Title 13
- Propose to consolidate into single chapter in Title 20
- New or modified telecom facilities regulated as a land use

Background

- Telecom Ordinance adopted by City Council in October 2002
- Existing regulations have not been updated since adoption by City Council

Background (continued)

- Staff presented overview of existing regulations at a March 2012 City Council Study Session
- City Council directed staff to proceed with revisions to the telecom ordinance

Federal Law and Radio Frequency Emissions Safety

- Federal law preserves local zoning authority, while imposing certain requirements
- State and local agencies are prohibited from regulating on the basis of radio frequency (RF) emissions

Proposed Code Amendment

- Key issues identified in existing ordinance
- Proposed revisions in draft ordinance

Public Notice/Public Hearing Process and Review Authority

Existing Provisions:

- All applications reviewed by Community Development Director as a "telecom permit"
- Community Development Director is review authority for facilities that meet established criteria

Public Notice/Public Hearing Process and Review Authority

Existing Provisions (continued):

- City Council is review authority for:
  - Facilities that do not conform,
  - Larger more conspicuous facilities, and/or
  - Facilities located in certain residential districts

- Neither review process requires a public notice or a public hearing

Public Notice/Public Hearing Process and Review Authority

Proposed Revision:

- Applicants required to apply for Minor Use Permit; Conditional Use Permit; or Limited Term Permit
- Public notice/public hearing required
- Zoning Administrator or Planning Commission designated review authorities

Appeal Process

Existing Provisions:

- Only applicant may appeal decision by the Community Development Director

Appeal Process

Proposed Revision:

- Appeal process consistent with existing provisions in the Zoning Code
- Planning Commission would be appellant authority on Zoning Administrator decisions
- City Council would be appellant authority on Planning Commission decisions

Installations in the Public Right-of-Way

Existing Provisions:

- Specific procedures not provided for facilities installed in the public right-of-way

Installations in the Public Right-of-Way

Proposed Revision:

- Process and design standards included
- Public hearings would be conducted
- Building and/or encroachment permits would be required

LFC

Design Standards and Criteria

Existing Provisions:

- Standards do not encourage applicants to design camouflaged facilities
- Standards have not been updated to reflect changes in technology

Design Standards and Criteria

Proposed Revision:

- Design standards updated to encourage camouflage
- Facilities visually compatible and/or inconspicuous reviewed by Zoning Admin.
- Larger or conspicuous facilities reviewed by Planning Commission

Building/Roof-top Mounted Antennas

Building Mounted Antennas, Camouflaged

Deviation to Height Limitations and Location Requirements

Existing Provisions:

- Do not include process to request to modify or deviate

Deviation to Height Limitations and Location Requirements

Proposed Revision:

- With regulations in Zoning Code, applicants could request a Variance
- Review and public hearings conducted Planning Commission

Setback Requirements

Existing Provisions:

- Setbacks measured from the part of facility closest to the lot line or structure
- Facilities prohibited from being located in required setbacks, unless special approval by City Council

Setback Requirements

Proposed Revision:

- Updated to provide additional "fall zone" for ground-mounted "Wireless Towers"
- Additional setback provided for safety purposes; would be the greater of either:
  - Code-required setback; or
  - 110% of the height of the "Wireless Tower"

Modification of Existing Telecom Facilities

Existing Provisions:

- Allows City to review and modify a telecom permit based on "changed circumstances"

Modification of Existing Telecom Facilities

Proposed Revision:

- Updated regulations consistent with federal law
- Changes less than 5% subject to ministerial review and approval
- Changes 5% or more require processing of a new discretionary application

Zoning District Land Uses and Permit Requirements

Existing Provisions:

- Facilities prohibited unless given special approval by City Council on:
  - Common area or non-residential lots
  - Any required setback
  - Multifamily structures
- Also prohibited on:
  - Residential lots
  - Open Space district, unless on utility tower

Zoning District Land Uses and Permit Requirements

Proposed Revision:

- Updated to prohibit telecom facilities on:
  - Single-family development
  - Two-family development
  - Multi-family development of 4 units or less

- Exception added to allow telecom facilities in Open Space when co-located on existing telecom facility or site

Conclusion

- Staff welcomes public comments on the draft ordinance; and
- Recommends continuance to August 23, 2012

Item 5a: Additional Materials Received
Planning Commission July 19, 2012
PA2012-057

Setting the new standard
Core Development Services
2749 Saturn Street
Brea, CA 92821
714) 729-8404
mfelten@core.us.com

7/18/12

Janet Johnson Brown
Associate Planner
City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92663

Dear Ms. Brown,

On behalf of Core Communications, I would like to thank for the opportunity to provide feedback regarding the City's proposed Wireless Communications Facilities Ordinance. I commend planning staff and the City for determining that an updated ordinance is needed to allow for a uniform set of standards that each application will be subject to.

Below are our comments regarding the proposed ordinance amendment. Given our many concerns I feel it would be best if the city would continue this item to a later date to allow for an outreach meeting with the industry. I have found that a dialogue with City staff allows for the industry to understand staff's intent behind each requirement and also allows staff to understand the possible effects certain requirements may have. By understanding the goals and intent of both sides I feel that City staff will develop an ordinance that continues to achieve the City's objectives and protects the wellbeing of all those involved.

The following discussion highlights are an area of a concern:

1. Public Notice/Public Hearing Process and Review Authority, specifically Section 20.49.070(G): It should not necessary for all proposed projects to go through the hearing process. The City should utilize a set of objective design standards and if a carrier meets them, there should be no reason to go before any discretionary body, regardless of location. A streamlined process, such as an administrative approval, is recommended for sites that are co-located, building or roof-mounted, or located on utility infrastructures such as SCE towers. The code should explore incentives for applicants to bring forth quality proposals, such as a simplified review process. The City of Anaheim's code demonstrates this type of review, which has increased the wireless telecommunications coverage in the City and while upholding the quality of installations proposed.
2. Installations in the Public Right-of-Way, specifically Section 20.49.050(C): Requiring a full conditional use permit for all proposals in the public right-of-way seems overly cumbersome. If planning review is determined to be absolutely necessary, I recommended a streamlined administrative process. Public right-of-way sites are typically located on existing structures, such as light poles, therefore the aesthetic impact is minimal. I recommend only requiring specific design standards for these specific sites that the carrier will have to adhere to and if those

design standards are followed the site is approved. If it the site is unable to meet the City's design standards, then at that time the discretionary planning process may be required. For example, the City of Laguna Niguel has design standards that were adopted by the City Council. If a proposal is unable to conform to those standards then it must go through the planning process. Another example is the City of Tustin which only requires public right-of-way sites to go through an administrative design review process. Furthermore, subsection (1) requires all support equipment be placed below grade. As you may or may not be aware the industry tries to stay away from vaults at all costs. Facilities flood due to rains and the required flush-mount vents. When this occurs, sites go "off air", creating a gap in coverage, not to mention the fact that it could cost hundreds of thousands of dollars to repair even one facility. When a site goes "off air" the community will lose needed and required coverage. Additionally, some carriers' facilities often include an emergency generator which requires ventilations and specific clearance requirements that would not be able to be enclosed or vaulted. While it is understood that often Public Right-of-Way installations have very little space for equipment and vaulting may be the only option, there are occasionally circumstances where the equipment can be located above ground while being screened. Therefore, by limiting equipment to be undergrounded only, those occasions are restricted.

3. Design Standards and Criteria, specifically Section 20.49.060: Again, I commend the City for instituting design requirements; however, as stated above should the city institute a set of objective design standards and the carrier meets them, there should be no reason to go before any discretionary body, regardless of location. In this situation the aesthetic impacts are no longer of a concern given the facility meets code. A streamlined process, such as an administrative approval, is recommended for sites that meet the required design standards. Furthermore, the code should explore incentives for applicants to bring forth quality proposals, such as a streamlined review process.
4. Deviation to Height Limitations and Location Requirements, specifically Section 20.49.060(C)(1). Subsection (c) should be revisited as several schools, churches, and other public institutions are often in residentially zoned districts and typically they have flagpoles in front of their establishments. In the event there are no other options to locate antennas and equipment within a steeple, some other portion of the building, or a more appropriate stealth design; prohibiting flagpoles in residential zones may inadvertently cause a prohibition of service. In those cases where the current proposed code would allow a flagpole installation, 35' is an extremely restrictive height. As previously stated, wireless telecommunications antennas require line of site free of obstructions. Given that a great majority of buildings within the City are multiple stories and some areas of the City have topography challenges, 35' will not likely provide the necessary line of site. Therefore, it is recommended that no height limit be specified. The restriction of a 24" diameter pole is also extremely limiting. Often carriers

require at least 30" or more due to different technology and azimuth requirements. Again, it is recommended that a larger diameter measurement be provided or the size is left unspecified. Height may also be an issue in Subsection (d) having adverse implications on roof-mounted installations. The City is a beach community and often buildings are constructed to the maximum height limit. Only allowing five feet above base height limit may not be enough to allow for screening and many carriers' antenna technology. Some carriers have antennas in lengths of up to eight feet. Additionally, five feet may not be enough to meet EME safety standards depending on where on the rooftop the antennas are proposed. Therefore, it is extremely likely that majority of all rooftop installations will be greater than five feet above the base height limit requiring heightened review. This could potentially cause an architecturally integrated rooftop installation to proceed through a longer, more cumbersome process because it cannot meet the narrow five foot height limitation.

5. Setback Requirements, specifically Section 20.49.060(D): Wireless facilities are required to go through building plan check and demonstrate that they are structurally sound, just as any other building in the City would be required. However, no other building in the City is required to provide a "fall zone", yet the proposed wireless code amendment will require a 110% "fall zone" setback for any new ground mounted wireless facility. It is unclear why wireless telecommunications facilities would be held to a different standard. Additionally, as previously stated, wireless telecommunications antennas must have an unobstructed line of site which will often require the antennas to be much taller than the 25' example stated in the staff report. In fact, the average height of concealed ground mounted facilities will likely be around 55', to allow for a 45' centerline of antennas and additional camouflaging above the antennas. Therefore, if a 55' ground-mounted facility were proposed the 110% setback would be 60.5'from all properties lines, which would likely inadvertently prohibit any ground-mounted wireless facilities on the majority of properties within the City.
6. Modification of Existing Telecom Facilities: Given the recent "Tax Relief Act" legislation, I recommend the City handle all modification requests as ministerial permits. Limiting any change to 5% or less, as the current ordinance amendment proposes, may potentially prohibit any maintenance or equipment changes/additions that will increase the efficiency or technology of the facility .
7. Zoning District Land Uses and Permit Requirements: The City should not prohibit a wireless installation in any zone. This opens the possibility of the City prohibiting telecommunications services. Prohibiting an installation outright in any zone may cause the City to unknowingly create a barrier to entry which inadvertently regulates the business affairs of a wireless company. This is likely not the intention of the City and therefore I recommend that the City adopt specific design standards for the residential and open space zones to protect the integrity of the area. Also, many properties may be zoned residential, but are not used for residential

core
DEVELOPMENT SERVICES

purposes, which should be taken into consideration. It should be noted that many cities have found having wireless facilities in their parks zoned either residential or open space has created an avenue of revenue for the City.

The entire ordinance is quite lengthy, somewhat burdensome and may provide a barrier for wireless services to be provided to the Newport Beach community. Given the concerns explained in the text above, I feel it would be best if the City would continue this item to a later date to allow for an outreach meeting with the industry. I would like to thank the City for notifying us of this proposed amendment and look forward to working together in crafting a lawful ordinance that protects the residents and businesses of the City of Newport Beach along with operation of the wireless industry.

Yours truly,

Michelle Felten

Michelle Felten
Senior Project Manager

Kyla C. Powell
General Attorney

AT&T Services, Inc.
1215 K Street, Suite 1800
Sacramento, CA 95814

T: 916.341.3504
F: 916.443.6836
kyla.powell@att.com

Delivered via Email

The Honorable Michael Toerge
Chairman, Planning Commission
City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92663

Subject: Proposed Amendment to Wireless Telecommunications Facilities Ordinance (PA2012-057), Code Amendment No. 2012-004

Dear Chairman Toerge:

AT&T appreciates the opportunity to provide comments to the Planning Commission on the proposed amendment to the City of Newport Beach's (City) Wireless Telecommunications Facilities Ordinance. AT&T has been providing communications service in Southern California for over a hundred years and its affiliate has been providing wireless telecommunications services since the late 1980's. AT&T is eager to work with the City in its efforts to address concerns about placement of wireless facilities within the City.

AT&T is most concerned about aspects of the proposed amendments that would directly impact the ability of the wireless telecommunications industry to provide service to residents, businesses and visitors in Newport Beach, who rely on cellphones and other wireless devices in their daily lives. As you are no doubt aware, the proposed amendments would affect not only cellphones, but wireless data of all kinds (including audio signals, video signals, computer files, e-mail and data of all kinds that now use wireless transmission) are affected.

Over all, we believe the proposed amendments are overly specific and restrictive and could give rise to a host of future issues and problems that may require further ordinance modifications. For example, by providing unique definitions of terms like "base station" that deviate from specific federal law definitions and is but one component of a wireless facility under 47 U.S.C.A 332, the City risks running afoul of Section 332 protections, creating a prohibition on wireless service, and having the entire ordinance preempted. We recommend that the City instead treat wireless facilities more like other facilities and not regulate them. Below, we provide the applicable law and our specific concerns.

APPLICABLE LAW

The federal Telecommunications Act of 1996, 47 U.S.C.A. 151 et seq. (1996) regulates the deployment of wireless telecommunication service. Section 332(c)(3) gives the FCC certain authority that is exclusive and which preempts conflicting acts by state or local governments. Section 332(c)(3)(7) of the Act, while recognizing that local zoning authority is preserved, requires that local regulation not "unreasonably discriminate among providers of functionally equivalent services" and not "prohibit or have the effect of prohibiting the provision of personal wireless services."

Also recently enacted at the federal level, section 6409(a) of the Middle Class Tax Relief and Job Creation Action of 2012 (47 U.S.C.A. § 1455(a)(2012)) provides that "a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station." An "eligible facilities request" includes any request to modify an existing wireless tower or base station that involves collocation, removal, or replacement of transmission equipment. (Id.)

California state law also impacts placement of communication facilities within the public rights-of-way. Wireless and wireline carriers, as "telephone corporations," have access rights to the public rights-of-way under Section 7901 of the California Public Utilities Code. A telephone corporation enjoys a vested right under Section 7901 to construct "telephone lines" and "necessary fixtures" "along and upon any public road." California courts have long upheld this vested right to enter and use the public right-of-way.

In our view, the City possesses only a limited right to curtail the rights of telephone corporations under Section 7901. Section 7901.1(a) grants to the City only the ability to exercise "reasonable control as to the time, place and manner in which roads . . . are accessed." Section 7901.1(b) provides that any municipal regulations "at a minimum, be applied to all entities in an equivalent manner," thereby imposing a duty on the City to regulate in a non-discriminatory manner.

COMMENTS

As mentioned above, some of the provisions of the proposed amendments might constitute a prohibition of services under the federal Telecommunications Act. A number of the special requirements outlined in the Proposed Ordinance relating to wireless facilities placed in the public rights-of-way also appear to go well beyond the regulation permitted under Section 7901 of the Public Utility Code. Finally, we believe the proposed amendment conflicts with Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012. We identify some of the problematic provisions in more detail below.

Section 20.49.030 – Definitions
Base Station – The definition provided by City for "Base Station" is too restrictive and should not exclude DAS. Alternatively, we request the City's language be modified more broadly to: "A Telecom Facility installed and operated by the Telecom Operator for signal transmission and reception." The second sentence regarding antennas and DAS should be excluded from this definition.

Wireless Tower – Only the first sentence should apply. The remaining part of this definition inappropriately narrows the meaning of a wireless tower.

Section 20.49.040 – Available Technology
We do not believe this section is relevant. It attempts to codify the choice of technology used in sites. Although it does not explicitly state various technologies, it is inappropriate for the City to dictate what technology carriers select. For example, under this section, the City could insist that AT&T use DAS or any other "efficient, diminutive, and least obtrusive available technology" as opposed to a Macro Site.

Section 20.49.050 (B) - Prohibited Locations
We do not believe the City should impose blanket prohibitions on certain locations within the City's Jurisdiction. What if the only available site is in a prohibited location? Carriers should have the

opportunity to at least attempt or work with the City to build a site at any location in the City if that is the only available means.

Section 20.49.060 – General Development and Design Standards (Also in Same Section Subsection (E))
Some of the stealthing standards and guidelines in this section and referenced in other sections may not be feasible, such as using surrounding vegetation and structures to camouflage a site. To the extent that such techniques need only be considered but are not required to be implemented, this section may be workable. However, if the City intends to mandate these guidelines and standards, that is problematic, as natural vegetation and structures can impair or block RF signals.

Section 20.49.060 (C) - Height
There are maximum height standards which may not work from an RF perspective, although we recognize that variances can be granted.

Section 20.49.060 (D) - Setback
The setback requirement for a wireless tower is 110% of the height of the tower including the antennas or enclosures. Newport Beach is a densely populated area and this setback requirement could effectively prohibit new wireless towers as this requirement may be very difficult to meet in many parts of the City.

Section 20.49.100 – Modification of Existing Telecom Facilities
This section appears to be an attempt to codify Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012. Under Section 6409(a) any facility modification that falls under and complies with Section 6409 must be approved by the City. Section 6409 is not discretionary. We do not believe the City should set standards and definitions that restrict or define the applicability of the Federal Statute, as it appears to do in this section. It is appropriate for the City to describe how it will comply, but it should not attempt to redefine the elements of Section 6409.

We hope the City finds these comments to the proposed amendment helpful. We welcome the opportunity to work with the City staff to discuss our legal and practical concerns and to develop solutions amenable to both AT&T and the City.

Sincerely,

Kyla C. Powell

Cc: Bradley Hillgren, Vice Chair, City of Newport Beach Planning Commission
Members, City of Newport Beach Planning Commission
Janet Johnson Brown, Associate Planner

Item 5c: Additional Material Received
Planning Commission July 19, 2012
PA2012-057

July 19, 2012

VIA ELECTRONIC MAIL
Newport Beach Planning Commission
c/o Janet Johnson Brown, Associate Planner
City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92663
jbrown@newportbeachca.gov

Re: Proposed Amendments to Wireless Telecommunications Facilities Ordinance

Dear Ms. Brown,

PCIA—The Wireless Infrastructure Association ("PCIA")[1] and the California Wireless Association ("CalWA")[2] writes to provide comment on the City of Newport Beach's proposed amendment to the Newport Beach Municipal Code to update regulations regarding wireless telecommunications facilities in light of the scheduled public hearing on the matter before the Planning Commission on Thursday, July 19, 2012. Attached please find the proposed amendments marked with comments. PCIA and CalWA respectfully request that Planning Commission defer action on this item until the industry has had an opportunity to sit down with staff and discuss the concerns reflected within this letter and in the attached mark-up.

PCIA and CalWA applaud the City of Newport Beach for recognizing that there have been numerous changes in Federal and State law regarding local regulation of wireless facilities, as well as a tremendous increase in the demand for wireless services that required the industry to change how it responds and keeps up with demand from its subscribers, especially in sophisticated communities like Newport Beach. We encourage the City to craft an ordinance that enables logical and intelligent deployment with an objective set of standards that comply with state and federal law and allows the timely provision of quality wireless service. To this end, in order to ensure that Newport Beach's efforts to modernize its wireless ordinance are as comprehensive as possible, PCIA and CalWA offer the attached mark-up of the draft amendments.

[1]PCIA is the national trade association representing the wireless infrastructure industry. PCIA's members develop, own, manage, and operate towers, rooftop wireless sites, and other facilities for the provision of all types of wireless, broadcasting and telecommunications services. With a mandate to facilitate the deployment of wireless infrastructure, PCIA and its members partner with communities across the nation to effect solutions for wireless infrastructure deployment that are responsive to the unique sensitivities and concerns of these communities.

[2]CalWA is a non-profit organization made up of volunteers who work in the wireless/telecommunications industry throughout California. Its goal is to raise awareness about the benefits of and to promote the wireless industry, to educate the public and political leaders on issues of importance to the wireless industry, and to cultivate working relationships within and between the industry, the public and political leaders.

Despite the importance of wireless services and its potential for job creation, local review of the placement of wireless facilities remains a persistent barrier to the deployment of wireless infrastructure. For example, the proposed amendments to Newport Beach's Municipal Code could better facilitate the deployment of wireless infrastructure in order to bring wireless service to Newport Beach's residents. PCIA and CalWA hope to work together with the Planning Commission to find a solution for wireless infrastructure deployment that is responsive to the City of Newport Beach's needs and concerns. For this reason, PCIA and CalWA urge that Planning Commission defer action on this item to allow time to consider and discuss the industry's concerns.

The Need for Wireless Infrastructure

Wireless services, from basic voice communication to mobile broadband, enable communication, productivity, mobility, and public safety. Wireless infrastructure is the backbone of wireless networks; without it, wireless services cannot be delivered to users. Wireless infrastructure enables use of spectrum by providing the vital link between the end-user and the network. The strategic deployment of wireless infrastructure improves the efficient use of limited spectrum resources, which in turn improves the performance of wireless services.

Wireless providers are currently undertaking a multi-faceted effort to deliver next-generation wireless services, such as 4G LTE, in addition to ensuring that current and next-generation networks have the capacity to handle the surge in traffic that comes with the increased adoption rates of smartphones, tablets and other data devices. Wireless networks must adapt to growing capacity demands due to an 1,800 percent increase in traffic on U.S. wireless networks in the last four years[3] and a projected growth of eighteen times current levels of mobile data traffic in the next five years.[4] Mobile Internet users are projected to outnumber wireline Internet users by 2015, when a majority of Americans will utilize a wireless device as their primary internet access tool.[5] This will result in two billion networked mobile devices by 2015.[6]

The need for rapid deployment extends beyond mere consumer convenience. More than 70 percent of all emergency calls are placed using a wireless device.[7] The ability to access fire, rescue and police services may be significantly hindered without wireless infrastructure, especially for those relying on wireless as their sole form of voice communications. As noted by the Federal Communications Commission ("FCC"),

> [T]he deployment of facilities without unreasonable delay is vital to promote public safety, including the availability of wireless 911, throughout the nation. The importance of wireless communications for public safety is critical, especially as consumers

[3] Mobile Future, 2011 Mobile Year In Review (Dec. 2011), *available at* http://mobilefuture.org/page/-/images/2011-MYIR.pdf.
[4] Quentin Hardy, The Explosion of Mobile Video, N.Y. Times, Feb. 14, 2012, *available at* http://bits.blogs.nytimes.com/2012/02/14/the-explosion-of-mobile- video/.
[5] Hayley Tsukayama, IDC: Mobile Internet Users to Outnumber Wireline Users by 2015, Washington Post, Sept. 12, 2011, *available at* http://www.washingtonpost.com/blogs/post-tech/post/idc-mobile- internet-users-to-outnumber-wireline-users-by- 2015/2011/09/12/gIQAkZP7MK_blog.html?wprss=post-tech.
[6] Mobile Future, 2011 Mobile Year In Review.
[7] FCC.gov, Guide: Wireless 911 Services, *available at* http://www.fcc.gov/guides/wireless-911-services.

increasingly rely upon their personal wireless service devices as their primary method of communication.[8]

As NENA observes:

> Calls must be able to be made from as many locations as possible and dropped calls must be prevented. This is especially true for wireless 9-1-1 calls which must get through to the right Public Safety Answering Point ("PSAP") and must be as accurate as technically possible to ensure an effective response. Increased availability and reliability of commercial and public safety wireless service, along with improved 9-1-1 location accuracy, all depend on the presence of sufficient wireless towers.[9]

For this reason, decisions on siting requests made by the personal wireless service industry were not intended by Congress to be subjected "to any but the generally applicable time frames for zoning decision[s]."[10] Thus, the adoption of special procedural schemes unique to wireless siting requests should be avoided.

The FCC Shotclock Declaratory Ruling and the California Permit Streamlining Act

In addition to the provisions of Section 337(c)(7) of the Communications Act of 1934 referred to in the staff report, subsection (B)(ii) of that section contains another requirement that the City should keep in mind when crafting its new ordinance. That provision requires that a "local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request."

The FCC recently adopted a Declaratory Ruling on November 18, 2009 under this subsection holding that "a 'reasonable period of time' is, presumptively, 90 days to process personal wireless service facility siting applications requesting collocations, and, also presumptively, 150 days to process all other applications."[11] Given the rate at which demand for advanced wireless services has been growing, and in particular the growth in the demand for bandwidth as a result of adoption of smart phones and wireless-enabled laptops and tablets, the need for speedy local approvals of proposed wireless deployments has become truly critical to providing the wireless services consumers demand.

Indeed, the FCC's presumptive timeframe for action may be superfluous given that California law has, for decades, contained absolute deadlines by which action must be taken. As you are no doubt aware, the California Permit Streamlining Act imposes a 60-day time limit for approving or denying a requested permit after a project has been determined to be categorically

---

[8] *Petition for Declaratory Ruling To Clarify Provisions of Section 332(C)(7)(B) To Ensure Timely Siting Review and To Preempt Under Section 253 State and Local Ordinances That* Classify *All Wireless Siting Proposals as Requiring a Variance*, Declaratory Ruling, 24 FCC Rcd 13994, 14021 ¶ 71 (2009) ("*Shot Clock Ruling*"), *recon. denied*, 25 FCC Rcd 11157 (2010), *aff'd*, City of Arlington, Tex., *et al*. v. FCC, 2012 U.S. App. LEXIS 1252 (5th Cir. 2012).

[9] *Shot Clock Ruling*, at 36.

[10] H.R. Conf. Rep. No. 104-458, 104th Congress, 2nd Sess. 208 (1996).

[11] *Shotclock Ruling*.

exempt from CEQA[12] or a negative declaration or mitigated negative declaration has been adopted.[13]

The Wireless Provisions in Middle Class Tax Relief and Job Creation Act of 2012

Staff failed to mention the Middle Class Tax Relief and Job Creation Act of 2012, enacted with bipartisan support and signed into law by President Obama on February 22, 2012. One of the measures included in the Act was the creation of a nationwide interoperable broadband network for first responders. In addition to authorizing the FCC to allocate necessary spectrum for this new interoperable network, the Act also contained provisions designed to establish voluntary incentive auctions of wireless spectrum, which are expected to raise $15 billion over the next eleven years. Seven billion dollars of the auction proceeds have been allocated for public safety broadband network build out.

The Act reflects an implicit acknowledgement that realizing the financial viability of the spectrum auctioned depends on the ease with which purchasers can deploy the infrastructure needed to utilize it. At the same time, it allays local concerns over the potential impact of the construction of new sites. In a carefully crafted attempt to address both industry and local concerns, Section 6409 of the Act streamlines, and thereby incentivizes the use of, modification of existing sites in lieu of new builds. Although the staff proposals reflect a similar recognition of the need for streamlined review of modifications, PCIA and CalWA provide herewith a detailed explanation of this recent law due to concerns that the definitions provided in the report fail to reflect those adopted and utilized by the FCC.

Section 6409 of the Act requires state and local governments to approve an eligible facilities request for the modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station. Section 6409 applies to “eligible facilities requests” for modification of existing wireless towers and base stations. The Act defines "eligible facilities request" as any request for modification of an existing wireless tower or base station that involves:

- Collocation of new transmission equipment;
- Removal of transmission equipment; or
- Replacement of transmission equipment.

Many of the terms employed in the section are concepts that were hammered out in negotiations between local government and industry representatives in an agreement that was adopted by reference in regulations promulgated by the FCC. Thus, for example, "collocation" has been defined as "the mounting or installation of an antenna on an existing tower, building or structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes."[14]

---

[12]Gov. Code § 65950(a)(4).
[13]Gov. Code § 65950(a)(3).
[14]Nationwide Programmatic Agreement for the Collocation of Wireless Antennas (2001), *available* at 47 C.F.R. Part I, Appendix B ("Collocation Agreement"). *See also Petition for Declaratory Ruling To Clarify Provisions of Section 332(C)(7)(B) To Ensure Timely Siting Review and To Preempt Under Section 253 State and Local Ordinances That Classify All Wireless Siting Proposals as Requiring a Variance,* Declaratory Ruling, 24

The same agreement also addressed the issue of what constitutes a substantial change in the size of a tower:

- The mounting of the proposed antenna on the tower would increase the existing height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or
- The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or
- The mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or
- The mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site. [15]

In this agreement, a "tower" is defined as "any structure built for the sole or primary purpose of supporting FCC-licensed antennas and their associated facilities.[16] While the concept of a "base station" is not referenced in the agreement, the term has a long-established meaning consistently used throughout both FCC regulations and case law, namely a fixed location from which wireless signals are transmitted. For example, FCC regulations define a “base station” as "[a] station at a specified site authorized to communicate with mobile stations;" or "A land station in the land mobile service.”[17] We urge the Planning Commission to use these well recognized definitions within its Ordinance.

FCC Rcd 13994, 14021 1171 (2009) *("Shot Clock Ruling"), recon. denied,* 25 FCC Rcd 11157 (2010), *aff'd,* City of Arlington, Tex., et al. v. FCC, 2012 U.S. App. LEXIS 1252 (5th Cir. 2012).

[15]Collocation Agreement, note, above.

[16]*Id.*

[17]See, e.g., 47 C.F.R. §§24.5, 90.7.

Conclusion

Reliable wireless communications are no longer a luxury. Wireless facilities provide a platform for broadband accessibility, creating a link from the City of Newport Beach to the world through high-speed Internet access. The City of Newport Beach has an opportunity to facilitate expanded wireless coverage to its citizens, businesses, and first responders by moving forward with amending its code in consideration of the wireless infrastructure industries' suggestions provided herewith.

PCIA and CalWA hope to participate in the ordinance revision process as it develops, if Planning Commission defers action on this item to consider the industry's concerns. We appreciate your support to further our mutual goal of implementing and deploying responsible and timely wireless infrastructure to serve the City of Newport Beach, CA.

Sincerely,

_____/s/_____
Julian Quattlebaum
Co-Chair, Regulatory Committee
California Wireless Association (CalWA)
800 S. Pacific Coast Hwy # 448
Redondo Beach, CA 90277
310-356-6950
jq@channellawgroup.com

_____/s/_____
Kara Leibin Azocar
Government Affairs Counsel
PCIA—The Wireless Infrastructure Association
901 N. Washington St., Suite 600
Alexandria, VA 22314
703-535-7451
Kara.Azocar@pcia.com

_____/s/_____
Sean Scully
Co-Chair, Regulatory Committee
California Wireless Association (CalWA)
800 S. Pacific Coast Hwy # 448
Redondo Beach, CA 90277
818-426-6028
permittech@verizon.net

EXHIBIT "A"

Chapter 20.49 – Wireless Telecommunications Facilities

CalWA Comment No. 1: Some recognition that this land use is in fact a "utility" (as defined in the States Constitution) and additional tolerance and balance similarly to how other utilities are viewed aesthetically should be afforded this critical land use as well. This "purpose" raises aesthetics above all other considerations unfairly as compared to other utility land uses.

Sections:

20.49.010 – Purpose and Intent
20.49.020 – General Provisions
20.49.030 – Definitions
20.49.040 – Available Technology
20.49.050 – Location Preferences
20.49.060 – General Development and Design Standards
20.49.070 – Permit Review Procedures
20.49.080 – Permit Implementation, Time Limits, Duration, and Appeals
20.49.090 – Agreement for Use of City-owned or City-held Trust Property
20.49.100 – Modification of Existing Telecom Facilities
20.49.110 – Operational and Radio Frequency Compliance and Emissions Report
20.49.120 – Right to Review or Revoke Permit
20.49.130 – Removal of Telecom Facilities

20.49.010 – Purpose and Intent.

A. Purpose. The purpose of this Chapter is to provide for wireless telecommunication facilities ("Telecom Facilities") on public and private property consistent with federal law while ensuring public safety, reducing the visual effects of telecom equipment on public streetscapes, protecting scenic, ocean and coastal public views, and otherwise mitigating the impacts of such facilities. More specifically, the regulations contained herein are intended to:

1. Encourage the location of Antennas in non-residential areas.
2. Strongly encourage Collocation at new and existing Antenna sites.
3. Encourage Telecom Facilities to be located in areas where adverse impacts on the community and public views are minimized.

B. The provisions of this Chapter are not intended and shall not be interpreted to prohibit or to have the effect of prohibiting telecom services. This Chapter shall be applied to providers, operators, and maintainers of wireless services regardless of whether authorized by state or federal regulations. This Chapter shall not be applied in such a manner as to unreasonably discriminate among providers of functionally equivalent telecom services.

20.49.020 – General Provisions.

A. Applicability. These regulations are applicable to all Telecom Facilities providing voice and/or data transmission such as, but not limited to, cell phone, internet and radio relay stations.

B. Permit and/or Agreement Required.

1. Prior to construction of any Telecom Facility in the City, the applicant shall obtain a Minor Use Permit (MUP), Conditional Use Permit (CUP), or Limited Term Permit (LTP), depending on the proposed location and Antenna Classes, in accordance with Section 20.49.070 (Permit Review Procedures).

CalWA Comment No. 2: This section needs to incorporate a reference to 20.49.100 where there could be ministerial permits issued for modifications. Also CalWA recommends a ministerial permit be an option for Class 1 and Class 2 facilities under the circumstance when the facilities are located in non-residential zones and are otherwise not visible.

2. Applicants who obtain a MUP, CUP or LTP (and an encroachment permit, if required) for any Telecom Facility approved to be located on any City-owned property or City-held Trust property, shall enter into an agreement prepared and executed by the City Manager or its designee prior to construction of the Facility, consistent with Section 20.49.090 (Agreement for Use of City-owned or City-held Trust Property).

C. Exempt Facilities. The following types of facilities are exempt from the provisions of this Chapter:

1. Amateur radio antennas and receiving satellite dish antennas, and citizen band radio antennas regulated by Section 20.48.190 (Satellite Antennas and Amateur Radio Facilities).
2. Dish and other antennas subject to the FCC Over-the-Air Reception Devices ("OTARD") rule, 47 C.F.R. § 1.4000 that are designed and used to receive video programming signals from (a) direct broadcast satellite services, or (b) television broadcast stations, or (c) for wireless cable service.
3. During an emergency, as defined by Title 2 of the NBMC, the City Manager, Director of Emergency Services or Assistant Director of Emergency Services shall have the authority to approve the placement of a Telecom Facility in any district on a temporary basis not exceeding ninety (90) calendar days from the date of authorization. Such authorization may be extended by the City on a showing of good cause.
4. Facilities exempt from some or all of the provisions of this Chapter by operation of state or federal law to the extent so determined by the City.
5. Systems installed or operated at the direction of the City or its contractor.

D. Other Regulations. Notwithstanding the provisions of this Chapter, all Telecom Facilities within the City shall comply with the following requirements:

1. Rules, regulations, policies, or conditions in any permit, license, or agreement issued by a local, state or federal agency which has jurisdiction over the Telecom Facility.
2. Rules, regulations and standards of the Federal Communications Commission (FCC) and the California Public Utilities Commission (CPUC).

E. Regulations not in Conflict or Preempted. All Telecom Facilities within the City shall comply with the following requirements unless in conflict with or preempted by the provisions of this Chapter:

1. All applicable City design guidelines and standards.
2. Requirements established by any other provision of the Municipal Code and by any other ordinance and regulation of the City.

F. Legal Nonconforming Facility. Any Telecom Facility that is lawfully constructed, erected, or approved prior to the effective date of this Chapter, or for which the application for a proposed Telecom Facility is deemed complete prior to the effective date of this Chapter, in compliance with all applicable laws, and which Facility does not conform to the requirements of this Chapter shall be accepted and allowed as a legal nonconforming Facility if otherwise approved and constructed. Legal nonconforming Telecom Facilities shall comply at all times with the laws, ordinances, and regulations in effect at the time the application was deemed complete, and any applicable federal and state laws as they may be amended or enacted, and shall at all times comply with any conditions of approval.

CalWA Comment No. 3: Are legal nonconforming amortizations applicable under any circumstances to WTF's that are classified as "Legal Nonconforming Facilities"?

CalWA Comment No. 4: The definition of "Base Station" should include the entire structure and antenna facilities as defined by the FCC.

20.49.030 – Definitions.

For the purposes of this Chapter, the following definitions shall apply:

Antenna. Antenna means a device used to transmit and/or receive radio or electromagnetic waves between earth and/or satellite-based systems, such as reflecting discs, panels, microwave dishes, whip antennas, Antennas, arrays, or other similar devices.

Antenna Array. Antenna Array means Antennas having transmission and/or reception elements extending in more than one direction, and directional Antennas mounted upon and rotated through a vertical mast or tower interconnecting the beam and Antenna support, all of which elements are deemed to be part of the Antenna.

Antenna Classes. Antenna Classes are Telecom Facilities and the attendant Support Equipment separated into distinct "antenna classes."

Base Station. Base Station means the electronic equipment at a Telecom Facility installed and operated by the Telecom Operator that together perform the initial signal transmission and signal control functions. Base Station does not include the Antennas and Antenna support structure, or the Support Equipment, nor does it include any portion of DAS.

City-owned or City-held Trust Property. City-owned or City-held Trust Property means all real property and improvements owned, operated or controlled by the City, other than the public right-of-way, within the City's jurisdiction, including but is not limited to City Hall, Police and Fire facilities, recreational facilities, parks, libraries, monuments, signs, streetlights and traffic control standards.

Collocation. Collocation means an arrangement whereby multiple Telecom Facilities are installed on the same building or structure.

Distributed Antenna System, DAS. Distributed Antenna System (DAS) means a network of one or more Antennas and fiber optic nodes typically mounted to streetlight poles, or utility structures, which provide access and signal transfer services to one or more third-party wireless service providers. DAS also includes the equipment location, sometimes called a "hub" or "hotel" where the DAS network is interconnected with third-party wireless service providers to provide the signal transfer services.

FCC. FCC means the Federal Communications Commission, the federal regulatory agency charged with regulating interstate and international communications by radio, television, wire, satellite, and cable.

Feasible. Feasible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account environmental, physical, legal and technological factors.

Lattice Tower. Lattice Tower means a freestanding open framework structure used to support Antennas, typically with three or four support legs of open metal crossbeams or crossbars.

Monopole. Monopole means a single free-standing pole or pole-based structure solely used to act as or support a Telecom Antenna or Antenna Arrays.

CalWA Comment No. 5: This component of the definition is not clear as "Base Station" and "Suport Equipment" would seem to be inclusive of each other. Please clarify.

Operator or Telecom Operator. Operator or Telecom Operator means any person, firm, corporation, company, or other entity that directly or indirectly owns, leases, runs, manages, or otherwise controls a Telecom Facility or facilities within the City.

Public Right-of-Way. Public Right-of-Way or ("PROW") means the improved or unimproved surface of any street, or similar public way of any nature, dedicated or improved for vehicular, bicycle, and/or pedestrian related use. PROW includes public streets, roads, lanes, alleys, sidewalks, medians, parkways and landscaped lots.

Stealth or Stealth Facility. Stealth or Stealth Facility means a Telecom Facility in which the Antenna, and the Support Equipment, are completely hidden from view in a monument, cupola, pole-based structure, or other concealing structure which either mimics, or which also serves as, a natural or architectural feature. Concealing structures which are obviously not such a natural or architectural feature to the average observer do not qualify within this definition.

Support Equipment. Support Equipment means the physical, electrical and/or electronic equipment included within a Telecom Facility used to house, power, and/or contribute to the processing of signals from or to the Facility's Antenna or Antennas, including but not limited to cabling, air conditioning units, equipment cabinets, pedestals, and electric service meters. Support Equipment does not include the Base Station, DAS, Antennas or the building or structure to which the Antennas are attached.

Telecommunication(s) Facility, Telecom Facility, Telecom Facilities, Wireless Telecommunications Facility, or Facility. Telecommunication(s) Facility, Telecom Facility, Telecom Facilities, Wireless Telecommunications Facility, or simply Facility or Facilities means an installation that sends and/or receives wireless radio frequency signals or electromagnetic waves, including but not limited to directional, omni-directional and parabolic antennas, structures or towers to support receiving and/or transmitting devices, supporting equipment and structures, and the land or structure on which they are all situated. The term does not include mobile transmitting devices, such as vehicle or hand held radios/telephones and their associated transmitting antennas.

Utility Pole. Utility Pole means a single freestanding pole used to support services provided by a public or private utility provider.

Utility Tower. Utility Tower shall mean an open framework structure (see lattice tower) or steel pole used to support electric transmission facilities.

Wireless Tower. Wireless Tower means any structure built for the sole or primary purpose of supporting Antennas used to provide wireless services authorized by the FCC. A Distributed Antenna System (DAS) installed pursuant to a Certificate of Public Convenience and Necessity (CPCN) issued by the California Public Utilities Commission on a water tower, utility tower, street light, or other structures built or rebuilt or replaced primarily for a purpose other than supporting wireless services authorized by the FCC, including any structure installed pursuant to California Public Utility Code Section 7901, is not a Wireless Tower for purposes of this definition. For an example only, a prior-existing light standard which is replaced with a new light standard to permit the addition of Antennas shall not be considered a Wireless Tower, but rather a replacement light standard.

CalWA Comment No. 6: Overemphasis of "aesthetics". More tolerance and balance should be afforded this land use in recognition of the critical infrastructure and "utility" that it is.

20.49.040 – Available Technology.

All Telecom Facilities approved under this Chapter shall utilize the most efficient, diminutive, and least obtrusive available technology in order to minimize the number of Telecom Facilities in the City and reduce their visual impact on the community and public views.

20.49.050 – Location Preferences.

A. Preferred Locations. The following is the order of preference for the location and installation of Telecom Facilities, from highest priority location and technique to lowest. Antenna Classes are the Telecom Facilities and their attendant accessory/Support Equipment separated into the following distinct Antenna Classes based on observed aesthetic impacts, as follows:

Class 1 (Camouflaged/Screened): A Telecom Facility with Antennas mounted on an existing or proposed non-residential building or other structure not primarily intended to be an antenna support structure. The Antennas, Base Station, and Support Equipment are fully screened so that they are not visible to the general public. Typical examples include:

- Wall or roof mounted Antennas that are screened behind radio-frequency transparent, visually-opaque screen walls that match or complement existing exterior surfaces of the building or structure to which they are attached.
- Antennas designed to be incorporated within an architectural feature of a building or structure such as a steeple, cross, cupola, sign, monument, clock tower or other architectural element.
- Base Station equipment that is contained within an existing structure, or placed into a new attached structure that matches or complements the existing exterior surfaces of the building or structure

CalWA Comment No. 7: This additional requirement is not warranted nor relavent to a Collocation. Please remove.

Class 2 (Collocation): A Telecom Facility with Antennas and/or Base Stations co-located on an approved existing Telecom Facility and mounted in the same manner with materially the same or improved screening, or the same camouflage design techniques as the approved or existing Telecom Facility. Class 2 Collocation Telecom Facilities also may incorporate flush-to-grade underground Base Station enclosures including flush-to-grade vents, or vents that extend no more than 24 inches above the finished grade and are screened from public view.

Class 3 (Visible): A Telecom Facility with Antennas mounted on an existing non-residential building, structure, pole, light standard, Utility Tower, and/or Lattice Tower. The structure is treated with some camouflage design techniques, but the Antenna panels and some portions of the pole, light standards, Utility Tower, or Lattice Tower are still visible. Typical examples include:

- Antennas mounted on the exterior of an existing building so that the panels are visible, but painted to match the color and texture of the building or structure.
- Antennas flush-mounted atop an existing pole or light standard that are unscreened or un-camouflaged, or attached to an existing pole or light standard utilizing a cylindrical Antenna unit that replicates the diameter and color of the pole or standards.
- Antenna panels installed on existing electrical or other Utility Towers, or existing Lattice Towers.

CalWA Comment No. 8: WTF mounted on existing utility infrastructure should be encourage and promoted via Class 1 designation.

CalWA Comment No. 9: This type of facility should be Class 1. Please reclassify as a facility that is within a rock or shrub type facility is very low profile and minimimally visible, if at all.

Class 4 (Freestanding Structure): A Facility with Antennas mounted on a new freestanding structure constructed for the sole or primary purpose of supporting the Telecom Facility. The Telecom Facility is designed to replicate a natural feature or is a Monopole or Lattice Tower. The Antennas are either unscreened and visible, or camouflaged/designed to blend in with their surroundings. Typical examples include:

CalWA Comment No. 10: These types of facilities should be included with Class 3 type facilities as they are "stealthed/ camoflauged and should be incentivised.

- Antennas mounted inside or behind elements that replicate natural features such as rocks and shrubbery and located in hillsides or other natural areas where the Telecom Facility blends into the surrounding vegetation or topography (e.g. false rocks or shrubbery).
- A Telecom Facility consisting of Antennas mounted on or inside a freestanding structure that uses camouflage to disguise the Antennas (e.g. monotree, flagpole, or other freestanding structure).
- A Telecom Facility consisting of Antennas on the exterior of a freestanding structure that is unscreened/un-camouflaged (e.g. Monopoles or Lattice Tower).

Class 5 (Temporary): A Wireless Tower, Antennas and/or Base Station, and associated Support Equipment system that is a temporary Telecom Facility on a site until a permanent (separately approved) Telecom Facility to provide coverage for the same general area is operational but such placement of a temporary Telecom Facility shall not exceed 1 year, consistent with Section 20.52.040. A Wireless Tower, Antennas and/or Base Station, and associated Support Equipment system that is a temporary Telecom Facility located on a site in connection with a special event, as that term may be defined in Municipal Code Section 11.03.020 (General Provisions), may be allowed only upon approval of a Special Events Permit, as regulated by Chapter 11.03. Class 5 installations include but are not limited to equipment mounted on trailers, trucks, skids, or similar portable platforms.

B. Prohibited Locations. Telecom Facilities are prohibited in the following locations:

CalWA Comment No. 11: Facilities should be permitted in these zones if not utilized as a residential use.

1. On properties zoned for single-unit or two-unit residential development, including equivalent PC District designation.
2. On properties zoned for multi-unit residential development and mixed-use development consisting of four (4) dwelling units or less.
3. In the Open Space (OS) zoning district, unless Telecom Facilities are collocated on an existing Utility Tower within a utility easement area, or collocated on an existing Telecom Facility.

C. Installations in the Public Right-of-Way. All Telecom Facilities proposed to be located in the public right-of way shall comply with the provisions of Title 13, and notwithstanding any provisions contained in Title 13 to the contrary, shall be subject to the following:

CalWA Comment No. 12: Open space should be a permitted zone for this critical utility infrastructure.

1. All Support Equipment shall be placed below grade in the public right-of-way where the existing utility services (e.g., telephone, power, cable TV) are located underground. Exception: Any pedestal meter required for the purpose of providing electrical service power for the proposed Telecom Facility may be allowed to be installed above ground in a public right-of-way.
2. Whenever Feasible, new Antennas proposed to be installed in public right-of-way shall be placed on existing or replacement utility structures, light standards, or other existing vertical structures.
3. Any proposed installation in the public right-of-way shall comply with all requirements of the Americans with Disability Act (ADA), and all other laws, rules, and regulations.

CalWA Comment No. 13: The "General Criteria" primarily focuses on "aesthetics" and weights that criteria above all other concerns. No other utility infrastructure must adhere to such unbalanced criteria and wireless infrastructure. CalWA requests that the City begin to look in a more balanced and tolerant manner towards this utility as is afforded all other utility infrastructure.

D. Collocation Installations.

1. When Required. To limit the adverse visual effects of and proliferation of individual Telecom Facilities in the City, a new Telecom Facility proposed within one thousand (1,000) feet of an existing Telecom Facility shall be required to collocate on the same building or structure as the existing Telecom Facility. Exception: If the reviewing authority determines, based on compelling evidence submitted by the applicant, that Collocation of one or more new Telecom Facilities within one thousand (1000) feet of an existing Telecom Facility is not Feasible, and all findings required to grant approval of a MUP, CUP or LTP for a Telecom Facility can be met, then such Collocation shall not be required.
2. Condition Requiring Future Collocation. In approving a Telecom Facility, the review authority may impose a condition of approval providing for future Collocation of Telecom Facilities by other carriers at the same site.

20.49.060 – General Development and Design Standards.

A. General Criteria. All Telecom Facilities shall employ design techniques to minimize visual impacts and provide appropriate screening to result in the least intrusive means of providing the service. Such techniques shall be employed to make the installation, appearance and operations of the Telecom Facility as visually inconspicuous as possible. To the greatest extent Feasible, Telecom Facilities shall be designed to minimize the visual impact of the Telecom Facility by means of location, placement, height, screening, landscaping, and camouflage, and shall be compatible with existing architectural elements, building materials, other building characteristics, and the surrounding area. Where an existing structure is replaced to allow for the addition of a Telecom Facility, the replacement structure shall retain as its primary use and purpose that of the prior-existing structure. For an example, where a streetlight standard is replaced with a different streetlight standard to allow for the additional installation of Antennas, the primary use shall remain as a streetlight.

In addition to the other design standards of this Section, the following criteria shall be considered by the review authority in connection with its processing of any MUP, CUP or LTP for a Telecom Facility:

1. Blending. The extent to which the proposed Telecom Facility blends into the surrounding environment or is architecturally compatible and integrated into the structure.
2. Screening. The extent to which the proposed Telecom Facility is concealed, screened or camouflaged by existing or proposed new topography, vegetation, buildings or other structures.
3. Size. The total size of the proposed Telecom Facility, particularly in relation to surrounding and supporting structures.
4. Location. Proposed Telecom Facilities shall be located so as to utilize existing natural or man-made features in the vicinity of the Telecom Facility, including topography, vegetation, buildings, or other structures to provide the greatest amount of visual screening and blending with the predominant visual backdrop.

B. Public View Protection. Telecom Facilities involving a site adjacent to an identified public view point or corridor, as identified in General Plan Policy NR 20.3 (Public Views), shall be reviewed to evaluate the potential impact to public views consistent with Section 20.30.100 (Public View Protection).

C. Height. All Telecom Facilities shall comply with Antenna height restrictions, if any, required by the Federal Aviation Administration, and shall comply with Section 20.30.060.E. (Airport Environs Land Use Plan (AELUP) for John Wayne Airport and Airport Land Use Commission (ALUC) Review Requirements) as may be in force at the time the Telecom Facility is permitted or modified.

1. Maximum Height. Antennas shall be installed at the minimum height possible to provide average service to the Telecom Operator's proposed service area. In any case, no Antenna or other telecom equipment or screening structure shall extend higher than the following maximum height limits:

CalWA Comment No. 14: These types of facilities should be permitted in residential districts that are developed non-residential land uses.

a. Telecom Facilities installed on existing streetlight standards, traffic control standards, Utility Poles, Utility Towers or other similar structures within the public right-of-way shall not exceed 35 feet in height above the finished grade.
b. Telecom Facilities may be installed on existing Utility Poles or Utility Towers that exceed 35 feet above the finished grade where the purposes of the existing Utility Pole or Utility Tower is to carry electricity or provide other wireless data transmission provided that the top of the Antenna does not extend above the top of the Utility Pole or Utility Tower.
c. Telecom Facilities installed in ground-mounted flagpoles may be installed at a maximum height of 35 feet in nonresidential districts only, and shall not exceed 24 inches in width at the base of the flagpole and also shall not exceed 20 inches in width at the top of the flagpole. As a condition of approval, flagpole sites shall comply with 4 U.S.C. § 1 *et seq.* (the "U.S. Flag Code").

CalWA Comment No. 15: Additional heights should be permitted up to 10 feet above the base height as additional height could result in lesser overall facilities and will allow for additional collocations further reducing the number of overall facilities needed in the future.

d. Telecom Facilities may be installed on buildings or other structures to extend up to 5 feet above the base height limit established in Part 2 (Zoning Districts, Allowable Uses, and Zoning District Standards) for the zoning district in which the Telecom Facility is located.
e. Applications for the installation of Telecom Facilities proposed to be greater than 5 feet above the base height limit may be installed up to the maximum height limit for the zoning district in which the Telecom Facility is located in accordance with Section 20.30.060.C.2 (Height Limit Areas), subject to review and action by the Planning Commission. The Planning Commission may approve or conditionally approve a CUP for a Telecom Facility to exceed the base height limit by more than 5 feet after making all of the required findings in Section 20.49.070.H (Permit Review Procedures).

2. Over-Height Buildings or Structures. Stealth Telecom Facilities may be installed within or on structures that are permitted to exceed the height limit for the zoning district in which the structure is located, either by right under Title 20 or which have received a discretionary approval, so long as the height of the structure is not being increased. The standard of review shall be based on the type of installation and Antenna Classes being used.

D. Setbacks. Proposed Telecom Facilities shall comply with the required setback established by the development standards for the zoning district in which the Telecom Facility is proposed to be located. Setbacks shall be measured from the part of the Telecom Facility closest to the applicable lot line or structure. For ground-mounted Wireless Towers installed on public property or private property, unless the review authority determines a smaller setback would be appropriate based on the surrounding development or uses, the setback

CalWA Comment No. 17: This land use is by definition a "utility". As critical "utility infrastructure" some tolerance of "aesthetics" associated with utility infrastructure needs to considered and afforded this land use as it is afforded other "utilities". Over emphasis of "aesthetics".

CalWA Comment No. 16: This is unecessary and could exclude many good opportunities for appropriate locations. This requirement should be removed.

shall be the greater of: a) the required setback established by the development standards for the zoning district in which the Telecom Facility is proposed to be located; or b) 110% of the maximum height of the Wireless Tower including any Antenna or Antenna enclosures attached thereto.

E. Design Techniques. Design techniques shall result in the installation of a Telecom Facility that is in scale with the surrounding area, hides the installation from predominant views from surrounding properties, and prevents the Telecom Facility from visually dominating the surrounding area. Design techniques may include the following:

1. Screening elements to camouflage, disguise, or otherwise hide the Telecom Facility from view from surrounding uses.
2. Painting and/or coloring the Telecom Facility to blend into the predominant visual backdrop.
3. Siting the Telecom Facility to utilize existing features (buildings, topography, vegetation, etc.) to screen, camouflage, or hide the Telecom Facility.
4. Utilizing simulated natural features (trees, rocks, etc.) to screen, camouflage, or hide the Telecom Facility.
5. Providing Telecom Facilities of a size that, as determined by the City, is not visually obtrusive such that any effort to screen the Telecom Facility would create greater visual impacts than the Telecom Facility itself.

F. Screening Standards. Following is a non-exclusive list of potential design and screening techniques that should be considered based on the following Antenna Classes:

1. For Class 1 (Camouflaged/Screened) Antenna Installations:
   a. All Telecom Facility components, including all Antenna panels and Support Equipment, shall be fully screened, and mounted either inside the building or structure, or behind the proposed screening elements and not on the exterior face of the building or structure.
   b. Screening materials shall match in color, size, proportion, style, and quality with the exterior design and architectural character of the structure and the surrounding visual environment. If determined necessary by the reviewing authority, screening to avoid adverse impacts to views from land or buildings at higher elevations shall be required.
   c. In conditions where the Antennas and Support Equipment are installed within a new freestanding structure, (an architectural feature such as a steeple, religious symbol or tower, cupola, clock tower, sign, etc.), the installation shall blend in the predominant visual backdrop so it appears to be a decorative and attractive architectural feature.

CalWA Comment No. 17: How is this section anticipated to be applied? Wholesale change out of the WTF would not be acceptable. Please clarify.

2. For Class 2 (Collocation) Antenna Installations:
   a. A Collocation installation shall use screening methods materially similar to those used on the existing Telecom Facility and shall not diminish the screening of the existing Telecom Facility.
   b. If determined necessary by the review authority, use of other improved and appropriate screening methods may be required to screen the Antennas, Base Station, and Support Equipment from public view.

3. For Class 3 (Visible) Antenna Installations:
   a. Building or structure mounted Antennas shall be painted or otherwise coated to match or complement the predominant color of the structure on which they are mounted and shall be compatible with the architectural texture and materials of the building to which the

CalWA Comment No. 18A: The requirement for locating associated radio transmission/amplificaton equipment inside the streetlight pole or traffic control standard "without increasing the pole width or shall be mounted in a flush-to-grad enclosure adjacent to the base of the pole" is onerous and cost prohibitive. It is also unequitable treatment when compared to other utility infrastructure within the ROW. We request an option for above ground equipment be available.

Antennas are mounted. No cables and mounting brackets or any other associated equipment or wires shall be visible from above, below or the side of the Antennas.

b. All Antenna components and Support Equipment shall be treated with exterior coatings of a color and texture to match the predominant visual background and/or adjacent architecture so as to visually blend in with the surrounding development. Subdued colors and non-reflective materials that blend with surrounding materials and colors shall be used.

c. Antenna installations in the public right-of-way and/or on an existing or replacement streetlight pole or traffic control standard shall be limited to Antennas, Supporting Equipment, and cable components that are compatible in scale and proportion to streetlights and traffic control standards and the poles on which they are mounted. All transmission or amplification equipment such as remote radio units, tower mounted amplifiers and surge suppressors shall be mounted inside the streetlight pole or traffic control standard without increasing the pole width or shall be mounted in a flush-to-grade enclosure adjacent to the base of the pole.

CalWA Comment No. 18: If this additional screening is done this type of facility should be Class 1.

d. Antenna installations on existing or replacement streetlight poles, traffic control standards, or Utility Poles shall be screened by means of canisters, radomes, shrouds other screening measures whenever Feasible, and treated with exterior coatings of a color and texture to match the existing pole. If Antennas are proposed to be installed without screening, they shall be flush-mounted to the pole and shall be treated with exterior coatings of a color and texture to match the existing pole.

CalWA Comment No. 19: This should be a Class 1 type facility

e. Antennas shall be mounted on existing poles wherever Feasible. If a new pole is proposed to replace the existing pole, the replacement pole shall be consistent with the size, shape, style and design of the existing pole, including any attached light arms.

4. For Class 4 (Freestanding Structure) Antenna Installations:

a. For a false rock, the proposed screen structure shall match in scale and color other rock outcroppings in the general vicinity of the proposed site. A false rock screen may not be considered appropriate in areas that do not have natural rock outcroppings.

b. The installation of a false tree (such as but without limitation a monopine or monopalm, or false shrubbery) shall be designed for and located in a setting that is compatible with the proposed screening method. Such installations shall be situated so as to utilize existing natural or manmade features including topography, vegetation, buildings, or other structures to provide the greatest amount of visual screening. For false trees or shrubbery installations, all Antennas and Antenna supports shall be contained within the canopy of the tree design, and other vegetation comparable to that replicated in the proposed screen structure shall be prevalent in the immediate vicinity of the antenna site, and the addition of new comparable living vegetation may be necessary to enhance the false tree or shrubbery screen structure.

CalWA Comment No. 20: In industrial/ manufacturing zones this design option is appropriate and helps reduce costs of facilities for all. Also in proximity to transmission lattice towers similar lattice tower designs are most appropriate.

c. The installation of a new Monopole or Lattice Tower is prohibited unless the applicant by use of compelling evidence can show to the satisfaction of the review authority that higher priority locations or Stealth Facilities are either not available or are not Feasible.

5. For Class 5 (Temporary) Antenna Installations:

a. A temporary Telecom Facility installation may require screening to reduce visual impacts depending on the duration of the permit and the setting of the proposed site. If screening methods are determined to be necessary by the review authority, the appropriate screening methods will be determined through the permitting process reflecting the temporary nature of the Telecom Facility.

CalWA Comment No. 21: Need clarification on this Class?

6. Support Equipment. All Support Equipment associated with the operation of any Telecom Facility including but not limited to the Base Station shall be placed or mounted in the least visually obtrusive location possible, and shall be screened from view. The following is a non-exclusive list of potential screening techniques that may be utilized based on the type of installation:

CalWA Comment No. 22: This is not a feasible option. Should be removed.

a. Building-Mounted Facilities. For building or structure-mounted Antenna installations, Support Equipment for the Telecom Facility may be located inside the building, in an underground vault, or on the roof of the building that the Telecom Facility is located on, provided that both the equipment and screening materials are painted the color of the building, roof, and/or surroundings. All screening materials for roof-mounted Telecom Facilities shall be of a quality and design compatible with the architecture, color, texture and materials of the building to which it is mounted. If determined necessary by the review authority, screening to avoid adverse impacts to views from land or buildings at higher elevations shall be required.

b. Freestanding Facilities. For freestanding Telecom Facilities installations, not mounted on a building or structure, Support Equipment for the Telecom Facility:

- Shall be visually screened by locating the Support Equipment in a fully enclosed building or in an underground vault, or
- Shall be screened in a security enclosure consisting of walls and/or landscaping to effectively screen the Support Equipment at the time of installation. All wall and landscaping materials shall be selected so that the resulting screening will be visually integrated with the architecture and landscape architecture of the surroundings.
- Screening enclosures may utilize graffiti-resistant and climb-resistant vinyl-clad chain link with a “closed-mesh” design (i.e. one-inch gaps) or may consist of an alternate enclosure design approved by the review authority. In general, the screening enclosure shall be made of non-reflective material and painted or camouflaged to blend with surrounding materials and colors.

CalWA Comment No. 23: It is not feasible to provide above ground support equipment within the pole without some reasonable increase in width being permitted. This section should be redrafted.

c. Installations in a Public Right-of-Way. Support Equipment approved to be located above ground in a public right-of-way shall be painted or otherwise coated to be visually compatible with the existing or replacement pole, lighting and/or traffic signal equipment without substantially increasing the width of the structure.

G. Night Lighting. Telecom Facilities shall not be lighted except for security lighting at the lowest intensity necessary for that purpose or as may be required by the U.S. Flag Code. Such lighting shall be shielded so that direct illumination does not directly shine on nearby properties. The review authority shall consult with the Police Department regarding proposed security lighting for Telecom Facilities on a case-by-case basis.

H. Signs and Advertising. No advertising signage or identifying logos shall be displayed on any Telecom Facility except for small identification, address, warning, and similar information plates. Such information plates shall be identified in the telecom application and shall be subject to approval by the review authority. Signage required by state or federal regulations shall be allowed in its smallest permissible size.

I. Nonconformities. A proposed Telecom Facility shall not create any new or increased nonconformities as defined in the Zoning Code, such as, but not limited to, a reduction in and/or elimination of, required parking, landscaping, or loading zones.

J. Maintenance. The Telecom Operator shall be responsible for maintenance of the Telecom Facility in a manner consistent with the original approval of the Telecom Facility, including but not limited to the following:

CalWA Comment No. 25: For those facilities that are not visible and not within a residential zone nor within 150' of a residential zone a ministerial permit option to incentivize and reduce processing costs and time should be an option.

1. Any missing, discolored, or damaged camouflage or screening shall be restored to its original permitted condition.
2. All graffiti on any components of the Telecom Facility shall be removed promptly in accordance the Newport Beach Municipal Code.
3. All landscaping required for the Telecom Facility shall be maintained in a healthy condition at all times, and shall be promptly replaced if dead or dying.
4. All Telecom Facilities shall be kept clean and free of litter.
5. All equipment cabinets shall display a legible contact number for reporting maintenance problems to the Facility Operator.
6. If a flagpole is used for a Telecom Facility, flags shall be flown and shall be properly maintained at all times. The use of the United States flag shall comply with the provisions of the U.S. Flag Code.

CalWA Comment No. 24: More incentivized zoning principles should be incorporated into the "Permit Review Procedures".

20.49.070 – Permit Review Procedures.

The procedures and requirements for preparation, filing, and processing of a permit application for a Telecom Facility shall be as specified in Chapter 20.50 (Permit Application Filing and Processing) unless otherwise noted below.

A. Permit Required. All applicants for Telecom Facilities shall apply for a MUP, CUP or LTP, from the Community Development Department, depending on the Antenna Class, height, and duration, as specified in the table below:

Table 4-1
Permit Requirements for Telecom Facilities

CalWA Comment No. 25: For Nonresidential there should be a lesser ministerial process to further insentivize the nonresidential locations.

CalWA Comment No. 26: No Collocation should require a CUP.

Antenna Class	Location of Proposed Telecom Facility		
	Located in a Nonresidential District more than 150 feet from a Residential (or Equivalent PC) District or Open Space District or Public Park or Public Facility zoned PR or PF	Located inside or within 150 feet of any Open Space District or Public Park or Public Facility zoned PR or PF	Located inside or within 150 feet of any Residential District or Equivalent PC District
Class 1 Antenna (a) (Camouflaged/Screened)	MUP	MUP	MUP
Class 2 Antenna (a) (b) (Collocation)	MUP	MUP	CUP
Class 3 Antenna (a) (Visible)	MUP	MUP	CUP

CalWA Comment No. 27: Should be allowed via MUP if within height limits of underlying zone and "stealthed".

CalWA Comment No. 28: For WTF located in Residential Zones with non-residential land uses, a MUP or ministerial permit should be afforded if completely screened.

CalWA Comment No. 29: Is this for emergency facilities? Not clear.

Antenna Class	Location of Proposed Telecom Facility		
Class 4 Antenna (a) (c) (Freestanding Structure)	MUP	CUP	CUP
Class 5 Antenna (a) (c) (d) (Temporary)	LTP	LTP	LTP

CalWA Comment No. 30: Has the City conducted Environmental Reviews on wireless facilities as a matter of routine or are most facilities determined to be "Exempt" from the provisions of CEQA (Categorically).

(a) Any application for a Telecom Facility that proposes to exceed the base height limit of the applicable zoning district in which the Telecom Facility is located by greater than five (5) feet shall require review and action of a CUP by the Planning Commission. Pursuant to this provision, an application that would otherwise be subject to review by the Zoning Administrator would become subject to review by the Planning Commission. The Planning Commission may approve or conditionally approve a CUP, subject to the required findings in Subparagraph H, below.

(b) The review procedure for Collocated Telecom Facilities shall be consistent with the applicable review procedure as identified elsewhere in this table depending on the type of installation and Antenna Class being proposed for the Collocation, unless the Collocated Telecom Facility meets the requirements of California Government Code § 65850.6, or involves the Collocation of new transmission equipment and is consistent with the provisions in Section 20.49.100 (Modification of Existing Telecom Facilities).

(c) Antennas mounted on or within flagpoles, and temporary Telecom Facilities shall not be permitted on properties either used or zoned residentially.

CalWA Comment No. 31: What is the purpose of this limitation? This excludes numerous appropriate land use locations that are zoned residential but may have other land uses, ie. churches which provide excellent locations in proximity to residential uses where these facilities are extremely necessary.

(d) Temporary Telecom Facilities shall be subject to the standard of review for an LTP, pursuant to Section 20.52.040 (Limited Term Permits).

B. Application Submission Requirements for Telecom Facilities on City-owned or City-held Trust Properties. Prior to the submittal for any application for any Telecom Facility located on any City-owned property or City-held trust property, the applicant shall first obtain written authorization from the City Manager or its designee to submit an application.

C. Fee. All costs associated with the permit application review shall be the responsibility of the applicant, including any expense incurred for any outside technical or legal services in connection with the application.

D. Review Process. Review of applications for all Telecom Facilities in City shall be consistent with Chapter 20.50 (Permit Application Filing and Processing), and the FCC Declaratory Ruling FCC 09-99 ("Shot Clock") deadlines.

E. Review of Collocated Facilities. Notwithstanding any provision of this Chapter to the contrary, pursuant to California Government Code section 65850.6 (as amended or superseded), the addition of a new Telecom Facility to an existing Telecom Facility resulting in the establishment of a Collocated Telecom Facility shall be a permitted use not requiring a discretionary permit provided the underlying Telecom Facility was granted a discretionary permit and was subject to either an environmental impact report, mitigated negative declaration or negative declaration. If such a Collocated Telecom Facility does not satisfy all of the requirements of Government Code section 65850.6, it shall be reviewed pursuant the review procedures contained in Section 20.49.070 (Permit Review Procedures).

F. Emergency Communications Review. At the time an application is submitted to the Community Development Department, a copy of the Plans, Map, and Emission Standards shall be sent to the Chief of the Newport Beach Police Department. The Police Department or its designee shall review the plan's potential conflict with emergency communications.

CalWA Comment No. 32: Has it been the practice to conduct Environmental Reviews pursuant to CEQA for facilities in Newport Beach? If so then would this State Code section be invoked?

CalWA Comment No. 33: This requirement is inconsistent with State and Federal Collocation laws. Some recognition of the Class 1 type facility and collocations should be included herein. Also further incentivization of process would be the ministerial permit for Class 1 and collocations that are consistent with State Code section, 65850.6.

The review may include a pre-installation test of the Telecom Facility to determine if any interference exists. If the Police Department determines that the proposal has a high probability that the Telecom Facility will interfere with emergency communications devices, the applicant shall work with the Police Department to avoid interference. .

G. Public Notice and Public Hearing Requirements. An application for a Telecom Facility shall require a public notice, and a public hearing shall be conducted, in compliance with Chapter 20.62 (Public Hearings).

H. Required Findings for Telecom Facilities. The following findings shall apply to all Telecom Facilities:

1. General. The review authority indicated in Table 4-1 may approve or conditionally approve an application for a Telecom Facility only after first finding each of the required findings for a MUP or CUP pursuant to Section 20.52.020 (Conditional Use Permits and Minor Use Permits), or an LTP pursuant to Section 20.52.040 (Limited Term Permits), and each of the following:

CalWA Comment No. 34: These criteria are extremely subjective and do not consider the technical requirements of the land use. These criteria are unbalanced with overemphasis on "aesthetics".

a. The proposed Telecom Facility is visually compatible with the surrounding neighborhood.
b. The proposed Telecom Facility complies with the technology, height, location and design standards, as provided for in this Chapter.
c. An alternative site(s) located further from a Residential District, Public Park or Public Facility cannot feasibly fulfill the coverage needs fulfilled by the installation at the proposed site.
d. An alternative Antenna construction plan that would result in a higher priority Antenna Class category for the proposed Telecom Facility is not available or reasonably Feasible and desirable under the circumstances.

2. Findings to Increase Height. The review authority may approve, or conditionally approve an application for a Telecom Facility which includes a request to exceed the base height limit for the zoning district in which the Telecom Facility is located by more than 5 feet only after making each of the following findings in addition to the required findings above, as well the required findings for a MUP or CUP pursuant to Section 20.52.020 (Conditional Use Permits and Minor Use Permits), or an LTP pursuant to Section 20.52.040 (Limited Term Permits):

CalWA Comment No. 35: Additional height should be permitted as required. An addiitonal 5' only is too onerous and will result in many more facilties being required

a. The increased height will not result in undesirable or abrupt scale changes or relationships being created between the proposed Telecom Facility and existing adjacent developments or public spaces.
b. Establishment of the Telecom Facility at the requested height is necessary to provide service.

20.49.080 – Permit Implementation, Time Limits, Extensions, and Appeals.

A. The process for implementation or “exercising” of permits issued for a Telecom Facility, time limits, and extensions, shall be in accordance with Chapter 20.54 (Permit Implementation, Time Limits, and Extensions).

B. Appeals. Any appeal of the decision of the review authority of an application for a Telecom Facility shall be processed in compliance with Chapter 20.64 (Appeals).

CalWA Comment No. 36: CalWA requests that this process be concurrent rather than linear.

20.49.090 – Agreement for Use of City-Owned or City-Held Trust Property.

When applying for a permit pursuant to this Chapter, all Telecom Facilities located on City-owned or City-held trust property shall require a license agreement approved as to form by the City Attorney, and as to substance (including, but not limited to, compensation, term, insurance requirements, bonding requirements, and hold harmless provisions) by the City Manager, consistent with provisions in the City Council Policy Manual.

Prior to entering into an agreement, the applicant shall obtain a MUP, CUP or LTP. Upon the issuance of a MUP, CUP or LTP, as required, and upon entering into an agreement, the applicant shall obtain any and all other necessary permits, including, encroachment permits for work to be completed in the public right-of-way, building permits, etc. All costs of said permits shall be at the sole and complete responsibility of the applicant. All work shall be performed in accordance with the applicable City standards and requirements.

20.49.100 – Modification of Existing Telecom Facilities.

Notwithstanding any provision in this Chapter of the Zoning Code, a request for a modification of an existing Wireless Tower or Base Station that involves:

a. The Collocation of new transmission equipment;
b. The removal of existing transmission equipment; or
c. The replacement of existing transmission equipment

CalWA Comment No. 37: What is an example of a "Telecom Facility that does not qualify as a Wireless Tower or Base Station". Needs clarification.

shall be subject to a ministerial review and approval without the processing of a discretionary permit provided that such modification does not substantially change any of the physical dimensions of such Wireless Tower or Base Station from the dimensions approved as part of the original discretionary permit for the Wireless Tower or Base Station.

However, any modification to a Wireless Tower or Base Station which substantially changes the physical dimensions of either the Wireless Tower or Base Station, and any other modification to a Telecom Facility that does not qualify as a Wireless Tower or Base Station, shall be subject to the permits and authorizations required by this Chapter.

"Substantially Change the Physical Dimensions" means any of the following, and refers to a single change, or a series of changes over time (whether made by the same or different entities) viewed against the City approval(s) for the Wireless Tower or Base Station as existing on February 22, 2012, that individually or cumulatively have any of the effects described below:

a. Changing any physical dimension of the Wireless Tower or Base Station in a manner that creates a violation of any safety code adopted by the City, or by the state or federal government.
b. Changing the physical dimension of a Stealth Facility on a Wireless Tower, where the changes would be inconsistent with the design of the Stealth Facility, or make the Wireless Tower more visible.
c. Changing the physical dimension would require work that would intrude upon the public right-of-way, or any environmentally sensitive area.
d. Increasing or decreasing by five percent (5%) or more any of the following:

CalWA Comment No. 38: Nearly any additional facilities incorporated onto an existing facility could be interpreted to "make the Wireless Tower more visible". This needs to be clarified and relaxed to accomodate collocations without being determined to crossing this "threshold".

CaWA Comment No. 39: This threshold is vague and unclear. Delete or clarify.

CalWA Comment No. 40: This should be increased to 10%.

CalWA Comment No. 41: These additional constraints are confusing and unclear. Delete or clarify. A simple 10% increase in volume is simple enough.

- The height, width, or depth in any direction of any portion of the Wireless Tower or Base Station; or
- The area required for structures required to support the Wireless Tower, including but not limited to guy wires as approved and constructed through the discretionary permit process

Provided that in no event shall the height is increased to exceed the maximum height permitted in the applicable zoning district under the City's regulations.

e. Increasing by more than five percent (5%) any of the height, width, depth or area encompassed within any structure or object enclosing the Wireless Tower, such as a fence or line of shrubs or bushes.
f. Increasing any of an existing Antenna Array's depth, circumference, or horizontal radius from the Wireless Tower in any direction by more than five percent (5%).
g. Adding more than two Antenna Arrays to an existing Wireless Tower, or adding Antenna Arrays that, if the Antenna Array were an existing Antenna Array, would be of such depth, circumference or radius as to fall outside of item f (above), unless such Antenna Arrays were approved pursuant to Government Code Section 65850.6.
h. The mounting of the new or replacement transmission equipment would involve installing new equipment cabinet(s) not permitted under the initial approval and that will not fit within the existing enclosure for the Wireless Tower or Base Station, or would require installation of a new cabinet or enclosure, excluding new equipment and cabinets that will be installed underground. (Note: the proposed installation of a power back-up system [i.e., gas/diesel generator, fuel cell, battery system, etc.] is not Collocation of new transmission equipment.)
i. Any increase in any physical dimension of a Wireless Tower or Base Station or any equipment related thereto or any enclosure thereof at a Legal Nonconforming Facility.

Each application submitted under this section for a modification to an existing Wireless Tower or Base Station shall be accompanied by:

1. A detailed description of the proposed modifications to the existing Telecom Facility(ies);
2. A photograph or description of the Wireless Tower as originally constructed, if available; a current photograph of the existing Wireless Tower and/or Base Station; and, a graphic depiction of the Wireless Tower and/or Base Station after modification showing all relevant dimensions;
3. A detailed description of all construction that will be performed in connection with the proposed modification; and
4. A written statement signed and stamped by a professional engineer, licensed and qualified in California, attesting that the proposed modifications to be performed will not trigger discretionary review under this section.

Any permit issued will be conditioned, and may be revoked, and the Telecom Facility required to be removed or restored to its pre-modification condition if:

a. Any material statement made with respect to the Telecom Facility is false; or
b. The modifications as actually made would have triggered a discretionary review.

20.49.110 – Operational and Radio Frequency Compliance and Emissions Report.

At all times, the operator shall ensure that its Telecom Facilities shall comply with the most current regulatory, operations standards, and radio frequency emissions standards adopted by

CalWA Comment No. 42: CalWA has worked with jurisdictions across the State. It is our experience that when additional testing is required it is so far below allowable limits as set by the FCC that is to be unwarranted. Please delete this requirement as it adds additional burdens and expenses that do not yeild meaningful information.

the FCC. The operator shall be responsible for obtaining and maintaining the most current information from the FCC regarding allowable radio frequency emissions and all other applicable regulations and standards. Said information shall be made available by the operator upon request at the discretion of the Community Development Director.

Within thirty (30) days after installation of a Telecom Facility, a radio frequency (RF) compliance and emissions report prepared by a qualified RF engineer acceptable to the City shall be submitted in order to demonstrate that the Telecom Facility is operating at the approved frequency and complies with FCC standards for radio frequency emissions safety as defined in 47 C.F.R. § 1.1307 *et seq*. Such report shall be based on actual field transmission measurements of the Telecom Facility operating at its maximum effective radiated power level, rather than on estimations or computer projections. If the report shows that the Telecom Facility does not comply with the FCC's 'General Population/Uncontrolled Exposure' standard as defined in 47 C.F.R. § 1.1310 Note 2 to Table 1, the Director shall require that use of the Telecom Facility be suspended until a new report has been submitted confirming such compliance.

Upon any proposed increase of at least ten percent (10%) in the effective radiated power or any proposed change in frequency use of the Telecom Facility by the Telecom Operator, the Telecom Operator shall be required to provide an updated certified radio frequency (RF) compliance and RF emissions safety report.

A qualified independent radio frequency engineer, selected and under contract to the City, may be retained to review said certifications for compliance with FCC regulations. All costs associated with the City's review of these certifications shall be the responsibility of the permittee, which shall promptly reimburse City for the cost of the review.

20.49.120 – Right to Review or Revoke Permit.

The reservation of right to review any permit for a Telecom Facility granted by the City is in addition to, and not in lieu of, the right of the City to review and revoke or modify any permit granted or approved hereunder for any violations of the conditions imposed on such permit.

20.49.130 – Removal of Telecom Facilities.

A. Discontinued Use. Any Telecom Operator who intends to abandon or discontinue use of a Telecom Facility must notify the Community Development Director by certified mail no less than thirty (30) days prior to such abandonment or discontinuance of use. The Telecom Operator or owner of the affected real property shall have ninety (90) days from the date of abandonment or discontinuance, or a reasonable additional time as may be approved by the Community Development Director, within which to complete one of the following actions:

1. Reactivate use of the Telecom Facility;
2. Transfer the rights to use the Telecom Facility to another Telecom Operator and the Telecom Operator immediately commences use within a reasonable period of time as determined by the Community Development Director;
3. Remove the Telecom Facility and restore the site.

B. Abandonment. Any Telecom Facility that is not operated for transmission and/or reception for a continuous period of ninety (90) days or whose Telecom Operator did not remove the Telecom Facility in accordance with Subsection A shall be deemed abandoned. Upon a

finding of abandonment, the City shall provide notice to the Telecom Operator last known to use such Facility and, if applicable, the owner of the affected real property, providing thirty days from the date of the notice within which to complete one of the following actions:

1. Reactivate use of the Telecom Facility;
2. Transfer the rights to use the Telecom Facility to another Telecom Operator who has agreed to reactivate the Telecom Facility within 30 days of the transfer;
3. Remove the Telecom Facility and restore the site.

C. Removal by City.

1. The City may remove an abandoned Telecom Facility, repair any and all damage to the premises caused by such removal, and otherwise restore the premises as is appropriate to be in compliance with applicable codes at any time after thirty (30) days following the notice of abandonment.
2. If the City removes the Telecom Facility, the City may, but shall not be required to, store the removed Telecom Facility or any part thereof. The owner of the premises upon which the abandoned Telecom Facility was located and all prior operators of the Telecom Facility shall be jointly liable for the entire cost of such removal, repair, restoration and storage, and shall remit payment to the City promptly after demand therefore is made. In addition, the City Council, at its option, may utilize any financial security required in conjunction with granting the telecom permit as reimbursement for such costs. Also, in lieu of storing the removed Telecom Facility, the City may convert it to the City's use, sell it, or dispose of it in any manner deemed by the City to be appropriate.

D. City Lien on Property. Until the cost of removal, repair, restoration and storage is paid in full, a lien shall be placed on the abandoned personal property and any real property on which the Telecom Facility was located for the full amount of the cost of removal, repair, restoration and storage. The City Clerk shall cause the lien to be recorded with the Orange County Recorder, with the costs of filing, processing, and release of such City Lien being added to the other costs listed in this Section D.

Newport Beach Wireless Ordinance (July 19, 2012 Version)

The following comments are on the version of the Wireless Telecommunications Facilities Ordinance (PA2012-057) / Code Amendment No. 2012-004 presented to the Newport Beach Planning Commission as Agenda Item 5 at its July 19, 2012 meeting.

The comments were prepared by Jim Mosher (jimmosher@yahoo.com), 2210 Private Road, Newport Beach 92660 (949-548-6229) , and are a mix of what may seem major and minor points.

Disclosure

I live in a blufftop home on a "quiet" street overlooking Irvine Avenue, just north of Santiago Road. I enjoy a view across the Upper Newport Bay Nature Reserve to Saddleback Peak in the distance. The only unnatural object impairing my view is the top of a City-owned streetlight pole in the public right-of-way along Irvine Avenue. In March 2007 the City Planning Department (now Division) approved, without public notice, hearing or right of appeal, an application to attach a pair of highly visible commercial cell antennas to the top of that pole. In November, 2008, without an clear authority from the City Council, the City Manager signed a long-term lease for use of the City-owned pole, and in January, 2009 impacted residents were notified of imminent construction by a contractor (which, to date, has not yet happened). Adding insult to injury, this has been designated as a preferred site for future collocation.

As it turns out the application was approved based on fraudulent information submitted by the applicant including maps which by failing to disclose a major wireless facility two blocks to the north created the appearance of a major "hole" in coverage where none existed. As it also turns out, under the existing telecom code the planner who approved the application should arguably have referred the matter to a noticed public hearing before the City Council because of the proposal's greater-than-normal impact on private views. In addition, the letting of a lease by the City Manager, although consistent with the Council Policy, was, at least in my view, inconsistent with the City Charter, which permits *only* the City Council to bind the City (an action which to comply with the Brown Act would have to take place at a noticed public meeting). Finally, there is an ongoing disagreement as to whether the approval was granted in perpetuity (the Planning Division's interpretation), or if as an unexercised building permit issued subject to the Uniform Building Code it expired (in the absence of any construction) 180 days after issuance (my interpretation).

My neighbors and I expect no relief from the proposed Wireless Telecommunications Facilities Ordinance since it says it does not affect the status of earlier approvals. Nonetheless this example seems to me a paradigm of at least one situation in which a good telecom code would preclude the issuance of a permit: cell equipment should not be sited where it impairs the enjoyment of public or private property unless there is compelling evidence of a serious gap in coverage that cannot be corrected in any less intrusive manner.

Although I appreciate staff's effort in "updating" the code, to the extent the new code would permit the preceding facility to be approved I will find it wanting.

General Comments

The effort to update the City's wireless regulations and integrate them into the Zoning Code is very commendable, particularly to the extent it brings them under the umbrella of uniform hearing and appeal procedures applicable to other zoning/land use decisions.

That said, it seems unfortunate that the City's Media and Communications Committee no longer exists, for this is potentially a major revision that would have seemed deserving of more public outreach and input before reaching so finalized a state. Although I cannot guarantee they would have participated, I personally know of others who have not been entirely happy with the current process.

Where do the revised regulations belong?

The choice of numbering the commercial wireless regulations as "Chapter 20.49" appears to place them in Title 20 (Zoning Code) under Part 4 (Standards for Specific Land Uses). However that part currently contains only a single chapter (Chapter 20.48: Standards for Specific Land Uses), and "Wireless Telecommunications Facilities" would seem logically to be a section under that, much like Section 20.48.190 (Satellite Antennas and Amateur Radio Facilities). The primary reason for not doing so seems to be that the use of a combination of letters and numbers to designate the subsections within a section is more awkward than the decimal scheme of numbering sections within a chapter. Yet a standalone chapter looks out of place when all the other "Specific Land Uses" are sections within a single chapter.

Alternatively the commercial wireless regulations might belong as a separate chapter in Part 3 (Site Planning and Development Standards), much like Chapter 20.36 (Landscaping Standards) or Chapter 20.42 (Sign Standards). Since those chapters are arranged alphabetically, "Wireless Telecommunications Facilities" would be Chapter 20.47.

The proposed transplanting of the section of wireless-specific definitions from Title 15 to Title 20 as Section 20.49.030 (Definitions) is also awkward, for an effort was made to consolidate *all* the definitions in the new Zoning Code in a single section: Chapter 20.70 (Definitions). Although an exception has already been made in Chapter 20.42 (Sign Standards) – which has its own definition section – consideration should perhaps be given to including a dedicated section of wireless definitions in the "W" section of Chapter 20.70, rather than as a separate section within the Wireless code where they are disconnected from the other zoning definitions.

Specific Comments

20.49.010 – Purpose and Intent.

Minor comments:

- Since the regulations of the California Public Utilities Commission also come into play, the phrase in paragraph "**A. Purpose**" that says "*consistent with federal law*" should perhaps say "*consistent with **state and** federal law.*"

- The capitalization of words in the proposed ordinance is not entirely consistent with the style used in the remainder of the current Zoning Code, although the latter itself has many inconsistencies. "State" and "Federal" should perhaps be capitalized. Words like "Antenna" and "Collocation" should perhaps not be, since defined terms are not generally capitalized in most of the rest of the Zoning Code.

Major comment:

- Paragraph "**A. Purpose**" differs from the existing code by a single word, yet despite the claim in Attachment PC2 that there is "*No policy change*," this is in fact a ***major*** policy change. The word "***public***" has been inserted into the phrase "***protecting scenic, ocean and coastal public views***." Although staff has consistently claimed its presence was implied, it was ***not*** there, and the idea that its presence was implied is contradicted by existing Section 15.70.070 (Permit Review Procedures) where:

    1. under paragraph B.4 (Visual Simulations) it says "***Consideration shall be given to views from both public areas and private residences.***" and

    2. under paragraph F.3.b (Special Review by Council) a required finding for approval by the Council is that "***The approved facility will not result in conditions which are materially detrimental to nearby property owners, residents, and businesses, nor to public health or safety***."

    - In addition, Section 15.70.090 reserved to the City the modify or revoke the permit if changed circumstances resulted in "***Additional impairment of the views from surrounding properties.***"

    - Likewise, the issuance of a permit for construction in the public right-or-way under NBMC 13.20.070 (Issuance of a PROW Permit) requires consideration of the adverse aesthetic effects of any above ground facilities.

    - It is clear, then, that an objective of the existing telecom code is the minimization of impacts on private as well as public views – a commitment that is abandoned, to the detriment of the community, in the proposed revision.

20.49.020 – General Provisions.

Minor comment: in the old Section 15.70.020 the lettered sections were arranged alphabetically. It is unclear if the new arrangement has a better logic to it.

- **B. Permit and/or Agreement Required**.

    - This section seems redundant with Sections 20.49.070 and 20.49.090, to which it refers. For example, Section 20.49.070.A. (Permit Required) restates the

requirements, and stating them in two places seems unwise: at best the statements are consistent, at worst they contradict each other.

- **C. Exempt Facilities.**
    - Paragraph 2 seems to refer to a subset of the items that are, or should be, regulated by the code section referred to in paragraph 1.
    - The reference in paragraph 3 seems to be to Chapter 2.20 of the NMBC, rather than to Title 2 in general (most of which doesn't have to do with emergencies).
- **D. Other Regulations.**
    - Does "Notwithstanding" mean the same as "In addition to"?
    - Three numbered clauses in the existing Section 15.70.020.D have been removed. Two of them are probably subsumed in the new "E. Regulations not in Conflict or Preempted," but the reasons for no longer requiring compliance with "3. Easements, covenants, conditions or restrictions on the underlying real property" are less obvious. The City has a reluctance to enforce covenants as expressed in Chapter 20.10.C.1, but that reluctance to check compatibility should not necessarily apply to wireless proposals, where the applicant is rarely the landowner.

20.49.030 – Definitions.

General comments:

- Again, the wireless-related definitions might more logically be placed in the "W" section of Chapter 20.70 (Definitions). The City of Riverside does this nicely in Section 19.910.240 of their Municipal Code where they have a subsection of "W" devoted to "*Wireless telecommunication facilities*" with the header explaining, among other things, "*The following definitions pertain to the regulation of telecommunications uses*." They have also, unlike Newport Beach, inserted their sign-specific definitions in the "S" section with entries such as "*Sign, spandrel*."
- Many rather poor definitions have been copied over from the existing wireless code. Many other ones really could be cleaned up.

Specific comments:

- **Antenna**.
    - This definition is confused and circular, with "antenna" being included as an example of an antenna.
    - It seems, intentionally or not, to include the handheld cell phone at the consumer end of the transaction.

- "Electromagnetic waves" includes light as well as radio- or microwave-frequency emissions, so the definition would seem to include, probably inadvertently, such things as a laser surveying system, or even an ordinary light.

Some examples from other cities:

- "Antenna, Antenna Array, Wireless Antenna Array, or Wireless Telecommunications Antenna Array." One or more rods, poles, panels, discs, or similar devices used for the transmission or reception of radio frequency signals, that may include omni-directional antennas (whip), directional antennas (panel), and parabolic antennas (disc), but excluding any support structure as defined below.
- "Antennas" - Any system of wires, poles, rods, reflecting discs, dishes, flat panels, or similar devices, including "whip antennas", attached to a telecommunications tower, mast or other structure, which in combination with the radio-frequency radiation generating equipment associated with a base station are used for the transmission or reception of electromagnetic waves.
- 1." Antenna" means a device or system of wires, poles, rods, dishes or other devices of similar function, used for the transmission and/or reception of radio frequency signals for wireless communications, as described in the Telecommunications Act of 1996. It may include an omni-directional antenna ("whip"), a directional antenna ("panel") and parabolic antenna ("disc"). It does not include the support structure. 2. "Antenna Array" means a set of one or more antennae.

- **Antenna Array**.
  - This is a particularly inscrutable definition constructed out of inscrutable phrases, especially since our definition of "antenna" includes "arrays." The very concise definition of "Antenna Array" in "2" above seems better.
- **Antenna Classes**
  - As it stands this seems a purely circular definition.
  - A reference to proposed Section 20.49.050.A (where the "classes" are actually defined) would seem helpful.
- **Distributed Antenna System, DAS**.
  - I thought a DAS was a system of small, low-power, closely spaced antenna stations. Does the reference to "third-party" mean it does not qualify as a DAS if it is built and operated solely for the benefit of the installer?
- **Feasible**.

    - Should the definition include economic factors?

- **Stealth or Stealth Facility**.
    - False trees have been deleted, probably intentionally.
- **Utility Tower**.
    - It is unclear why a steel pole is regarded as a "tower." Why would the material matter?
- **Wireless Tower**.
    - The intent of the reference to DAS is unclear. In the example, does it matter if the antenna added is DAS or some other kind?

20.49.040 – Available Technology.

- It was unclear under the old code, and remains unclear why this clause is not included in Section 20.49.020 (General Provisions).

20.49.050 – Location Preferences

- **A. Preferred Locations**
    - **Class 2 (Collocation)**
        - It is unclear why the spelling "*co-located*" is used in preference to "*collocated.*"
        - My reading of this definition is that a completely unscreened facility is Class 2 provided the facility to which new features are added was originally unscreened. It is unclear why this would be a preferred over more numerous but less visible installations.
        - Reading further through the code I'm not sure "collocation" should be a "class" at all. In other parts it sounds like it is a construction technique that could be applied to any one of the other classes.
    - **Class 3 (Visible)**
        - "*a cylindrical Antenna unit that replicates the diameter and color of the pole or standards*" sounds like it might be Class 1, certainly if it was incorporated into the normal length of the pole.
    - **Class 4 (Freestanding Structure)**
        - This class seems to encompass a wide range of structures, some of which are much more obtrusive than others.

- **Class 5 (Temporary)**
    - The meaning of "*such placement of a temporary Telecom Facility shall not exceed 1 year, consistent with Section 20.52.040*" is less than clear since Telecom Facilities are not mentioned in Section 20.52.040. Does this mean that even though not mentioned there, the procedures of Section 20.52.040 with a time limit of less than 1 year?

- **C. Installations in the Public Right-of-Way.**
    - "*Any pedestal meter required for the purpose of providing electrical service power*."
        - Has this exception been made obsolete by Southern California Edison's conversion to "SmartMeters" which do not need to be physically read by a technician?
    - "*Any proposed installation in the public right-of-way shall comply with all requirements of the Americans with Disability Act (ADA), and all other laws, rules, and regulations*."
        - Isn't this redundant with the catch-all clauses in Section 20.49.020 (General Provisions, paragraphs D and E)?

- **D. Collocation Installations**
    - In my view this section should be discretionary rather than mandatory. That is, it should say "***may*** *be required to collocate*" rather than "***shall*** *be required to collocate.*" There is no one-size-fits all solution. Ideally the desirability of collocation versus separate installations should be worked out during the public hearing, but the decision has to be made early in the approval process.
    - **Condition Requiring Future Collocation**
        - If the preceding section is mandatory, this seems redundant with it – that is *all* approvals would implicitly include this condition.

20.49.060 – General Development and Design Standards.

- **A. General Criteria**.
    - "*For an example, where a streetlight standard is replaced with a different streetlight standard to allow for the additional installation of Antennas, the primary use shall remain as a streetlight*."
        - It is unclear if this is meant as a definition or a design directive.

        - The definition of "Wireless Tower" in Section 20.49.030 implies no size or amount of antennae can ever cause a streetlight to become a wireless tower?
        - Does this mean there *is* some threshold at which that would happen, and it is to be avoided?
        - If so, should it be elaborated in one of the listed standards? Or is it already implied in "Blending"?
    - Apparently this is meant to be read similarly to the explanation of *Screening Standards* in paragraph 20.49.060.F.3.c ("*compatible in scale and proportion to streetlights and traffic control standards and the poles on which they are mounted*") but the tie-in is not immediately obvious to me.

- **B. Public View Protection**.
    - As previously indicated this is a major step back from the present code which protects *both* private *and* public views, and not just from the few (and somewhat arbitrarily located) starred spots on the General Plan map.
    - Although the Zoning Code generally shuns private view protection it is not unprecedented. For example commercial loading docks and roof-mounted equipment are supposed to be screened from view from adjacent residences. And more importantly, the telecom applicant is not normally a landowner restricted to construction on a particular parcel of property

- **C. Height**
    - The reminders about other codes (such as Section 20.30.060.E and 4 U.S.C. § 1) are helpful, but probably redundant with the catch-all applicability of all other codes in Section 20.49.020 (General Provisions).
    - **Maximum Height**.
        - Since the definition of Telecom Facilities in Section 20.49.030 includes the whole shebang (including the antennas, the support structure to which they are attached and even the land on which it sits) the reference to "Telecom Facilities" at the start of each lettered paragraph is at best confusing. I think what is being regulated is the height at which *antennas* (rather than *Telecom Facilities*) can be installed.
        - Lettered paragraph "b" may need some words to clarify how it relates to paragraph "a" – which it is possibly meant to supersede?

- The references to 24 and 20 inches in lettered paragraph "c" are less than clear. They seem to be an attempt to describe the flagpole rather than the "facility," and I'm not sure how "at the top" is to be interpreted. My recollection is cellphone "flagpoles" frequently have an enlarged cylindrical section near the top (housing the antennas) with a small decorative element above that.

- **Over-Height Buildings or Structures**
  - Stealth Telecom Facilities can evidently be of Class 1, 2 or 4? Exactly how that and "the type of installation" are to affect the review seems vague.
- **D. Setbacks**
  - The reference to "*installed on public property or private property*" seems unnecessary. What other kinds of property are there?
- **E. Design Techniques**.
  - This subsection may have absorbed the protections of private views in the existing code, but whether it is intended to include consideration of private views or not is unclear.
- **F. Screening Standards**.
  - Class 3:
    - "*No cables and mounting brackets or any other associated equipment or wires shall be visible from above, below or the side of the Antennas*."
      - This sounds good, but may be unrealistic. I don't recall ever seeing an installation with visible antenna panels in which the mounting brackets and cables were not at least partially visible.
    - "*Antenna installations on existing or replacement streetlight poles, traffic control standards, or Utility Poles shall be screened by means of canisters, radomes, shrouds other screening measures whenever Feasible*.."
      - Large canisters and "radomes" added on top of streetlights and other poles are not necessarily less obtrusive or obnoxious than "exposed" antennas mounted flush to the pole. It is not at all obvious why they would be preferred.

20.49.070 – Permit Review Procedures.

- **A. Permit Required.**
  - "***Table 4-1*** *Permit Requirements for Telecom Facilities*"
    - The index to the existing Zoning Code indicates Title 20 already contains a "***Table 4-1*** *Animal-Keeping Standards*" and a "***Table 4-2*** *Required Setbacks for Structures Housing Domestic Farm Animals.*" It would appear that if the proposed code is placed in Part 4 this table will need to be renumbered.
    - Note "a" where it says "*depending on the type of installation and Antenna Class being proposed for the Collocation*" is confusing. I thought a collocated installation was by definition Class 2.
- **B. Application Submission Requirements for Telecom Facilities on City-owned or City-held Trust Properties**.
  - It should be clearly stated that authorization by the written authorization from the City Manager does not guarantee that a lease for use of the property will ultimately be granted by the City Council.
- **H. Required Findings for Telecom Facilities**
  - **1. General.**
    - The term "*review authority*" is used frequently in the proposed code. This seems to be where it is defined. However it is defined by reference to Table 4-1, and that table is less than clear as to who or what the review authority is in most cases.
    - The proposed findings are substantially different from the ones the City Council would currently have to make under Section 15.70.070.F.3.
    - The basic requirement that the facility is needed to provide service seems to be missing. Such a requirement is permitted by case law and needed to prevent an unnecessary proliferation of facilities.
    - The proposed findings seem to preclude placement in parks or on public facilities, since such an application would have to be denied if any other alternative is feasible. Since the City might want the revenue in preference to installation on a nearby private building, the logic behind this is unclear.

20.49.090 – Agreement for Use of City-Owned or City-Held Trust Property

Although outside the scope of the proposed code, I believe, as previously stated, that there is a problem with the procedure of approving the leases formulated by the City Manager and City

Attorney for commercial use of public property as current described in Council Policy L-23 (The Siting of Wireless Telecommunications Equipment on City- Owned Land). The agreement is "approved" by *lack of action* on the part of the City Council, which I believe is inconsistent with both the City Charter and the Brown Act. In addition Policy L-23 will require revision because it currently refers to Chapter 15.70 (which is proposed to be repealed) and to provisions in Title 13 that were never implemented.

20.49.100 – Modification of Existing Telecom Facilities.

- The reference under the definition of "Substantially change" to February 22, 2012 seems oddly stated, and might seem to have the effect of making the following criteria inapplicable to a facility that did not exist on that date?

20.49.120 – Right to Review or Revoke Permit.

- The transplanting of this section from Section 15.70.090 does not seem to have been entirely successful since it no longer explains all the circumstances under which the City reserves the right to review or revoke the permit.

20.49.130 – Removal of Telecom Facilities.

- **B. Abandonment**.
    - I have no problem with reducing the period from 180 days to 90 days, but the reason for doing this is not explained in the staff report.

Omissions

In addition to lack of clarity regarding the minimization of impacts on private properties, the proposed code omits important *Submission Requirements* currently found in Section 15.70.070. These included **the justification for the project, maps (including ones illustrating current and proposed coverage), visual simulations (including ones showing impacts on nearby residences), emission data, wind load calculations and evidence of permission to use property**. I don't know if some of this may be required for use permits in general, but much of it seems wireless-specific and it is very difficult to see how the reviewing authorities could make an intelligent decision about the application without this information.

Finally, I think the proposed code would benefit from comparison with how wireless applications are handled by other California cities. I suspect that beyond the clearer definitions cited above, there are many concepts and specific provisions that could be usefully incorporated.

CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT
July 19, 2012
Agenda Item 6

SUBJECT: Balboa Village Implementation Plan - (PA2011-224)

SITE LOCATION: Balboa Peninsula between 7th Street and A Street including Balboa Village

APPLICANT: City of Newport Beach

PLANNER: James Campbell, Principal Planner
jcampbell@newportbeachca.gov, (949-644-3210)

SUMMARY

During the City Council's 2011 goal setting session, revitalization of several neighborhoods was prioritized including Balboa Village. The City Council established the Neighborhood Revitalization Ad-Hoc Committee ("NRC") to guide the overall effort and Council Members Henn, Hill, and Selich were appointed to the ad-hoc committee. The NRC established a Citizens Advisory Panel ("CAP") consisting of several community leaders and residents to assist the NRC. With the assistance of staff and consultants, the CAP and NRC have prepared the attached draft Implementation Plan ("Implementation Plan" or "Plan") that will be forwarded to the City Council for review and action. The Planning Commission's input on the Implementation Plan is requested.

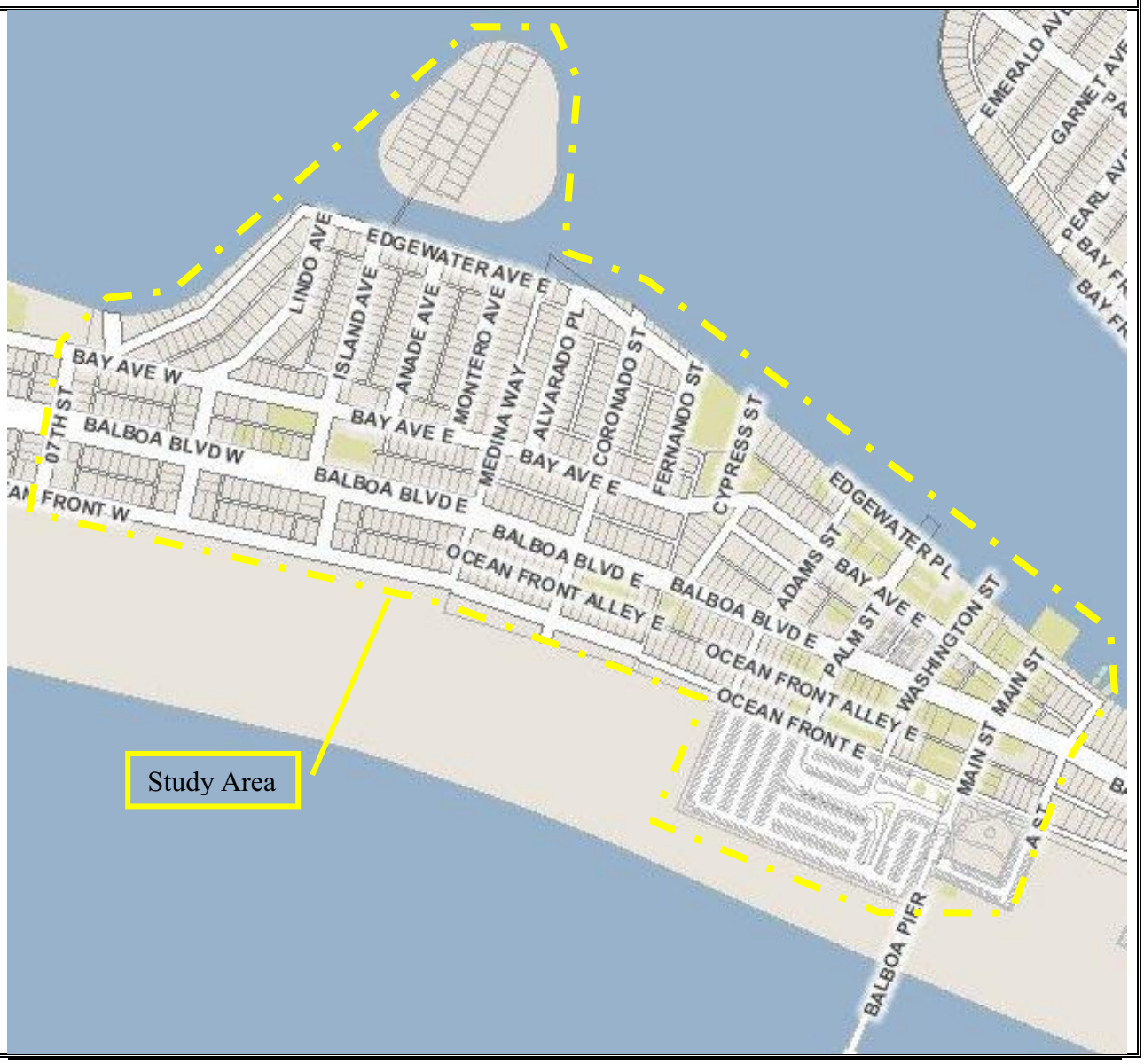
RECOMMENDED ACTION

Review the Balboa Village Implementation Plan (Attachment PC 1) and provide comments to the City Council, as deemed warranted by the Planning Commission.

DISCUSSION

The goal of the Balboa Village Implementation Plan is to identify a series of actions that would lead to the overall revitalization of Balboa Village. The initial focus was on the Balboa Village commercial area, but parking issues in the neighborhood to the west of the village were also included based upon comments from the CAP. The project area was expanded to the cover the area of the Balboa Peninsula between 7th Street to A Street including Bay Island (see vicinity map below). As a result, the draft Implementation Plan includes an overnight residential parking program for the area between 7th Street and Adams Street.

BALBOA VILLAGE IMPLEMENTATION PLAN STUDY AREA



The CAP and NRC have concluded their review of the draft Implementation Plan and are recommending it be forwarded to the City Council for adoption. Minutes from all Balboa Village CAP and NRC meetings are available on the City's website at http://www.newportbeachca.gov/index.aspx?page=1831. The Implementation Plan identifies a new vision and direction for Balboa Village and it outlines key steps to be taken over time with the goal of revitalizing the area.

The Implementation Plan includes the following series of initiatives that are described in detail within the attached Implementation Plan. The Implementation Plan includes a prioritization matrix (Exhibit 4).

Economic Development

1. Develop and implement Commercial Facade Improvement Program.
2. Develop and implement Targeted Tenant Attraction Program.
3. Support new cultural facilities (ExplorOcean/Balboa Theater).
4. Develop special events initiative. The NRC suggests this effort be lead by community stakeholders.
5. Develop operating budget and implementation strategy for RV parking during non-peak season.
6. Consider development of Palm Street parking lot for mixed-used project
7. Allocate additional funding to Balboa Village BID. The NRC desires completion of an ongoing effort to reform BID management.
8. Modify boundaries of Balboa Village BID to delete area from Adams to Coronado Streets.

Parking

1. Remove time limits for all metered spaces; implement demand based pricing for all public parking.
2. Establish a commercial parking benefits district to create permanent, ongoing revenue source.
3. Establish an overnight residential parking permit program. The NRC has requested future review of program details before approval.
4. Establish employee parking permit program.
5. Develop coordinated wayfinding sign program.
6. Identify and implement targeted improvements to bicycle and pedestrian facilities.

Planning and Zoning

1. Eliminate parking requirements for new commercial development and intensification of use applications.
2. Eliminate in-lieu parking fee permanently, including current payees.
3. Evaluate changes to determine impact on new investment in Balboa Village.

4. Pursue adoption of Local Coastal Plan.
5. Continue focused code enforcement efforts.

Public Streetscape

1. Develop conceptual streetscape and public signage plan.
2. Assume maintenance of boardwalk area.

Administrative

1. Create a governance structure to ensure implementation plan recommendations are executed in a timely fashion. The NRC has requested future review and input on the framework of a governance committee.

Some of the most challenging aspects of the Implementation Plan relate to parking. The proposed overnight residential parking permit program must be further evaluated to verify that it meets the criteria provided in Chapter 12.68 of the Municipal Code. Additionally, residential parking permit program must not significantly impact public access as required by the Coastal Act. The elimination or reduction of off-street parking requirements for commercial uses within Balboa Village may seem counterintuitive, but parking data shows that existing parking resources are adequate, if managed more efficiently, for all but the busiest summer weekends or holidays. Also being considered is the modification of public parking rates in the village to incentivize more efficient use while relieving pressure for commercial patrons and employees from parking in residential areas. Changing the parking requirements, elimination of the in-lieu fee program, and the preparation of the Local Coastal Plan will require code amendments that would be the subject of future public hearings and considerations by the Planning Commission and City Council.

<u>Next Steps</u>

The Harbor Commission will be briefed on the draft Implementation Plan at their regularly scheduled meeting on July 11, 2012. The draft Implementation Plan will then be forwarded to the City Council with any comments or recommendations from the Harbor Commission or Planning Commission for consideration and adoption. City Council consideration is tentatively scheduled for August 14, 2012. As noted above, if the City Council adopts the Implementation Plan, the NRC has requested another opportunity to review the creation of the governance/oversight committee and the specific details of the proposed overnight residential permit parking program.

Environmental Review

Consideration and possible adoption of the Balboa Village Implementation Plan is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15262 (Feasibility and Planning Studies) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because the Implementation Plan only identifies possible future actions and has no legally binding effect. Therefore, adoption of the Implementation Plan itself has no potential to have a significant effect on the environment. Implementation of future actions identified in the Implementation Plan may require environmental review prior to adoption if those possible future actions are defined as a project pursuant to CEQA and could result in a direct or reasonably foreseeable indirect physical change in the environment.

Public Notice

Notice was mailed to all site addresses within the study area shown on the vicinity map.

Prepared by:

JWCampbell

James Campbell,
Principal Planer

Submitted by:

Brenda Wisneski, AICP, Deputy Director

ATTACHMENTS

PC 1 Draft Balboa Village Implementation Plan

Exhibit 1: Overview of Brand Development Process
Exhibit 2: Keyser Marston Associates Market Opportunities Analysis and Balboa Village Implementation Strategies
Exhibit 3: Nelson/Nygaard Consulting Associates Parking Management Plan
Exhibit 4: Balboa Village Implementation Plan Matrix

Intentionally Blank

Attachment PC-1

Balboa Village Implementation Plan

Intentionally Blank

City of Newport Beach

BALBOA VILLAGE IMPLEMENTATION PLAN

May 2012

BALBOA VILLAGE
IMPLEMENTATION PLAN
TABLE OF CONTENTS

	Page
Introduction	1
Vision for Balboa Village	3
Expanded Fun Zone	4
Brand Name, Vision Statement, Promise	5
Overview of Market Conditions	6
Economic Development	
Commercial Facade Improvement Program	7
Targeted Tenant Attraction Program	9
Cultural Amenities	10
Special Events Initiative	11
Recreational Vehicle Program	11
Development Opportunities	12
Funding for Marketing	13
Business Improvement District	13
Planning/Zoning Recommendations	14
Parking	
Summary	16
Recommendations	17
Public Infrastructure/Streetscape	21
Administrative Recommendation	23
Conclusion	24

Exhibit 1: Overview of Brand Development Process
Exhibit 2: Keyser Marston Associates Market Opportunities Analysis and Balboa Village Implementation Strategies
Exhibit 3: Nelson/Nygaard Consulting Associates Parking Management Plan
Exhibit 4: Balboa Village Implementation Plan Matrix

City of Newport Beach
Balboa Village Implementation Plan
May 2012

INTRODUCTION

As part of its budget planning process for FY 2011-12, the City Council identified several priority objectives to be addressed. To accomplish these key objectives in a timely fashion, the City Council appointed three of its members to serve on the Neighborhood Revitalization Committee (NRC) to study and develop recommendations for the City Council on various improvement projects in five areas: West Newport Beach, Mariner's Mile, Santa Ana Heights, Lido Village, Corona del Mar, and Balboa Village. The type and level of study and improvements in each of the areas varied widely, ranging from a landscape median design to a more comprehensive land use and parking study for both Lido Village and Balboa Village.

The City Council appointed a five-member Citizen Advisory Panel (CAP) in June 2011 to set a new vision and implementation strategy for the revitalization of Balboa Village. A map of the study area for purposes of this report is shown below as Figure 1. The members of the CAP are all residents of Newport Beach, and include: Mark Hoover, Terri Pasquale, Ralph Rodheim, Craig Smith, and James Stratton. The City Council representative to the CAP is Council Member Mike Henn.

Since its inception, the CAP has met monthly at the Nautical Museum. Meetings were well attended by area residents and business owners, and their interest in the future of Balboa Village was evident by their comments, suggestions, and regular participation. Additional meetings were held with Balboa Village property owners and business owners in an effort to obtain more specific information about their needs and concerns in the area. Further, residents within the Central Newport Beach Neighborhood Association played a key role in the development of the proposed parking management plan.

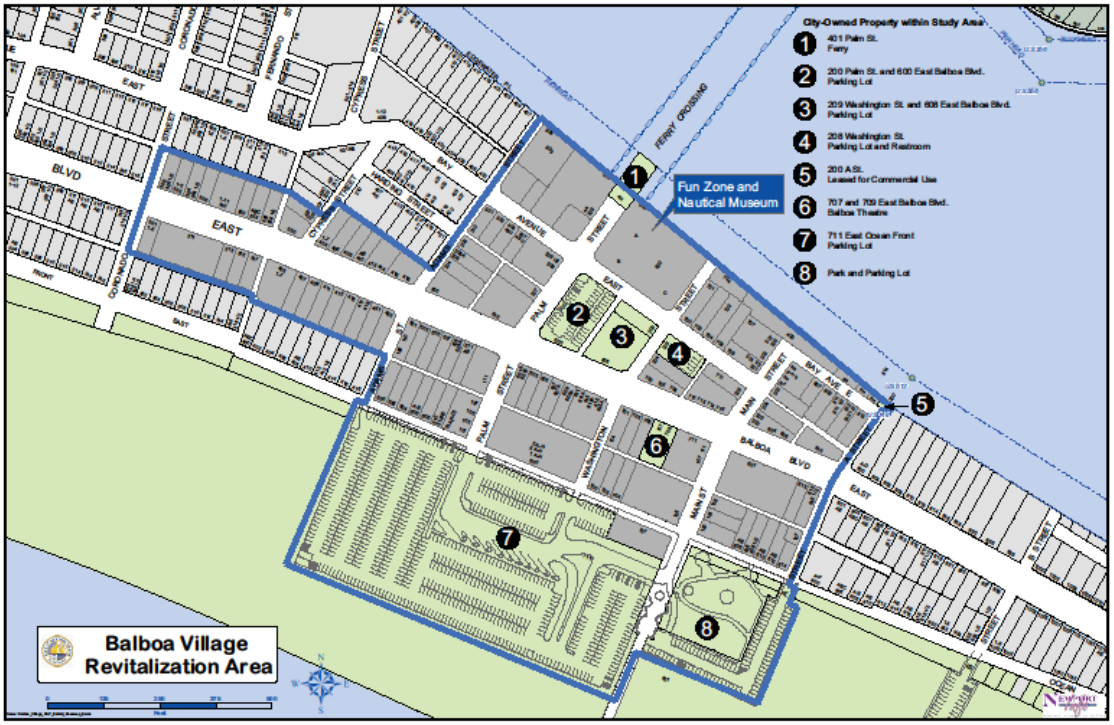


Figure 1 - Map of Revitalization Area

The City engaged the firm of Keyser Marston Associates and Nelson/Nygaard Consulting to conduct two key studies for the area: 1) a market analysis of the greater Balboa Peninsula area along with a specific feasibility analysis and implementation strategies for future development opportunities in Balboa Village; and 2) a parking analysis to specifically identify actions to address current and future demands in the area.

The CAP was clear in its intention to recommend implementation strategies that were feasible and could be realized within a reasonable time frame. The CAP identified several key areas to be addressed which are discussed in further detail in this report, including parking, zoning, appearance and new commercial investment.

VISION FOR BALBOA VILLAGE

The initial discussions of the CAP focused on the vision for Balboa Village. The CAP and community residents/businesses are very desirous of maintaining the unique character and history of Balboa Village. Enhancing the family-friendly environment is important, as well as providing quality dining, entertainment and shopping experiences to visitors and area residents. Following the initial visioning exercise, a draft vision statement was created: **"Balboa Village...a unique destination between the bay and sea where history meets the excitement of the future."** Gary Sherwin of Visit Newport Beach subsequently made a presentation to the CAP on the vision and brand promise for the entire city as it relates to visitor attraction. Balboa Village is viewed as a key player in the overall experience one has when spending time in Newport Beach. It is, therefore, important that the vision for Balboa Village be consistent with the overall vision/brand for the city. The CAP formed a working group, comprised of Ralph Rodheim, Jim Stratton, and Council Member Henn to work with Visit Newport Beach to further refine the Balboa Village vision and develop a brand promise for the area. The City engaged the firm of Destination Consulting Group to conduct opinion research on the area to assist in developing a consumer research-based vision that would lead to creative execution of the proposed Implementation Plan.

Effective destination/district branding is about defining an experience that leaves visitors and residents with a clear memory of a unique occasion that connects with them emotionally. It is important to engage in a brand visioning exercise in order to affect image building, create a greater competitive advantage, and enhance awareness and market conversion. An effective brand vision strategy will result in increased spending new investment, and enhanced experiences, as well as improve the quality of life in Balboa Village.

The data collection was comprised of three surveys sent to visitors, Newport Beach residents, and business owners/operators in Balboa Village. A summary of the process and data collection is attached as Exhibit 1. Below are key highlights resulting from the surveys:

- The Top 6 descriptive statements for Balboa Village were: good weather, unique destination, beautiful nature and scenery, peaceful and relaxed, safe, many opportunities for marine recreation.

- The Bottom 6 statements were: a variety of shopping options, nightlife and entertainment, affordable accommodation choices, interesting cultural activities, a good variety of accommodation choices, and a well-developed infrastructure is in place (i.e., clean, attractive public areas).

- The Top 10 attractions were: Balboa Island Ferry, the Wedge, Balboa Peninsula beach, Catalina Flyer, Balboa Pier, the Pavilion, Fun Zone harbor cruises, Balboa Fun Zone and boardwalk, Balboa Inn, and ExplorOcean/Newport Harbor Nautical Museum.

- 90% of the visitors come to Balboa Village for the day (average stay of approximately 4 hours)

- The majority of visitors and residents identify the area as Balboa, Balboa Island or the Fun Zone; none to few selected Balboa Village.

- If given their choice, the preferred name identifier for the area would be Balboa Fun Zone.

The survey results validated issues that were raised by CAP members, area residents, and businesses during the initial visioning exercise. Overall, one's experience when in Balboa Village is a pleasant and memorable one. Areas of opportunity include: upgrading the general appearance of the area; creating additional dining, shopping and cultural experiences; and providing enhanced wayfinding signage and parking. Another area of opportunity is creating reasons for visitors to extend their stay in the Village.

A final key point resulting from the survey results and discussion with the Branding Working Group is that the assumed boundary of the "Fun Zone" should be expanded as the new vision and brand promise encompasses the entire commercial district of Balboa Village (see Figure 2 below). The effects of such a change will have an impact on wayfinding signage (both Citywide and within Balboa Village), monument signage (existing and new), and various other marketing related activities and collateral.

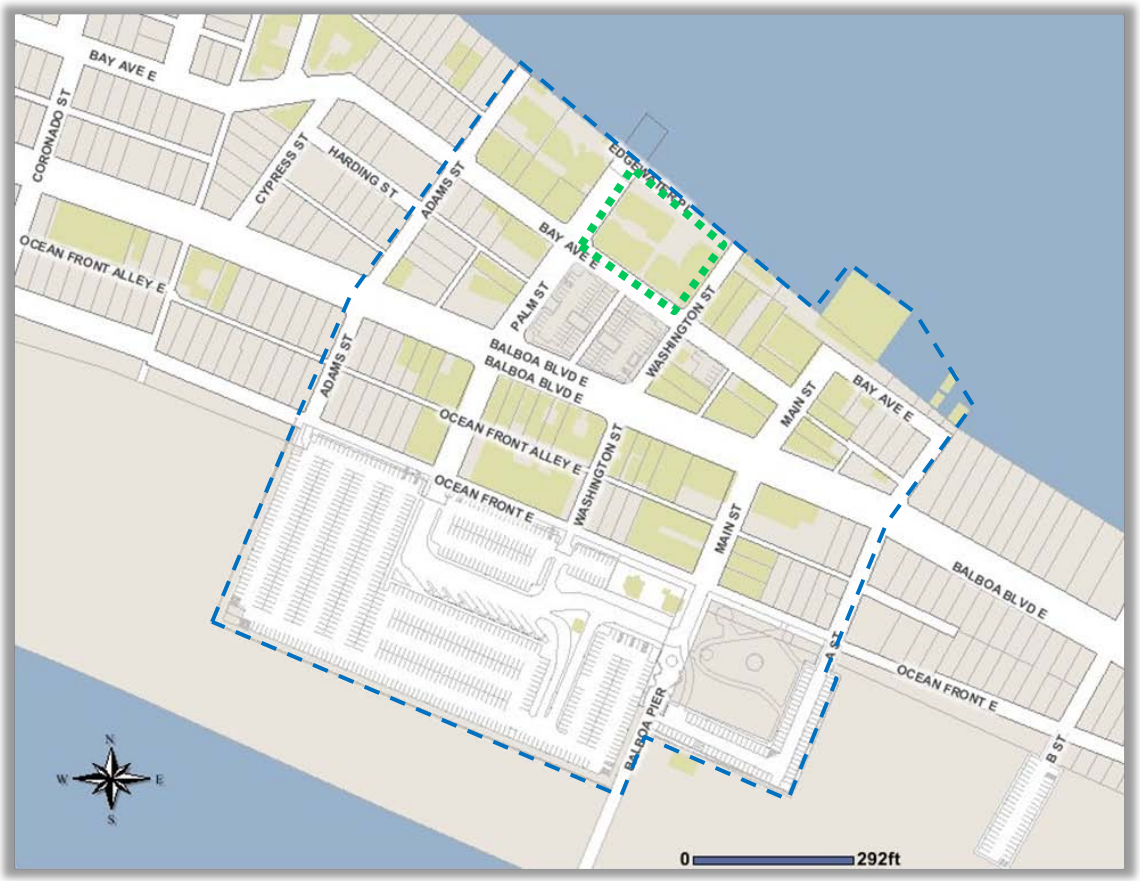


Figure 2 - Expanded Balboa Village Fun Zone

Existing Fun Zone

Expanded Fun Zone

Based on the research collected, and after further review by the Branding Working Group, the following Brand Name, 2020 Brand Vision Statement, and 2012 Brand Promise Statement are recommended to be endorsed by the City Council and incorporated into all marketing materials for the City of Newport Beach. **Most importantly, the brand vision and promise should serve as the guide post for all future policy decisions, programs and activities of the City, property owners, businesses and residents to ensure that the vision is realized for the area.**

<u>Brand Name</u>

Balboa Village Fun Zone

Brand Vision Statement - 2020

Balboa Village Fun Zone is a unique piece of the heart and soul of Newport Beach, and is an inviting, family-friendly entertainment, shopping and dining district. Recognized as Newport Beach's original town site, the revitalized neighborhood is anchored by a complementary mix of large and small scale attractions, including the dynamic new ExplorOcean interactive center, the restored Balboa Performing Arts Theater and event center, and the renovated iconic Pavilion. The expanded Fun Zone is a quaint and engaging environment that offers an array of harbor and beachfront activities for many age groups, and is a celebration of the classic Southern California beach life that is contemporary in personality yet steeped in tradition.

Brand Promise Statement - 2012

Balboa Village Fun Zone is a unique piece of the heart and soul of Newport Beach. It embraces the role of a classic Southern California beachside neighborhood that honors its entertainment heritage and provides a variety of active and passive harbor and beach activities, dining, and casual shopping. It is here that you can find an environment that offers a nostalgic and relaxed celebration of good times and family memories.

OVERVIEW OF MARKET CONDITIONS

Keyser Marston Associates (KMA) conducted a general market analysis of Mariner's Mile and Balboa Peninsula (including Lido Village and Balboa Village), and then further identified opportunities and constraints for future private and public investment in Balboa Village based on their findings in the marketplace, along with recommended implementation strategies based on market conditions. The full report is included as Exhibit 2. A summary of their findings as it relates to Balboa Village is noted below:

Constraints:

- Small, close-in population limits new commercial development
- Access and visibility constraints limit development opportunities
- There is a significant number of intervening commercial opportunities along the route to Balboa Village
- Parking is difficult during peak times
- The project entitlement process can be lengthy and complex due to Coastal Commission requirements.
- Existing parcel patterns and city parking requirements make it difficult to redevelop properties

Opportunities:

- Market support for a small, boutique hotel but City may need to provide assistance given the high cost of land in the area
- Strong market for residential rental and ownership housing

- Residential development is an economic engine for mixed-use development opportunities; carries the cost of ground floor commercial
- Cultural catalysts - ExplorOcean and Balboa Theater
- City-owned parking lot on Palm Street may be developed and serve as a catalyst to promote economic development in Balboa Village

Strategies:

- Pursue adoption of a Local Coastal Plan to expedite project review/permit issuance
- Eliminate parking requirements for new or intensified commercial uses
- Support/facilitate development of ExplorOcean/Balboa Theater
- Create financial incentive programs to encourage façade improvement and rehabilitation of commercial properties
- Support and encourage a variety of events and activities in the Village to improve community interest and increase business sales for local merchants
- Consider developing the Palm Street parking lot with a mixed use project, either hotel or residential with a small amount of ground-floor commercial
- Identify new revenue sources to assist in funding programs and projects recommended for Balboa Village

The following recommendations were made by the CAP in order of priority by category based on need and the ability to make the greatest impact with the limited resources available.

ECONOMIC DEVELOPMENT

A number of economic development related tools and strategies must be employed in Balboa Village to enhance its ability to be a viable commercial and tourist district. The following priority recommendations are ranked in the order provided:

1. Develop and Implement a Commercial Facade Improvement Program

There are approximately 55 commercial buildings located in Balboa Village, some of which contain residential units above the ground floor commercial space. Many of these buildings are in need of exterior renovations, such as paint, signage, awnings, window casings, and structural repairs. The KMA report concluded that, while commercial space rents in this area are adequate by market comparison, on balance, the property owners do not perceive that investing in exterior improvements will generate significant rent increases. The deterioration of these buildings is a key contributor to the overall declining appearance and appeal of the area to residents and visitors alike.

In an effort to incentivize property owners to invest in the rehabilitation of their buildings, it is recommended that the City Council create a facade improvement program and fund a portion of the costs to rehabilitate these commercial structures. These types of

programs are common in special districts such as Balboa Village, and the success of such a program would lead to a renewed sense of place.

As noted in the KMA study, there are several options the City could consider when developing such a program. The CAP is recommending that a tiered, matching fund grant program be created. The program would be designed to insure that City funds are not expended until such time as the owner's funds are available, such as requiring an escrow account for draw-down purposes. The City should consider a range of rebates based on the extent of improvements needed for a particular building, as suggested below:

Minor Building Improvements

These would include items such as sign removal and replacement, and exterior painting (no major repairs involved). The rebate would be based on scope as opposed to building frontage, with a not to exceed rebate of $15,000 per building.

Major Building Improvements

Up to 25' frontage	$15,000
25' to 50' frontage	$25,000
50' to 75' frontage	$37,500
75' and above	$50,000

Key to the program's success will be the targeting of initial funding to a model block that will have the most impact upon completion. This will demonstrate to the owners the potential for their buildings, and give tenants, residents and visitors renewed hope in the

revitalization of the area's commercial district. Often, these building improvements will lead to interior tenant improvements with existing businesses and/or attract new tenants to better serve the area. The specifics of such a program and potential funding sources will be developed if, and when, the City Council approves moving forward with such an incentive. A potential funding source would be the use of CDBG funding which is discussed in further detail below.

2. Develop and Implement a Targeted Tenant Attraction Program.

A complementary effort to the Facade Improvement Program is a key tenant, targeted marketing program. Based on the findings of the KMA market study, there exists a limited opportunity to attract a few key tenants and developments to the area(e.g., sit-down restaurant, quality boutique retail, and a boutique hotel). To do so, however, may require financial incentives on the part of the City to encourage such uses to locate in the Village. These might include fee waivers for plan check and building permits, and perhaps a tenant improvement loan program to offset the expense of opening a new restaurant in the area. Once the incentive programs are developed, a method to provide outreach will be needed to make potential tenants aware of the opportunities. First

priority should be given to implementing the Facade Improvement Program to make an immediate impact on the visual appearance of the area, followed by a targeted tenant attraction effort.

3. Support new cultural amenities such as ExplorOcean and Balboa Theater.

Balboa Village is in need of catalytic projects to bring a new energy and vitality to the area. Cultural venues are often these types of opportunities, and two planned projects that can positively influence economic change in the Village—are ExplorOcean and the Balboa Theater.

Balboa Theater as a commercial music and theatrical venue should create new demand for dining experiences in the Village for both area residents and others. In addition, once completed, the Theater will become a valuable community asset for educational purposes (youth and adult) and become a local resource venue for area residents, businesses and non-profit organizations. The project is at a critical fundraising juncture, and the City should be open to lease modifications if needed, as well as provide necessary support to assist in their fundraising strategies and offer responsive city services as needed during the construction phase.

While ExplorOcean's construction horizon is some five years out, the time is now to build community understanding and support for the facility. These types of projects require a partnership between all the parties to fully realize their potential. The front and center location of ExplorOcean along the bay front is the cornerstone of visitor activity in Balboa Village. The City's support will be required in the interim to assist the museum staff in the improvement and programming of their existing space to demonstrate that positive change is in the making for all to enjoy. Please note below further discussion regarding events and programs in the area.

4. Develop a special events initiative for Balboa Village.

Balboa Village's unique location between the bay and sea creates a natural environment to host community activities and events to showcase the local business, recreation and cultural attributes of the area. A carefully planned and executed special events program will further support the new vision and brand promise for Balboa Village. It is especially timely given the status of the Balboa Theater and ExplorOcean projects. Many of the comments made during the visioning discussions centered on creating more opportunities for families to come and enjoy what the area has to offer. Key is developing a plan that does not regularly attract hoards of new visitors to the area during peak season. If anything, the events and activities should be programmed during non-peak season when parking is readily available and the merchants could benefit from the customer support.

The major challenge with such an initiative is identifying events and activities that are not a drain on city resources, both staff and financial, during difficult economic times. Both Balboa Theater and ExplorOcean are embarking on their own marketing plans to raise funds and awareness for their projects. The City should capitalize on these efforts, and expand the opportunities where possible. To that end, it is recommended that the city engage a professional promoter to develop the framework for a special events initiative in Balboa Village. It is estimated that the cost to prepare such a plan is approximately $15,000 to $20,000.

5. Develop an operating budget and implementation strategy for a non-peak season recreational vehicle use program for the main beach parking lot.

It is important to identify new ways to generate revenues to improve the physical and economic condition of Balboa Village. General fund dollars, parking revenues and other

resources are difficult to garner for projects, programs and activities identified in this Implementation Plan. One new revenue opportunity is the operation of a recreational vehicle park on a certain number of spaces in the main beach lot as is done by a neighboring beach community -- Huntington Beach. Preliminary research shows that, after the initial capital investment for the required infrastructure (approximately $800,000), the City could generate **net** annual revenues in the range of $200,000 per year, assuming 35-40 spaces available for RV use. The actual costs and operational aspects of the program will be developed once direction is given by the City Council to pursue such an opportunity.

An RV park in this location has strong potential. A nearby RV park, Newport Dunes, has proven the viability of offering such an amenity in the community. It is felt that Balboa Village has an added advantage with its proximity to shops, dining and cultural amenities, as well as having the option of the bay or the ocean at your disposal. The off-peak use will also create an offset to the economic losses of the business community during that particular time of year.

6. Consider development of the City-owned Palm Street parking lot for future mixed-use development to generate additional revenues for the area.

The KMA report identified three development scenarios for the City-owned parking lot, including 1) a stand-alone parking structure that would require an annual City subsidy of $532,000 per year; 2) a 45 room hotel above a level of structured parking would potentially yield the City $26,000 in annual ground lease income; and 3) a mixed-use retail/residential project that would generate $206,000 to $250,000 per year in ground lease payments but would not provide any additional public parking.

It is recommended that a final decision as to the development of the City-owned parking lot not be made until the development plan for ExplorOcean has been refined and a financing plan is in place for the project. It is critical that whatever gets developed on the City parcel is complimentary to the ExplorOcean and that the project feasibility study concurs that adequate parking exists in the area to support the project should the City lot be developed.

Any revenues generated from the sale or lease of the City-owned lot may be available for future capital improvements or City approved programs in Balboa Village in furtherance of this proposed Implementation Plan, subject to City Council direction.

7. Allocate additional funding to the Balboa Village Business Improvement District to enhance its marketing program for the area.

The Balboa Village BID currently generates approximately $35,000 per year in revenues to be used for capital improvements, marketing and promotions on behalf of the business community in the area. This level of funding is really not adequate to engage in a thoughtful and professional marketing program. The City is in the process of securing a Business Improvement District Administrator who will have daily management/oversight of the 5 BIDs in the city, as well as be responsible for developing an overall BID vision and brand for the 5 areas that will be in keeping with the City's vision and brand developed by Visit Newport Beach.

If the recommended strategies are adopted by the City Council, then an enhanced marketing and communications plan will be warranted for the area, and the BID seems to be the likely organization to carry out that plan with input from staff and the selected BID Administrator. Such a plan should be carefully executed in partnership with the City's proposed special events plan, ExplorOcean and Balboa Theater to capitalize on each other's resources and strengths.

It is recommended that an additional $25,000 per year be allocated to the Balboa Village BID for specific marketing, communications and events as jointly agreed to by the BID Advisory Board and City Council.

8. Modify the boundaries of the Balboa Village BID to delete the area between Adams and Coronado Streets.

During deliberations on the Residential Permit Parking Plan, it became apparent that certain residential properties are included within the BID boundaries that should be removed. The BID only collects assessments from business licenses associated with commercial businesses. There are approximately 24 residential properties and 2 legal, non-conforming commercial properties in the proposed area to be deleted. The BID Board has indicated its desire to initiate the requisite public process to make these modifications, subject to final City Council approval.

Figure 3 - Balboa Village Business Improvement District

Residential area recommended to be removed from the Business Improvement District

PLANNING/ZONING

Design Guidelines: The City Council adopted Design Guidelines for Balboa Village in November 2002. These guidelines are not contained in the City's zoning code as development standards; rather, they are intended to guide owners, developers and staff in the review of new development in Balboa Village whether it be new construction or substantial rehabilitation of an existing building. The guidelines address building form, setbacks, architectural features and signage considerations.

The CAP appointed a working group to review the existing Design Guidelines in context with others, such as the recently approved Design Guidelines for Lido Village. The conclusion of the working group was that the current guidelines are still applicable, and further change is not warranted. Further, when reviewing projects, staff should ensure that the project design is in keeping with the Brand Vision and Promise.

In addition, the CAP discussed whether a design "theme" was appropriate for Balboa Village. Places like Solvang, California and Leavenworth, Washington were discussed as

examples of areas with much defined theme architecture. The CAP felt such an extreme application of design standards was not appropriate for Balboa Village, and preferred the eclectic mix of architecture that exists in the Village today. However, it was felt that enhanced streetscape treatments would be a better option to improve the appearance of the Village. This could be accomplished through concentrated code enforcement efforts, enhanced maintenance of the public right-of-way, and the creation of an incentive program for facade improvements on the commercial buildings. These topics are discussed in further detail below.

Zoning Recommendations

Considerable discussion took place regarding existing parking requirements and their impact on future development in Balboa Village. The KMA report also identified the off-street parking requirements for commercial uses as one impediment to new development and tenant attraction in the area. As a result, the CAP recommends the following strategies:

1. **Eliminate parking requirements for new commercial development and intensification of use applications**. The parking study affirmed that there is adequate parking in Balboa Village to meet the demands of commercial users, current and proposed for the future. A major challenge with the recycling of commercial properties in Balboa Village is the burdensome off-street parking requirement that currently exists in the city's zoning code that is reinforced by Coastal Commission guidelines and practices. Removing this barrier will greatly enhance future opportunities for new investment, and can be viewed as an incentive to stimulate new private investment in the area.

2. **Eliminate the in lieu parking fee permanently** (a moratorium currently exists) **for those properties in Balboa Village**, **and those paying annually in the program should be terminated concurrently.** It should be noted that the City currently collects $13,500 per year from Balboa Village business or property owners participating in the citywide in lieu fee program. These revenues will no longer be available should the program be terminated.

3. **Within five years after initial implementation, evaluate Strategies 1 and 2 above to determine if they have had a favorable impact on new investment in Balboa Village.**

4. **Continue to encourage mixed-use development pursuant to recently adopted land use designations in the City's General Plan.** New stand-alone commercial development is not economically viable as confirmed by KMA. Limited new commercial uses can be supported, but only if incorporated into a mixed use development such as residential or hotel.

5. **Pursue adoption of a certified Local Coastal Plan to streamline the development review process.** The current entitlement process requires the review of projects by the Coastal Commission, which can significantly extend the review period and have a

resultant impact on the economic viability of a project. If the City obtains certification of a Local Coastal Plan (LCP), then all new projects that meet the requirements contained in the LCP will only require City review and approval, thus eliminating the risk of unknown conditions imposed by an outside agency such as the Coastal Commission. There is an extensive amount of staff work required to develop such a plan; hence, this recommendation is noted as a mid-year objective in the Implementation Matrix.

PARKING SUMMARY

As part of its scope of services, KMA engaged Nelson/Nygaard Consulting Associates to study the current parking needs and issues in Balboa Village, taking into account previous parking studies, including the 2008 study conducted by Walker Parking as well as the Central Newport Beach Neighborhood Association response to the Walker report. The general boundaries of the parking study were Coronado Street to the west, the Newport Bay to the north, B Street to the east, and the public beach parking lot to the south. A complete copy of the Nelson/Nygaard report is attached as Exhibit 3. A summary of their key findings is noted below:

- Balboa Village has a large supply of parking, the majority of which is located in off-street facilities.

- Balboa Village's parking supply is underutilized for all but the busiest summer weekends.

- While the parking supply is underutilized, various "hot spots" of demand exist, even during non-peak months.

- Balboa Village exhibits a drastic seasonal peak parking demand with capacity highly constrained on summer weekends.

- Current pricing schemes discourage the use of off-street facilities, encourage excessive "cruising" for available on-street spaces, and cause parking spillover into surrounding residential streets. During peak summer months, these trends are exacerbated.

- Parking turnover is relatively low, as most vehicles stay parked in off-street spaces for long periods of time.

The report further finds that parking has been built at an average rate of 1.84 stalls per 1,000 gross square feet of development within the commercial core. This rate provides approximately the right amount of parking for commercial land uses which generate parking demand ratios of approximately 1.78 vehicles per 1,000 gross square feet during peak times. Parking demand during the balance of the year is far below 1.78. This finding is key to one of the implementation recommendations noted later in this report.

Recommendations

The following summarizes the CAP's recommendations with regard to parking after extensive discussion and input of the CAP, area residents, staff, consultants and preliminary discussions with the Coastal Commission staff[1]:

1. Remove time limits for all metered spaces. Implement demand-based pricing for on and off street parking facilities.

It is proposed that summer rates (peak periods) for on-street meters be increased to $2.00 per hour up to 2 hours; and $2.50 per hour thereafter. Off peak rates would be $1.00 per hour up to 2 hours; and $1.50 per hour thereafter. Off-street parking would be $1.50 per hour, no maximum, during peak periods; and $0.50 per hour, no maximum, during off peak times. The rates can be adjusted with the current meters and the City will need to periodically evaluate parking utilization and the effectiveness of the new rates and make adjustments as needed. The goal is to ensure that adequate parking exists for business patrons, while carefully managing the impacts from long-term users (e.g., beach parking).

2. Establish a commercial parking benefit district in Balboa Village to create a permanent, ongoing revenue source for eligible programs and activities.

Parking benefit districts (PBDs) are defined geographic areas in which any revenue generated from on-street and off-street parking facilities within the district is returned to the district to fund area improvements. There are two Neighborhood Enhancement Areas (i.e., parking districts) established along the Balboa Peninsula, including those in Balboa Village (see Figure 4). The revenues collected in those districts are used to improve and maintain public parking within those areas, as well as offset ongoing capital and maintenance costs for Tidelands operations. Revenues from Neighborhood Enhancement Area B that encompasses Balboa Village are presently directed to the General Fund for the next several years to reimburse costs associated with the purchase and construction of the expanded Palm Street parking lot. The redirection of revenues for new activities in Balboa Village would require a shift in current City Council policy; however, the CAP felt strongly that a permanent, ongoing source of revenue was critical to ensure the proposed recommendations are implemented within a reasonable time frame. The CAP is recommending that a portion of the parking revenues within the study area boundaries be set-aside annually for eligible programs and activities identified in this report as well as additional programs and activities that may be needed in the future. The proper legal mechanism to accomplish this will need to be determined once City Council direction is provided.

[1] Consultation with Coastal Commission staff did not include a detailed discussion of the recommendations provided in this report and should not be viewed as any form of endorsement or approval of recommended parking strategies by the Coastal Commission or their staff.

Figure 4 - Neighborhood Enhancement Areas A & B

3. Establish an overnight residential parking permit program.

The primary goal of a residential parking permit program (RPPP) is to manage parking "spillover" into residential neighborhoods. This has been a long-standing issue in Balboa Village for area residents, particularly during the peak season from Memorial Day to Labor Day. The following program parameters are recommended:

- District boundaries: All residential streets between 7th Street and Adams Street, except for on-street metered stalls on Balboa Boulevard. In addition, Bay Island is included in the boundary in order to offer the residents permits to park their vehicles on streets within the area (see Figure 5 below).
- Program eligibility: All residences (homes, condos) within the proposed zone may purchase permits, including rental homeowners. City residents living on boats and who store their vehicles in the district would not be eligible to purchase permits.
- Hours of Operation: No parking 4 p.m. – 9 a.m., 7 days per week, excluding holidays. Permit holders exempt.
- Maximum number of permits: 4 per household; guest permits to be studied further to determine the most appropriate pricing and issuance structure.
- Permit Type: Rearview mirror "hangtag" that is a solid color (to change annually) and clearly indicates the year of the permit issued.

- Permit Cost:

1st Permit:	$20 per year
2nd Permit:	$20 per year
3rd Permit:	$60 per year
4th Permit:	$100 per year

The implementation of an RPPP will require the review and approval of the Coastal Commission. The recommendations suggested are mindful of this process, and modifications to the proposed plan may result.

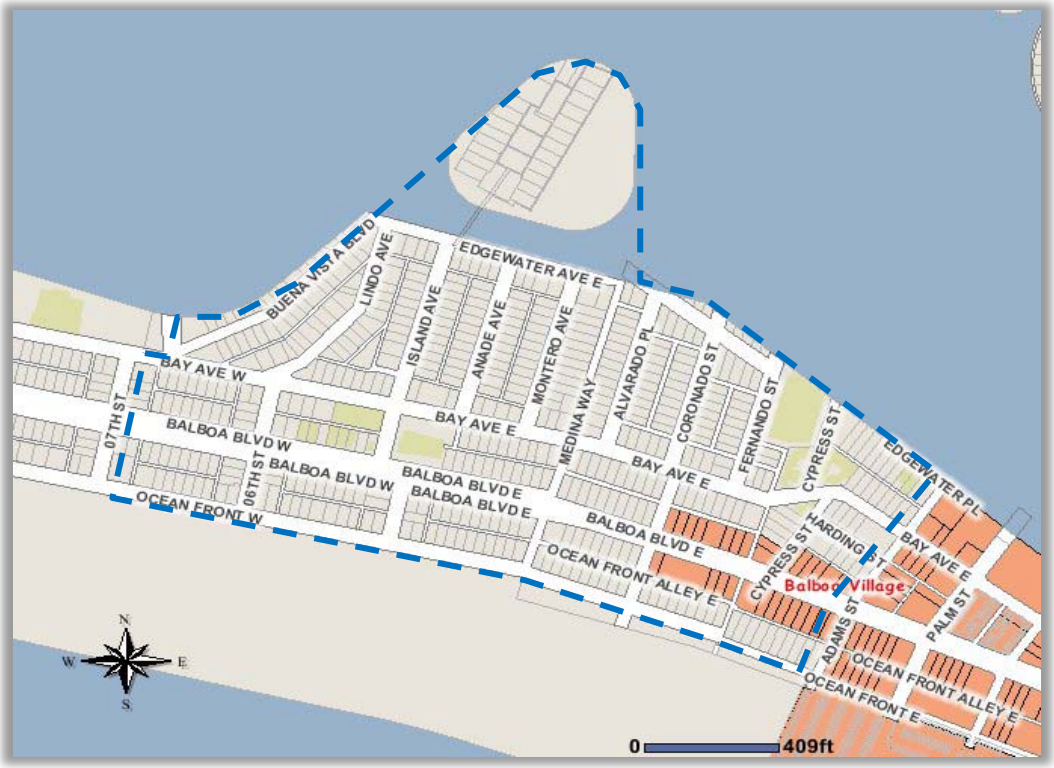


Figure 5- Proposed RPPP District

4. Establish an employee parking permit program.

Employers or employees may purchase a permit for priority parking in a designated area. The following program parameters are recommended:

- Eligibility: all employers and employees within Balboa Village
- Designated area: approximately 100 spaces in the north western portion of the Balboa Village municipal beach parking lot
- Hours of operation: 6 a.m. - 10 a.m., weekdays
- Number of permits issued: 1 per employee
- Permit Cost: $50 per year, no proration
- Compliance with California Coastal Commission

5. Revise minimum parking requirements for new development, and terminate in lieu parking program for existing participants.

As noted above, there is adequate parking in Balboa Village to serve existing commercial uses as well as proposed future development opportunities, such as the Balboa Theater, ExplorOcean and the limited amount of new commercial development that might occur. This also takes into consideration the intensification of existing land uses, e.g., retail converting to restaurant. See recommendations in the Planning/Zoning section below.

6. Formally establish Balboa Village as a shared parking district.

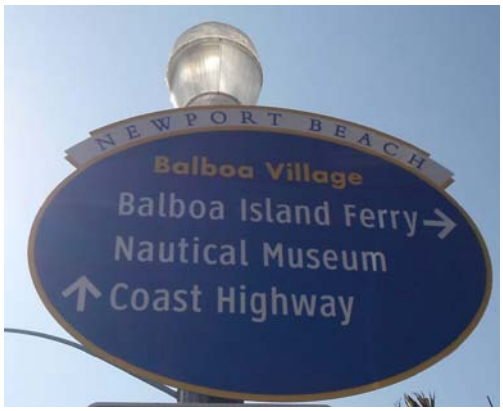
Shared parking is the most effective tool in parking management. Due to different periods of peak demand, uses can easily share parking facilities, thereby limiting the need to provide additional off-street parking. Key policy recommendations are noted below:

- Work with existing owners and businesses to ensure private parking is made available to the public when not needed for its primary commercial use
- Develop mutually agreeable operating and liability arrangements for public use of private parking facilities
- Require as a condition of approval that all newly constructed private parking in any non-residential development or adaptive reuse project be made available to the public.
- Allow parking to be shared among different uses within a single mixed-use building by right.
- If new public parking supply is needed in the future, first purchase or lease existing private parking lots or structures from willing sellers, and add to the public parking supply before building new lots/garages.

7. Develop a coordinated wayfinding program for Balboa Village.

Wayfinding signage helps orient visitors, shoppers and residents alike, pointing them to area parking facilities, restaurants, retail establishments, pedestrian and bicycle routes, and other important destinations. Parking wayfinding signs can also display real-time availability data.

The City of Newport Beach currently has a theme wayfinding sign program for key areas of the city. Further study of this program is warranted to identify additional signage needs in Balboa Village to enhance the effectiveness and visibility for visitors, customers, and residents.



8. In coordination with the City's Bicycle Safety Committee, identify and implement targeted improvements to bicycle and pedestrian facilities in Balboa Village.

The City's Bicycle Safety Committee is currently in the process of developing a plan and set of strategies to improve bicycle safety and conditions, including Balboa Village. Their recommendations should be implemented in collaboration with the strategies identified in this plan.

PUBLIC INFRASTRUCTURE/STREETSCAPE

The streetscape and public rights-of-way in Balboa Village are generally in good condition, but there is room for improvement. Since 2000, the City has invested over $12 million in the area, including new decorative sidewalks, street trees, and planters. In addition, the City acquired property and expanded the Palm Street public parking lot. A walking tour of the area revealed the need for new or improved streetscape, street furniture, wayfinding/parking signage and enhanced maintenance of the area.

The following actions are recommended to address the physical appearance of the public areas in Balboa Village:

1. **Engage an architectural firm to update the original conceptual streetscape and public signage (wayfinding and parking) plan for the Village, taking into consideration the improvements made to date by the City and the future development plans of ExplorOcean along the bay front.**

The intent with this recommendation is not to reinvent the wheel, but rather take into account the various public improvements made in the area over the last ten years such as the planter pots along Main Street and Balboa Boulevard, enhanced pavement, street trees, street furniture and signage. In addition, the boardwalk area will be added to the modified streetscape plan. The intent is to incorporate existing improvements to the extent possible, and build upon the original work for the plan into the future. Creating an enhanced landscape/streetscape design plan will also guide future development in the area, such as ExplorOcean, along key public access routes such as the Boardwalk. A unified streetscape will then become the "theme" if you will, rather than imposing a theme design for the commercial buildings in the Village. The plan will also address additional public signage in the area, which was a recommended action by the parking consultant in order to ease traffic congestion and direct people easily to public parking options, etc.

The cost to undertake an updated conceptual landscape design is approximately $20,000. Once completed, then the next steps would be replacement of the planting in the pots along Main Street and Balboa Boulevard, and refurbishment, replacement or installation of new trash receptacles, benches and other streetscape items identified in the plan. There is currently $100,000 allocated to improve disability street access citywide (curb access ramps) in Community Development Block Grant funds. Upon approval of the Implementation Plan, the City Council could re-consider allocating these funds or allocate future funds for the enhanced streetscape design and improvements. Installation of additional enhanced streetscape improvements will be build upon the improvements previously installed and will further unify and enhance the physical appearance of Balboa Village.

2. **Regular maintenance of the boardwalk area should be incorporated into the City's streetscape maintenance contract under direction of the Operations Department.**

The boardwalk area between Main and Adams Streets is maintained by the individual property owners fronting the boardwalk. An easement exists in favor of the City to provide a public access walkway along the water's edge. It is apparent that not all owners share the same level of maintenance standards. Further, the street furniture is dated and not appealing. Any new street furniture along the Boardwalk will be addressed in the conceptual plan discussed above.

The appearance of the Boardwalk makes an impression on those enjoying the Village offerings. It is important, therefore, that regular cleaning and upgrading of its appearance be undertaken by the City to ensure the level of quality and long-term visual appearance of this frequently used amenity.

The estimated cost of steam cleaning is $630.00 per cleaning, or $7,525 annually for monthly cleaning and $15,050 annually for bi-weekly cleaning. Given the amount of traffic experienced on the boardwalk year round, it is recommended that the bi-weekly cleaning be undertaken as soon as possible to address peak season usage. Frequency during off-peak season can be determined at a later date. Once the conceptual landscape plan is developed, it is recommended that new trash receptacles and street furniture be installed as soon as is practical.

ADMINISTRATIVE RECOMMENDATION

Finally, the CAP is recommending that the City Council establish a governance structure to provide ongoing oversight to ensure that resources (financial and staff) are allocated as needed to effectuate the final Implementation Plan recommendations. It is envisioned that Balboa Village residents and business owners would be participants in the proposed governance body.

CONCLUSION

Balboa Village is a special place that offers memorable experiences for all to enjoy. It is deserving of its preservation as a unique piece of the heart and soul of Newport Beach.

Implementation of the recommended strategies is necessary to ensure that the vision and brand promise for the area can be realized. It is recognized that City resources (both staff and financial) to undertake the actions recommended are limited; therefore, a short, mid and long-term implementation strategy has been developed, along with estimated costs to implement the programs suggested (Exhibit 4). Please note that these costs do not reflect the staff resources needed to implement the recommendations.

The CAP would like to thank the City Council for having the foresight to identify Balboa Village as an important asset in the community, and for its willingness to consider allocating resources to implement the revitalization strategies discussed in this report.

BALBOA VILLAGE IMPLEMENTATION PLAN

Exhibit 1
Brand Development Process

May 2012

Brand Development Status Report
Balboa Village Community Neighborhood

Balboa Village Citizen Advisory Panel

May 2, 2012 Meeting

© Copyright DCG 2012

Branding Working Group Introductions

- Opening remarks
  Gary Sherwin
- Working group participants
- Brand research facilitator/advisor
  Don Anderson

Purpose of Working Group Effort

- Advise on and execute a customized brand research program
- Craft a Balboa Village brand vision statement
- Formulate a Balboa Village brand promise with key identity guidelines and messaging
- Communicate results to Balboa Village Citizens Advisory Panel (CAP)

Working Group Expected Outcomes

Brand Research Program

- Secondary documentation review (7 sources)
- Personal interviews (6 individuals)
- Online surveys (3 questionnaires)
- Group meetings and reporting (3 sessions)

Brand Vision 2020

Brand Promise 2012

Briefing Report

What is Destination/Community/ District Branding?

The creation of a destination/community/district brand is not a quick fix process. It is not a one-time marketing campaign or program nor a logo/slogan driven identity.

Effective destination/community/district branding is about defining an experience that leaves visitors and residents with a clear memory of a unique occasion that connects with them emotionally.

Activities in the Effective Development of a Brand

- A research-based strategy leading to creative execution
- Descriptive functional and emotional attributes/benefits defined
- Unique appeals identified for community/district positioning
- A community/district brand promise formulation
- A future brand vision statement developed
- Guidelines provided to develop an effective brand identity platform

Why Destination/Community/District Branding and Visioning Are Important To Do?

- Positive destination/community/district image building
- Greater destination/community/district competitive advantage
- Enhanced destination/community/district awareness and market conversion
- Agreed-to destination/community/district future state of being

Destination/District Buying Proposition — Increased Spending and Investment — Higher Quality of Place and Life

Balboa Village Brand Methodology

- Branding working group meeting discussions centered on community values, key drivers, imagery and vision/promise statement formulation
- Three surveys containing approximately 20 closed-ended and open-ended questions for visitors/residents and 10 for BID owners/operators
- Email databases used
  - Visitors (Visit Newport Beach and Catalina Flyer contacts)
  - Residents (City of Newport Beach e-newsletter and two Balboa Peninsula community associations contacts)
  - BID owners/operators (City of Newport Beach Balboa Village BID contacts)

Balboa Village Brand Image/Perception Survey Responses

Sample Sizes

Visitors/Potential Visitors (n=614; 459 visitors, 155 potential visitors)

Residents (n=408; 164 live in Balboa Village, 244 elsewhere in Newport Beach)

BID Owners/Operators (n=31)

Balboa Village
Brand Survey Key Results

Location Knowledge of Balboa Village

(% of respondents)

Location	Visitors	Potential Visitors	Residents
Balboa Peninsula	68.0	41.3	91.0
Balboa Island	30.9	24.5	7.8
Don't Know	1.1	34.2	1.2

Traveler Characteristics

Visitors

- 90% are day visitors (avg. stay of 4.6 hours)
- Over 90% used personal or rented vehicle
- Overwhelmingly married, well-educated, high household income and white
- Frequent visits (nearly 6 visits on avg.)

Residents

- Over 97% are day visitors (avg. stay of 2.4 hours)
- Almost 70% used personal or rented vehicle with the rest biking, walking or using ferry
- Overwhelmingly married, highly educated, very high household income and white
- Very frequent visits (nearly 14 visits on avg.)

Primary Purpose of Last Trip

(% of respondents)

Primary Purpose	Visitors	Residents
Leisure/Leisure Vacation	37.6	26.4
Catalina Island Transportation	21.4	1.3
Shopping	9.8	9.2
Visiting Friends and Relatives	8.1	7.1
Passing-Thru	5.7	8.8
Personal Reasons	5.7	10.9
Business Meeting/Event	2.2	3.8
Dining	2.0	7.1
Other	7.4	25.6

Top 10 Visitor Activities/Events Participation
(% of respondents)

Shopping	60.9
Dining experience	58.7
Beach outing	47.8
Sightseeing	47.8
Beach hiking/walking	39.1
Catalina Island transportation	37.0
Balboa Fun Zone entertainment/nightlife	26.1
Visiting friends and relatives	23.9
Biking	13.0
Visited ExplorOcean/Newport Harbor Nautical Museum	10.9

Key Functional Images/Word Descriptions
(ranked by number of mentions)

- Restaurants, dining, food
- Balboa Island Ferry
- Beaches, sand
- Boats, boating
- Water, ocean
- Ferris wheel
- Fun Zone

Key Emotional Images/Word Descriptions
(ranked by number of mentions)

- Fun
- Relaxing, restful, rejuvenating
- Memories, nostalgic
- Happy
- Rundown
- Beautiful, scenic, picturesque

Top 6 Community/District Descriptive Statements Ranking
(based on a 5-point scale)

Image Statement	Mean
Balboa Village has good weather	4.07
Balboa Village is a unique destination	3.87
The area contains beautiful nature and scenery	3.87
The overall mood of the area is peaceful and relaxed	3.84
Balboa Village is a safe region	3.83
The area offers plenty of opportunities for marine recreation	3.83

Bottom Six Community District Descriptive Statements Ranking
(based on a 5-point scale)

Image Statement	Mean
Balboa Village offers a variety of shopping options	3.22
The area offers a variety of nightlife and entertainment	3.15
The area offers affordable accommodation choices	2.95
Interesting cultural activities are available	2.93
The area offers a good variety of accommodation choices	2.91
Well-developed general infrastructure is in place	2.89

Top 10 Community District Attraction Ratings
(based on a 5-point scale)

Attraction	Mean
Balboa Island ferry	4.36
The Wedge surfing	4.33
Balboa Peninsula beach	4.15
Catalina Flyer catamaran	4.13
Balboa Pier	4.00
The Pavilion	3.74
Fun Zone Boat Company harbor cruise	3.66
Balboa Fun Zone and Boardwalk	3.55
Balboa Inn "The Resort"	3.32
ExplorOcean/Newport Harbor Nautical Museum	3.13

Key Decision Factors In Choosing a Area/Destination

(based on a 5-point scale)

Factor	Mean
Offers personal safety	4.46
Destination cleanliness	4.42
Excellent service quality	4.29
Relaxation	4.29
Good weather	4.28
Hospitable, friendly people	4.27
Excellent reputation	4.20
Unique setting	4.18

Priority New Development/ Improvement Requirements

	Visitors/Residents
Foodservices/Restaurants	1
Shopping	2
Parking	3

N.B. Residents and district business owners/operators are 2 and 3 times more likely to indicate that additional attractions, facilities or services are needed.

Community/District Name Identification

(number of responses, open-ended question)

Name	Visitors	NB Residents	BV Residents
Balboa	131	43	43
Balboa Island	43	7	0
Fun Zone	36	65	19
Newport Beach	23	0	0
Balboa Fun Zone	16	12	8
Balboa Peninsula	16	6	10
Peninsula	16	22	5
Balboa Village	0	5	10

Community/District Relevant Name Identification

(% of respondents, closed-ended question)

Name	Visitor	NB Residents	BV Residents
Balboa Village	26.5	19.6	31.0
Balboa Fun Zone	25.9	37.9	23.8
Balboa Peninsula Historic District	11.0	10.5	11.9
Balboa Village District	7.8	2.7	2.4
Newport's Old Town	7.2	4.6	1.6
Balboa Historic Village	6.7	5.0	4.0

Preliminary Balboa Village Brand Vision Statement

In 2020

Balboa Village Fun Zone is a unique piece of the heart and soul of Newport Beach and is an inviting family-friendly entertainment, shopping and dining district. Recognized as Newport Beach's original townsite, the revitalized neighborhood community is anchored by a complementary mix of large and small scale attractions including the dynamic new ExplorOcean interactive museum, the restored Balboa Performing Arts Theater and event center, and the renovated iconic Pavilion. The expanded Fun Zone offers a quaint and engaging environment that offers an array of harbor and beachfront activities for many age groups, and is a celebration of the classic Southern California beach life that is contemporary in personality but steeped in tradition.

Recommended Community/District Brand Name

Balboa Village Fun Zone

Preliminary Balboa Village Brand Promise

In 2012

Balboa Village Fun Zone is a unique piece of the heart and soul of Newport Beach. It embraces the role of a classic Southern California beachside neighborhood that honors its entertainment heritage and provides a variety of active and passive waterfront and beach activities, dining and casual shopping. It is here that you can find an environment that offers a nostalgic and relaxed celebration of good times and family memories.

Balboa Village Brand Development Next Steps

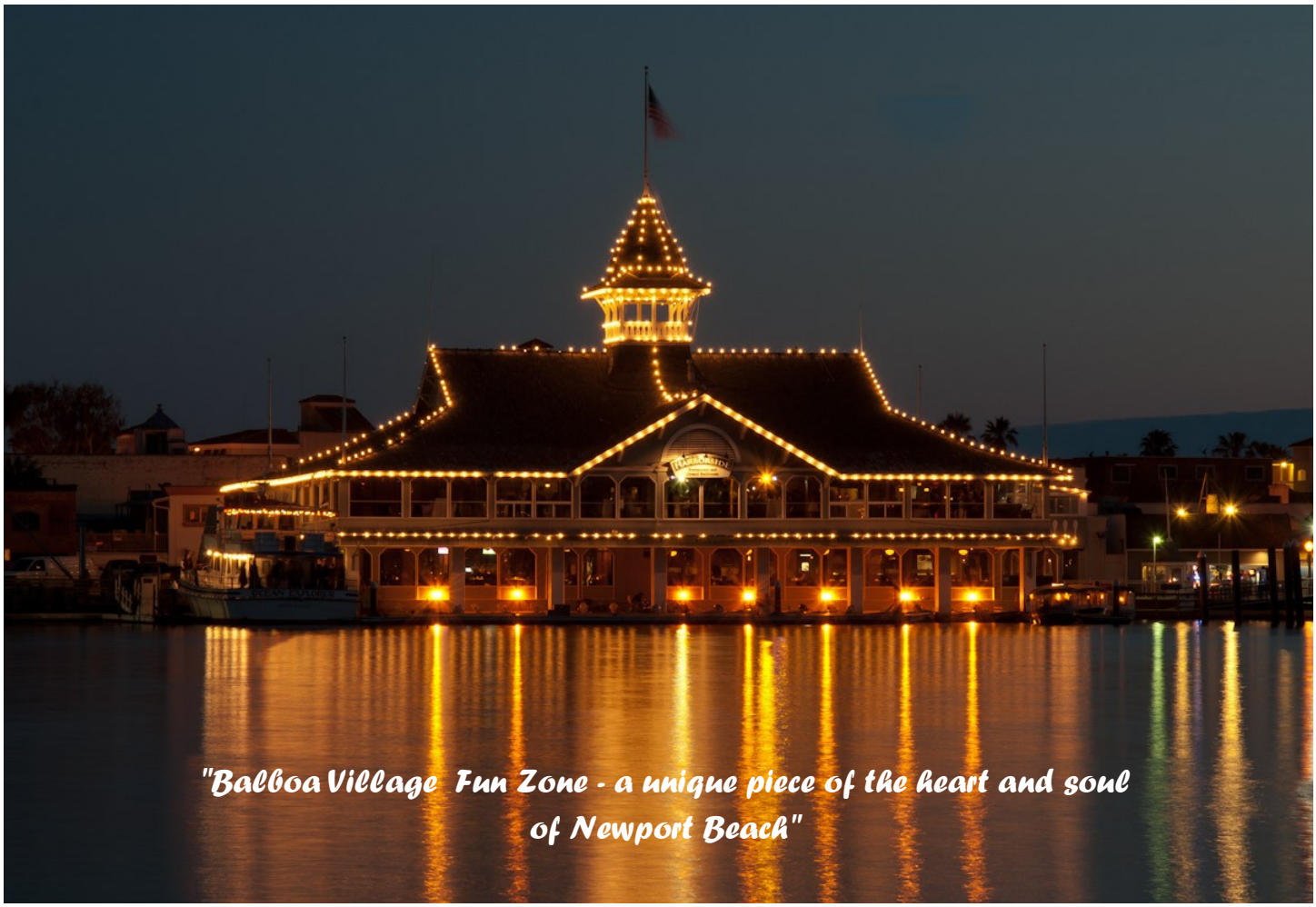
- Recommended revised brand identity including new signage program
- Other brand research and identity presentation meetings
- Brand development formal briefing report documentation

CAP Meeting
May 15, 2012

Brand Development Status Report

Balboa Village
Citizen Advisory Panel Participants

Thank You!



BALBOA VILLAGE IMPLEMENTATION PLAN

Exhibit 2
Keyser Marston Associates Market Analysis and Balboa Village Implementation Strategies

KEYSER MARSTON ASSOCIATES
ADVISORS IN PUBLIC/PRIVATE REAL ESTATE DEVELOPMENT

MEMORANDUM

ADVISORS IN:
REAL ESTATE
REDEVELOPMENT
AFFORDABLE HOUSING
ECONOMIC DEVELOPMENT

SAN FRANCISCO
A. JERRY KEYSER
TIMOTHY C. KELLY
KATE EARLE FUNK
DEBBIE M. KERN
ROBERT J. WETMORE
REED T. KAWAHARA

LOS ANGELES
KATHLEEN H. HEAD
JAMES A. RABE
PAUL C. ANDERSON
GREGORY D. SOO-HOO
KEVIN E. ENGSTROM
JULIE L. ROMEY
DENISE BICKERSTAFF

SAN DIEGO
GERALD M. TRIMBLE
PAUL C. MARRA

To: Kimberly Brandt, Director Community Development Department
City of Newport Beach

From: Kathleen Head
Kevin Engstrom

Date: March 29, 2012

Subject: Newport Beach Market Opportunities Analysis

Pursuant to your request, Keyser Marston Associates, Inc. (KMA) evaluated the market conditions for the following three areas in the City of Newport Beach (Study Areas):

- Lido Village
- Balboa Village
- Mariner's Mile

The analysis is summarized in the following sections:

- Socio-Economic Characteristics – Identifying the current and projected socio-economic conditions of the market area residents is required to evaluate potential market opportunities. KMA evaluated the socio-economic characteristics of the market area for the Study Areas, the City of Newport Beach (City) and Orange County (County) based on data provided by Claritas.
- Employment & Business – Provides a summary of existing employment and businesses in the Study Areas.
- Retail Overview - Includes estimates of current retail productivity levels, a surplus / leakage analysis and current real estate market conditions.
- Office Overview - Includes data from regional brokerage houses and current asking rents.

- Residential Overview – Summarizes recent residential sales activity in the market area and the City.
- Hotel Overview – Summarizes recent hotel industry market conditions in Coastal Orange County and the overall County.

EXECUTIVE SUMMARY

Based on the assessment of market conditions KMA identified the strengths, weaknesses and opportunities for each Study Area.

Lido Village

For Lido Village the market strengths, weaknesses and opportunities include the following:

Market Strengths

The market strengths for Lido Village include:

1. The income levels of area residents are very high.
2. The area has quick access from Pacific Coast Highway and the mainland.
3. Retail rents in the area can be very high, with newly remodeled centers achieving asking rents that exceed $4.00 per square foot per month.
4. The nearby Hoag Hospital may provide opportunities for medical office development and leasing.
5. Residential:
    a. The sales prices for residential units are currently lower than the peak levels. However, the prices are still extremely high and well exceed the County average.
    b. A very strong market exists for rental residential development. Rents for high-end apartments are very high, particularly for two and three bedroom units.
6. The existing City Hall site offers a great opportunity for catalyzing development opportunities in the area.

Market Weaknesses

The market weaknesses for Lido Village include:

1. Until consensus is reached on the redevelopment of the existing City Hall site, leasing will likely remain stagnant and development opportunities will remain on hold.

2. A wide range of rents are currently being achieved in the Lido Village Study Area. Rents are very high for projects with good visibility and quality finishes. However, much of the commercial space in this area has limited visibility and poor access; consequently rents are relatively low and vacancies are high.

3. Development opportunities in the area are negatively impacted by ownership patterns and parcelization, including multiple ground leases under Lido Marina Village.

4. The retail development along Newport Boulevard has limited parking. As a result, patrons of these establishments often seek spaces in nearby commercial centers and the City Hall parking lot.

5. Retail tenants in the area do not appear to benefit from the commercial boating enterprises that use the marina. In fact, some tenants believe these uses hinder the retail opportunities due to their heavy use of parking.

Market Opportunities

Based on the market conditions, KMA summarized the opportunities for retail, office, residential and hotel development in Lido Village.

<u>Retail</u>

Lido Village is a strong location; with high income levels, good access and waterfront properties. However, the existing development patterns, which include a significant inventory of small shop space, poor circulation patterns and limited visibility have resulted in relatively high vacancy rates and lower than expected rents. Further, the uncertainty over the redevelopment of the City Hall site will continue to limit market opportunities in the near term.

Tenant types that appear to have market support for this area include: quick-service dining, small-scale electronics, bookstores and other miscellaneous retailers. Mixed-use projects with ground-floor retail and residential above would likely have strong support.

In the long-term, larger-scale commercial opportunities could be available assuming access and visibility issues are addressed.

Office

Overall, the office market in the region is still recovering from the recession, with vacancy rates remaining relatively high. Lido Village is not viewed as a major office destination, and as such demand will likely be limited. Typically, smaller professional firms, such as attorneys, architects, consultants, and insurance agents are tenants in those secondary locations. However, the area benefits from its proximity to Hoag Hospital, which could be leveraged to attract medical related tenants to the area.

Existing zoning permits offices uses in Lido Village. However, it is important to note that there is a limitation that medical and dental office can only be located above the first floor of any building.

Residential

Overall, the residential market in the region is still recovering from the recession. However, Lido Village has significant appeal for residential development. Given the densities along the Peninsula and level of existing development in Lido Village, the area is best suited for multi-family development likely with some ground-floor commercial.

The City's current zoning guidelines for mixed-use development allows for up to a .50 Floor Area Ratio (FAR) for commercial and up to a 1.0 FAR for residential. This density level is consistent with the surrounding area, and would likely be well received in the market. Current market conditions suggest for-rent residential would be the best suited product type. A review of high end apartments in the City indicates larger units (two and three bedrooms) would have strong support.

Hotel

A boutique hotel with fewer than 100 rooms could have market support in the mid-term. A hotel would be best suited for a waterfront location; however, the waterfront land in Lido Village is under private ownership. This is a significant constraint, because hotels are notoriously difficult to finance, so they typically require investment returns that exceed that of other land uses. As a result, hotels typically support land values that are lower than retail, residential or office uses. These lower land values are unlikely to incentivize the owners to redevelop their properties with a hotel use.

Balboa Village

For Balboa Village the market strengths, weaknesses and opportunities include the following:

Market Strengths

The market strengths for Balboa Village include:

1. The income levels of area residents are very high.

2. Retail spaces with strong visibility characteristics are achieving rents at upwards of $4 per square foot per month. However, these spaces represent only a small percentage of the retail uses in Balboa Village.

3. The Fun Zone, marine operators and other commercial enterprises take advantage of the waterfront location. This connection and opportunity needs to be strengthened as much as possible to further enhance market opportunities.

4. Residential:

    a. The sales prices for residential units remain extremely high.

    b. A strong for-rent residential market exists, as rents are very high, particularly for two- and three-bedroom units.

5. The proposed Balboa Performing Arts Theater and ExplorOcean are uses that can potentially mitigate the seasonal demand exhibited in the Balboa Village Study Area. This may in turn catalyze other development:

    a. The Balboa Theater operators are currently projecting that the venue will be active over 220 days/nights per year.

    b. The ExplorOcean project is anticipated to include up to 40,000 square feet of space, including a 10,000 square foot Event Deck.

6. The City owns a 32,000 square foot, surface parking lot at the intersection of Palm Street and Balboa Boulevard. This site offers an excellent opportunity for catalytic development.

Market Weaknesses

The market weaknesses for Balboa Village include:

1. There are significant access concerns for Balboa Village, including high traffic volumes in the summer, and the long distance down the Peninsula.

2. There are a significant number of competing uses located along the route to Balboa Village. Both Lido Village and McFadden Square are located along the route to Balboa Village, and they currently offer a mix of restaurant and retail uses. It is difficult to entice consumers to drive past these locations to reach Balboa Village.

3. The perception exists that there is too much commercial development towards the end of the Peninsula. The low sales volumes of commercial tenants in Balboa Village support this notion.

4. Parking counts and anecdotal evidence indicate the area is extremely busy during the peak summer months, for the balance of the year, activity is relatively low.

5. A shortage of parking is a significant concern during the peak summer months.

6. The relatively small close-in population base limits potential demand for commercial development. The significant seasonality of the current visitation patterns further impacts the potential for commercial development.

Market Opportunities

Based on the market conditions, KMA summarized the opportunities for retail, office, residential and hotel development in Balboa Village.

<u>Retail</u>

Typically, retail demand is primarily driven by residents with support provided by visitors. While the income levels around Balboa Village are healthy, and the area benefits from a spectacular waterfront, there is a limited population base to support significant commercial development. For this reason, retail development will rely on visitors from outside the area to be sustainable.

The demand for retail development is constrained by the fact that drive times to access Balboa Village can be lengthy, and there are a number of intervening commercial opportunities along the way. These issues do not detract visitors in the peak summer months, but do limit opportunities during off-peak times.

The development of the ExplorOcean project and the opening of the Balboa Performing Arts Theater could create visitor demand during the off-peak season. This, in turn, could prove catalytic for commercial development. However, retail opportunities in Balboa Village will likely be limited, with demand focused on small-scale dining (particularly sit-down restaurants), local serving uses, and retailers that can benefit from visitor demand and the development of the catalytic projects. Potential tenancies are sundries shops; beach and sports equipment shops; a small neighborhood hardware store; florists; stationers; etc.

Office

Given access issues, Balboa Village is not viewed as an office destination, as such demand will likely be limited. Typically, smaller professional firms, such as attorneys, architects, consultants, insurance agents are tenants in these tertiary locations. However, demand for this type of space is anticipated to be minimal.

Residential

Overall, the residential market in the region is still recovering from the recession; however, Balboa Village still has appeal for residential development. Balboa Village includes a significant share of Mixed-Use Vertical zone parcels. These guidelines allow a .35 to .50 FAR for commercial and up to a 1.0 FAR for residential. Given the limited retail demand in Balboa Village, a mixed-use project in this area would likely be developed at a .35 FAR and 1.0 residential FAR. Current market conditions suggest for-rent residential would be the best suited product type for a mixed-use development.

Hotel

For Balboa Village, market demand may support a smaller hotel property in the 35 to 45 room range. However, it is important to note that it can be difficult to attract this type of hotel due to economies of scale, marketing and financing issues. Given these factors, it is unlikely that a private property owner would undertake this type of development. As such, this development type may be best suited for the City owned parking lot at Palm Street and Balboa Boulevard.

Mariner's Mile

For Mariner's Mile the market strengths, weaknesses and opportunities include the following:

Market Strengths

The market strengths for Mariner's Mile include:

1. The income levels of area residents are very high.

2. Retail and Restaurant Uses:

    a. Retail rents in the area can be high for shops with good visibility. Overall, rents in the area are starting to increase again after having fallen during 2008 and 2009.

    b. A new two-story commercial development is currently being constructed in the Study Area.

    c. The recent opening of Pizzeria Mozza demonstrates the Study Area's attractiveness for restaurants.

3. A vertical mixed-use project that includes ground-floor retail with residential above is in the planning stages. This demonstrates that there are mixed-use development opportunities in the Study Area.

4. As is the case with the other Study Areas strong market opportunities exist for both high-end apartment development and for-sale residential products.

5. Support has been identified for maintaining a place for marine uses in Newport Beach, and the Mariner's Mile Study Area is suited for these uses.

Market Weaknesses

The market weaknesses for Mariner's Mile include:

1. Physical constraints to development include height limits and narrow parcel depths.

2. High traffic volumes along Pacific Coast Highway limit the ability to provide on-street parking, and also make building ingress and egress challenging.

3. There is significant retail and office competition in the market area (e.g. Newport Center).

Market Opportunities

Based on the market conditions, KMA summarized the opportunities for retail, office, residential and hotel development in Mariner's Mile.

Retail

The recently proposed commercial project at Dover Drive and Pacific Coast Highway is projecting rents that are nearing $5.00 per square foot. Achievable rents of this magnitude clearly support new construction. Tenant types that appear to have market support for this area include: restaurants, additional high-end auto dealerships and retailers such as jewelry stores, small-scale electronics, etc.

It is also anticipated that retail in a mixed-use configuration with residential above would have strong support. The area could also continue to offer a home for marine related retail; however, the perception exists that this type of development is not compatible with other tenant types already in the area.

Office

Overall, the office market in the region is still recovering from the recession, with vacancy rates remaining relatively high. Similar to Lido Village, Mariner's Mile could be well suited for medical office development due to its proximity to Hoag Hospital. Overall, Mariner's Mile is not viewed as a major office destination, as such demand will likely be limited. Typically, smaller professional firms, such as attorneys, architects, consultants, insurance agents are tenants in these secondary locations.

Residential

Overall, the residential market in the region is still recovering from the recession; however, Mariner's Mile has some appeal for residential development. Given the densities along the Pacific Coast Highway, the area is only suited for rental or condominium development. The area could be particularly well suited for condominium development, as sales prices exceeding $1,500 per square foot were identified as potentially having market support.

Hotel

The Balboa Bay Club demonstrates the viability of hotel development in Mariner's Mile. However, other land uses will support higher land values, and therefore private property owners are unlikely to pursue hotel development absent the provision of public financial incentives. The opportunity for hotel development may be stronger in the other two Study Areas given the availability of publicly owned land that can be used to incentivize development.

SOCIO-ECONOMIC CHARACTERISTICS

Attachment 1 - Tables 1A, 1B and 1C provide summaries of the salient socio-economic characteristics for one-half mile, one-mile and three-mile market areas surrounding each of the Study Areas; the City; and the County.[1] These socio-economic characteristics are summarized in this section of the analysis.

Population

The City's 2011 population totals 72,500 persons. For the one-half mile market areas the population levels are:

- Lido Village – 4,600
- Balboa Village – 3,100
- Mariner's Mile – 3,500

The population density for the market areas is relatively low due to the overall development patterns, as well as the existence of ocean and the bay. In particular the population levels for Balboa Village are very low.

Households

There are 33,400 households in the City, with an average household size of 2.1 persons. This is much smaller than the County average of 3.1 persons per household. Given the relatively low population base, the number of households in the one-half mile market area for the Study Areas is also relatively low:

- Lido Village – 2,200 households (2.0 persons per household)
- Balboa Village – 1,600 households (1.9 persons per household)
- Mariner's Mile – 1,500 households (2.3 persons per household)

[1] The following locations were utilized for the market areas: City Hall site for Lido Village, intersection of Palm Street and Balboa Boulevard for Balboa Village and the intersection of Tustin Avenue and Pacific Coast Highway for Mariner's Mile.

Income

Incomes in the City average $67,400 per person, and $145,300 per household. For reference purposes, the household income in the City is 52% higher than the County average of $95,400. Given that the Orange County average income falls within the top 2% of the counties in the United States, it can be concluded that the Newport Beach population exhibits very-high incomes.

For the one-half mile ring around the Study Areas, the incomes levels are also relatively high:

- Lido Village - $58,400 per capita, $119,500 per household
- Balboa Village - $62,600 per capita, $116,600 per household
- Mariner's Mile - $65,400 per capita, $151,000 per household

As can be seen above, the per capita incomes in the market areas are lower than the City average, but are still significantly higher than the County average. In addition, in both Lido Village and Balboa Village, the household income levels are significantly lower than the City average. Comparatively, for Mariner's Mile the household income levels are comparable to the City; however, when the market area is expanded to one-mile, then Mariner's Mile is more consistent with Lido Village and Balboa Village.

Nearly 50% of the households in the City have household incomes over $100,000, compared to one-third of the households in the County. For the one-half mile ring around the Study Areas, the share of households earning over $100,000 is also very high:

- Lido Village – 41.8%
- Balboa Village – 39.0%
- Mariner's Mile – 48.6%

Demographic Characteristics

Key demographic characteristics affecting market conditions include age, education and race. The results of the KMA analysis are summarized as follows:

Age

The distribution of residents by age indicates a concentration of persons over the age of 65 in the City (19.8%) as compared to the County (11.8%). Given the larger share of older residents, the City also has a smaller share of residents under the age of 18 (15.3%) when compared to the County (24.8%). For the one-half mile ring around the Study Areas, the mix of residents differs depending on location:

1. Lido Village – This market area has a significant concentration of residents between 18 and 34 (36.0%) compared to the City (19.4%) and County (23.7%)

2. Balboa Village – The market area has very few residents under 18 (approximately 10%) and a concentration of residents over 65 (approximately 20%).

3. Mariner's Mile – The one-half mile market area has a slight concentration of residents under 18, and between 55 and 64. Comparatively, the one-mile market area shows concentrations of residents over 65, and residents between 18 and 34.

Education

Residents of the City are highly educated, as 62% of the residents over the age of 25 are college graduates, compared to 35% within the County. Within a one-half mile ring of the Study Areas, the residents are also highly educated:

1. Lido Village – 60% college graduates

2. Balboa Village – 57% college graduates

3. Mariner's Mile – 60% college graduates

Race

The population of Newport Beach is relatively homogeneous, as 89.8% of the residents are White, compared to 59.5% within the County. The populations within the one-half mile market area for the Study Areas, are generally consistent with the City:

1. Lido Village – 91% White

2. Balboa Village – 93% White

3. Mariner's Mile – 89% White

Population, Household and Employment Projections

Attachment 1 - Table 2 provides Southern California Association of Governments (SCAG) population, household and employment projections for the region.[2] As shown in the table, key SCAG projections are:

Population

1. In 2010, Newport Beach represented approximately 2.6% of the total County population, and 12.9% of the population in the five city region.

2. Between 2010 and 2015, the population growth in the City is projected at 3.4%. Comparatively, the growth in the region is estimated at 4.6% and the growth in the County is estimated at 4.1%.

3. The rate of population growth is expected to slowly decrease over time. By 2035, the annual growth is projected at approximately .5% per year for the region, .7% per year for the County and .9% per year for the City.

4. Between 2003 and 2035, the City's population is projected to increase by 19.6%, while the regional growth is estimated at 26%, and the County growth is estimated at 21.8%.

Employment

1. In 2010, Newport Beach currently represented 4.4% of the employment in the County and 14.5% of the employment in the five city region.

2. Between 2010 and 2015, employment in the City is projected to grow by .8%. During the same period the growth in the region is estimated at 5.9% and the growth in the County is estimated at 4.7%.

3. Between 2003 and 2035, employment is estimated to grow by 5.4%, while employment in the region is estimated to grow by 37.8%, and the County growth is estimated at 26.4%.

Employment and Business

Attachment 1 - Tables 3 and 4 provide a KMA review of the employment and business patterns in the one-mile ring around each of the Study Areas, the City and County. The results are summarized in the following sections of this analysis:

---

[2] The region includes Newport Beach, Costa Mesa, Huntington Beach, Irvine and Laguna Beach.

Lido Village

Employment within the Lido Village market area can be summarized as follows:

1. The share of retail trade and finance, insurance and real estate (FIRE) employment is generally consistent with the Countywide distribution.

2. Service sectors include health services, personal services, business services and legal services. The share of employment in service sectors in Lido Village is significantly higher than the County average (64% compared to 39%). This is largely attributable to health and business services that draw support from Hoag Hospital. The balance of the service business areas are actually relatively underrepresented in Lido Village.

3. Given the development patterns in the area, there are relatively few manufacturing jobs.

4. Overall, the market exhibits a relatively high ratio of jobs to population as compared to the County average (.9 residents per employee versus 2.1 residents per employee.)

The distribution of businesses within the Lido Village market area can be summarized as follows:

1. The share of retail and FIRE businesses in the market area is lower than the County average.

2. The share of service businesses in the market area is substantial (54% compared 46% in the County).

3. Overall, the number of employees per business in the market area is slightly smaller than the County (9.7 employees and 10.3 employees respectively).

4. Overall, there is a significant concentration of businesses in the market area, as there are 8.6 residents per business compared to 21.5 residents per business in the County.

Balboa Village

Employment within the Balboa Village market area can be summarized as follows:

1. The share of retail trade and FIRE employment is higher than the County.

2. There are relatively few employees in the service sector when compared to the County. The service sector includes health services, personal services, business services and legal services.

3. Balboa Village is dominated by residential uses. The ratio of the residential population to the employment population is 3:1 in Balboa Village, while the ratio in the County is 2.1:1.

The distribution of businesses within the Balboa Village market area can be summarized as follows:

1. Approximately 36% of the businesses In Balboa Village fall within the retail trade category. Comparatively, 14% of the businesses in the City are in this category, and 20% of the businesses in the County are in this category. In particular, there is a significant concentration of dining establishments and miscellaneous retail stores. These stores include sports and surf shops; souvenir shops; and stores that carry a variety of goods including sundries, accessories and apparel.

2. The share of service businesses in the market area is lower than the County (35% versus 46%).

3. The businesses in the market area are much smaller than the County (6.2 employees and 10.3 employees respectively).

4. The number of businesses in the market area is generally consistent with the County; there are 18.4 residents per business compared to 21.5 in the County.

Mariner's Mile

Employment within the Mariner's Mile market area can be summarized as follows:

1. The share of retail trade employment is generally consistent with the County.

2. Services businesses, such as health, business, legal and personal services, represent 60% of the businesses in Mariner's Mile. This is significantly higher than the 39% share exhibited in the County. In particular, Mariner's Mile has concentrations of health services employment in businesses that benefit from the proximity of Hoag Hospital.

3. Overall, there are a relatively high number of jobs to residents in the market area. There are 1.0 residents per job in the market area, compared to the County average of 2.1 residents per job.

The distribution of businesses within the Mariner's Mile market area can be summarized as follows:

1. The share of retail and FIRE businesses in the market area is consistent with the County average.

2. There is a healthy share of service businesses in the market area, due primarily to Hoag Hospital and its related ventures.

3. Overall, the businesses in the market area are slightly smaller than the County (9.1 employees and 10.3 employees, respectively).

4. There is a significant concentration of businesses in the market area, as there are 8.9 residents per business compared to 21.5 in the County.

RETAIL OVERVIEW

The following section of this analysis describes the various issues that influence the demand for retail development.

Retail Sales

As shown in Attachment 2 – Table 1, the taxable retail store sales in the City are much higher than the sales at the County and the State. In addition, the sales are higher than all the cities in the five city region except Costa Mesa. Within the City, the per capita taxable sales are particularly high for the following establishment types:

- Food & Beverage Stores
- Clothing & Clothing Accessories Stores
- General Merchandise Stores
- Food Services & Drinking Places
- Other Retail Group (e.g. florists, bookstores, stationers, sporting goods stores, etc.)

As shown in Attachment 2 – Table 2, the taxable sales per permit for all retail stores in the City are generally consistent with the County and State, but are higher than all the cities in the five city region except Irvine.

Surplus/Leakage Analysis

Attachment 2 - Tables 3 and 4 estimate the retail surplus/leakage for the City in 2011 and 2016, respectively. The projections are based on the following:

1. The base year for the projections is 2009, and the data source is the taxable sales recorded by the State Board of Equalization (SBE).

2. The taxable sales are adjusted to reflect the non-taxable nature of some sales.

3. The resulting sales are adjusted at an inflationary rate to estimate the 2011 and 2016 productivity levels.

4. The estimated retail potential is estimated based on the assumption that the residents exhibit expenditure patterns consistent with Countywide expenditures patterns.

The analysis indicates the following establishment types are leaking sales to the surrounding region:

- Home furnishings & supplies
- Building materials & garden equipment
- General merchandise stores
- Other retail stores

Attachment 2 – Table 5 provides estimates of the surplus/leakage for the City and the one-mile market areas around the Study Areas based on data supplied by Claritas. As shown in the table, the following establishment types demonstrate potential demand:

- For Lido Village the establishment types include: furniture & home furnishings, electronic & appliances, building materials, food & beverage, health & personal care, clothing, sporting goods, general merchandise and miscellaneous retailers.
- For Balboa Village the establishment types include: furniture & home furnishings, electronics & appliances, building materials, health and personal care, sporting goods, general merchandise and miscellaneous retailers.
- For Mariner's Mile the establishment types include: furniture & home furnishings, electronics & appliances, building materials, food & beverage, clothing, sporting goods and general merchandise.

All of the Study Areas demonstrate potential demand for the following tenant types: home furnishings, electronics & appliances, building materials, sporting goods and general merchandise.

Retail Rents

As shown in Attachment 2 – Table 6, the asking rents for retail shop space in the market area are relatively high. The list of comparables includes listings on the Newport Beach Peninsula and along Mariner's Mile. For this area, the rents range from $1.75 to $4.50 per square foot per month on a triple net (NNN) basis. The average rent in the market area is $2.65 per square foot per month.

- Lido Village - For space along Via Oporto in the Lido Village area, the asking rents are $2.00 per square foot per month and less. Comparatively, some of the highest asking rents in the area are for the Landing project at Newport and 30th ($4.25 per square foot per month). The significant range in rents for this area reflects importance of quality finishes, good visibility and easy access.

- Balboa Village – Only two current listings were identified for retail space in the Balboa Village area. The asking rents for space at 514 Oceanfront are $2.95 to $4.50 per square foot per month, with the high end of the range being charged for space with boardwalk frontage. The asking rent for 705 Balboa is $2.50 per square foot per month.

- Mariner's Mile – The asking rents in this area range between $1.75 and $3.50 per square foot per month depending on location, visibility and building quality.

Retail Building Sales

As shown in Attachment 2 – Table 7, the average sales price for retail buildings in the market area ranges considerably, from $400 to $1,000 per square foot, depending on location, quality of the building and the tenants. The average price for these buildings is $600 per square foot.

Retail Sales Volumes

To better understand the retail real estate conditions in Balboa Village, KMA reviewed the sales productivity levels being achieved by establishments in the Study Area. Specifically, the sales per square foot for retail establishments in the area were compared to regional and national norms. Sales per square foot that are higher than the norm indicate that additional development can potentially be supported. When sales are below the norms, there may be too many tenants vying for limited demand.

To conduct this analysis, the City provided sales tax and square footage data for Balboa Village businesses, KMA then conducted a site visit to confirm these assumptions. Due to confidentiality issues, KMA has not presented any numbers when discussing the sales volumes in Balboa Village. The analysis found the following:

1. There is significant seasonality in the sales; area wide sales in the peak season are nearly double the sales in the low season.

2. The average sales per square foot for clothing stores and miscellaneous retail stores in Balboa Village are very low when compared to regional and national norms.

3. The average sales per square foot for dining establishments in the area are much higher than the sales generated by clothing and miscellaneous retail stores. This is consistent with national and regional trends, where restaurant sales typically range from $400 to $500 per square foot, while the sales for most retail tenant types range from $250 to $350 per square foot.

4. While the restaurant productivity levels are relatively higher than other retailers in Balboa Village, the average sales per square foot are still lower than regional and national norms.

5. A small number of restaurants and retail shops in Balboa Village generate sales that meet or exceed regional and national averages. This illustrates the potential for well executed concepts in the area.

6. Overall, the commercial square footage in the area is generating sales that are significantly below what would be considered healthy for retail centers in Southern California and the nation.

The current sales volumes in Balboa Village suggest that there is a surplus of commercial space in Balboa Village. This can lead to property owners being forced to accept less desirable tenants, at lower rents, in order to keep the space occupied. This, in turn, can create to cash flow shortfalls that lead to owners deferring maintenance on the properties.

Typically, areas with low sales volumes also have low rental rates. Within Balboa Village current asking rents are still healthy, with owners seeking rates that exceed $2.50 per square foot, per month. However, these high rental rates coupled with the low sales volumes, will have a significant impact on retail feasibility, as tenants will struggle to remain viable.

Real Estate Professionals

KMA contacted a number of real estate professionals active in the Study Areas. Their general comments can be summarized as follows:

1. The Peninsula and Mariner's Mile are perceived as desirable locations.

2. Market conditions are improving as potential tenants are becoming more active.

3. There appears to be demand for both quick serve and sit-down restaurants in all three Study Areas.

4. City Constraints:

    a. The City's parking requirements make development difficult.

    b. There is a significant amount of public oversight for development projects, which makes development difficult.

The professionals contacted by KMA offered a variety of comments directly related to each Study Area. The range of comments can be summarized as follows:

Lido Village

1. Rents:

    a. Rents range significantly in the area, from less than $2.00 per square foot per month to over $4.00 per square foot per month.

    b. Rents are low and vacancies are high for Lido Marina Village because of visibility and access issues.

    c. The high rents and success of the repositioning of the Landing project at Newport Boulevard and 30th Street demonstrates the viability of commercial in the Lido Village area.

2. Development Constraints:

    a. Limited parking for retail space along Newport Boulevard strains shopping center parking lots in Lido Village area.

    b. Diverse ownership and ground lease restrictions inhibit redevelopment opportunities in Lido Village.

c. The party boats do not have a positive impact on commercial activities in Lido Village. Patrons embark and disembark without shopping. Further, the boats utilize a significant amount of parking.

3. Development Opportunities:

a. Residential and lodging uses could benefit commercial development in Lido Village.

b. Some tenants are in a holding pattern until the City decides what to do with the existing City Hall site.

c. Anchor space in Via Lido Plaza likely to be filled in the next 12 to 18 months.

Balboa Village

1. Commercial space can generate rents of up to $3.00 per square foot per month.

2. Development Constraints:

a. Access issues for Balboa Village will continue to inhibit commercial opportunities.

b. Relatively small population base will limit commercial demand in Balboa Village.

c. Balboa Village is difficult to redevelop. It works decently as it is now, but long-term opportunities are limited.

3. Development Opportunities:

4. Balboa Theater and ExplorOcean may act as catalytic developments for Balboa Village.

5. A public parking structure on the City lot located at Palm Street and Balboa Boulevard could enhance development opportunities.

6. Waterfront activities and accessibility can promote opportunities in Balboa Village.

7. Sprucing up existing Balboa Village retail would make the area more attractive.

8. Potential tenancies:

a. Outdoor dining;

b. Small retailers such as sundries shops, florists, stationers, etc.; and

c. A small, neighborhood serving, hardware store.

Mariner's Mile

1. Rents:

   a. Rents along Mariner's Mile have declined by 20% from their peak in 2007 and 2008.

   b. Rents for existing space range from $3.00 to $4.00 per square foot per month.

   c. New retail projects are asking rents near $5.00 per square foot per month.

2. Development Constraints:

   a. Parking is an issue along Mariner's Mile, particularly as there is a limited amount of peripheral parking along Pacific Coast Highway.

   b. High traffic speeds on Pacific Coast Highway adds to ingress and egress difficulty.

   c. The multiple boatyards in Mariner's Mile can make development difficult. There are also a lot of small users and to redevelop the area will be difficult.

3. Development Opportunities:

   a. Healthy interest from restaurants still exists for Mariner's Mile. In addition, demand appears to exist from small-scale electronic stores (e.g. mobile devices) personal trainers/gyms and fast-food restaurant tenants.

   b. There is potential demand for medical office space.

   c. Eclectic mix of tenant types along Mariner's Mile is likely to continue (e.g. automotive, marine, restaurants).

Retail Summary

Overall, the retail market can be characterized as follows:

1. Newport Beach is exporting sales in the following retail categories: home furnishings, building materials, general merchandise and miscellaneous retail.

2. Opportunities for retail development in the Study Areas, include: home furnishings, electronics, building materials, sporting goods and general merchandise.

3. A wide range of retail rents are being achieved in the Study Areas ($1.75 to $5.00 per square foot). The rent range reflects variations in location, visibility, access and building condition. New and updated projects with convenient location and good visibility can achieve very strong rents.

4. Retail building sales prices vary considerably ($400 to $1,000 per square foot). There have been relatively few sales, with prices varying based on location, tenancies and building quality.

OFFICE OVERVIEW

Market Conditions

A summary of the current office market conditions follows:

1. As shown in Attachment 3 – Table 1, CB Richard Ellis survey information indicates that the average rent for office space in the Greater Airport market area is $2.00 per square foot per month on a full-service gross (FSG) basis.

2. Attachment 3 – Table 2 presents Cushman and Wakefield's summary of office market conditions for the City. According to their report, the average monthly rent is $2.30 per square foot per month, with an overall vacancy rate of 15.1%.

3. Attachment 3 – Table 3 shows office asking rents for space on the Newport Peninsula and Mariner's Mile. Rents range from $1.85 to $3.50 per square foot per month. The weighted average is $2.55 per square foot per month[3] These rents are generally higher the City average.

[3] Some of the rents are NNN, which means that the expenses are passed on to the tenant.

4. Attachment 3 – Table 4 shows a summary of recent office building sales in the market area, with five transfers occurring during in the last two years. The sales prices average $340 per square foot of building area.

Office Summary

In general, the office market can be characterized as follows:

1. Vacancy rates in the market are still relatively high, but are decreasing.

2. The rents being achieved in the market area are relatively high.

3. Little new office development is currently occurring in the region.

Both the Lido Village and Mariner's Mile Study Areas have the potential to capitalize on the demand for medical office space created by Hoag Hospital. The balance of the office development potential is likely to be focused on small professional spaces; this type of development may be supported in each of the Study Areas. However, given location and accessibility issues, it is likely that the demand for office development will very limited in the Balboa Village area.

RESIDENTIAL OVERVIEW

Over the last decade, the region experienced significant residential price increases, followed by a decelerating and depreciating market during the past three plus years. A review of the existing residential market follows.

Housing Stock

A review of the City's housing stock is shown in Attachment 4 – Tables 1 and 2. Since 2000, the number of residential units in the City increased at a faster rate (16.7%) than both the State (11.3%) and the County (7.3%). In addition, the housing stock in the City has a smaller share of detached single-family homes (46%) when compared to the County (52%) and State (60%).

For-Sale Residential

Detached Units

Recent residential sales prices for detached units in the Peninsula market area are shown in Attachment 4 – Table 3.[4] As shown in the table, the median sales price, and the average price per square foot for the unit types are as follows:

Number of Bedrooms	Median Sales Price	Average Price Per Square Foot
One Bedroom [5]	$1,200,000	$2,400
Two Bedrooms	$950,000	$1,170
Three Bedrooms	$1,100,000	$660
Four Bedrooms	$1,400,000	$1,000

Attached Units

Recent residential sales prices for attached units in the Peninsula market area are shown in Attachment 4 – Table 4. As shown in the table, the median sales price and average price per square foot for the unit types are as follows:

Number of Bedrooms	Median Sales Price	Average Price Per Square Foot
One Bedroom	$259,000	$340
Two Bedrooms	$460,000	$500
Three Bedrooms	$555,000	$330
Four Bedrooms	$570,000	$300

Sales Price Trends

Attachment 4 – Table 5 shows the sales activity for single-family homes and condominium units in the City during 2008 and 2010. The following summarizes the changes in the single-family home prices in the 92663 zip code between 2008 and 2010:

[4] Data is from November 2010 to November 2011.
[5] The sample only includes six sales.

Year	Median Sales Price	Average Price Per Square Foot	Number of Units in the Sample
2008	$2,000,000	$1,170	99
2010	$1,300,000	$858	136
Change		27% decrease	37% increase

The following summarizes the changes in single-family home prices in the 92661 zip code between 2008 and 2010:

Year	Median Sales Price	Average Price Per Square Foot	Number of Units in the Sample
2008	$2,000,000	$1,747	27
2010	$2,000,000	$1,233	48
Change		29% decrease	78% increase

For-Rent Residential

Based on data supplied by RealFacts, Attachment 4 – Table 6 presents the trend of rents and occupancy levels from 2003 through 2011. In 2011, the average asking rent was $1,950 per month, and the average occupancy rate was 96%. Attachment 4 – Table 7 shows the average asking rents for the various unit configurations in the City.

In addition, to the collecting data from RealFacts, KMA also conducted a survey of high-end apartment projects in the City. The results of this survey are summarized in Attachment 4 – Table 8. As shown in the following table, the average rental rate and price per square foot for the unit types are:

Number of Bedrooms	Average Rental Rate	Average Rent Per Square Foot
Studio	$2,100	$2.90
One Bedroom	$2,280	$2.70
Two Bedrooms	$2,270	$2.40
Three Bedrooms	$5,000	$2.70

The rents being achieved in the high-end projects are very strong. In addition, an extraordinary premium is being achieved for large three-bedroom units.

Residential Summary

The for-sale housing market within Southern California and Orange County is currently in a state of retrenchment. The for-sale housing market within the City began weakening in the beginning of 2008, and the per square foot sales prices have declined in much of the City. However, the currently achievable sales prices are potentially high enough to attract new development.

The achievable apartment rents at projects in the City are very strong. In particular the rents generated at projects such as The Colony, Promontory Point and The Terrace Apartments at Balboa Bay Club are very high. Given these rents, and occupancy levels, luxury apartment projects in the Study Areas would likely demonstrate healthy market support.

HOTEL OVERVIEW

Market Conditions

The market conditions for hotels can be summarized as follows:

1. Attachment 5 – Table 1, presents the occupancy levels for Coastal Orange County hotels between 2005 and 2011:

    a. Both Coastal Orange County and Orange County hotels reached peak occupancy levels during 2007. The occupancy rates declined in 2008 and 2009, and began rebounding in 2010.

    b. The current occupancy rates in Coastal Orange County are estimated at 67%. The occupancy rate for Orange County is approximately 70%.

2. Attachment 5 – Table 2 shows the changes in Average Daily Rate (ADR) for hotels between 2005 and 2011:

    a. As was the case with the occupancy levels, both Coastal Orange County and Orange County reached peak ADR's in 2007.

    b. For Coastal Orange County, the 2011 ADR is estimated at $230, which is higher than 2005, but lower than the peak year of 2007. The Countywide pattern is similar, with a 2011 ADR of $120, which is lower than the peak year of 2007.

3. To assess a hotel's cash flow, the occupancy rates and the achievable room rates are combined to arrive at the Revenue per Available Room (RevPAR). Attachment 5 – Table 3 shows the changes in RevPAR) during this period. RevPAR between 2005 and 2011:

    a. For Coastal Orange County, the RevPAR reached its height in 2007 ($180) and its nadir in 2009 ($130). The pattern was similar for the County, which exhibited its lowest RevPAR in 2009.

    b. For 2011, RevPAR is projected at $160 for Coastal Orange County and $80 in the County.

    c. These trends follow much of the nation, which saw a slowing in the hotel industry beginning in 2007 and continuing through 2010. Since 2010, the hotel industry has demonstrated signs of improvement.

4. Attachment 5 - Table 4 summarizes much of the information presented in the previous tables. In addition, these tables show the annual number of room nights occupied in each area:

    a. For Coastal Orange County, the number of occupied room nights reached its lowest point in 2009 at 1.1 million room nights.

    b. Between 2009 and 2011, the number of occupied room nights is projected to increase 18% to 1.3 million.

    c. The healthy increase in occupied room nights, in conjunction with the RevPAR, indicates a healthier hotel market for Coastal Orange County.

Hotel Summary

The lodging market can be summarized as follows:

1. The ADR and RevPAR numbers for Coastal Orange County significantly exceed the County.

2. The hotel market fluctuated between 2005 and 2011, with high RevPARs achieved in 2006 and 2007 followed by two declining years.

3. Since 2009, the hotel market has begun to stabilize, with occupied room nights and RevPAR increasing for both Coastal Orange County and Orange County.

The hotel market in the five city region is currently improving. For Coastal Orange County, occupancy levels and ADRs have increased since 2009. Given these improvements, the possibility of hotel development is improving.

LIMITING CONDITIONS

1. The analysis contained in this document is based, in part, on data from secondary sources such as state and local government, planning agencies, real estate brokers, and other third parties. While KMA believes that these sources are reliable, we cannot guarantee their accuracy.

2. The analysis assumes that neither the local nor national economy will experience a major recession. If an unforeseen change occurs in the economy, the conclusions contained herein may no longer be valid.

3. The findings are based on economic rather than political considerations. Therefore, they should be construed neither as a representation nor opinion that government approvals for development can be secured.

4. Market feasibility is not equivalent to financial feasibility; other factors apart from the level of demand for a land use are of crucial importance in determining feasibility. These factors include the cost of acquiring sites, relocation burdens, traffic impacts, remediation of toxics (if any), and mitigation measures required through the approval process.

5. Development opportunities are assumed to be achievable during the specified time frame. A change in development schedule requires that the conclusions contained herein be reviewed for validity.

6. The analysis, opinions, recommendations and conclusions of this document are KMA's informed judgment based on market and economic conditions as of the date of this report. Due to the volatility of market conditions and complex dynamics influencing the economic conditions of the building and development industry, conclusions and recommended actions contained herein should not be relied upon as sole input for final business decisions regarding current and future development and planning.

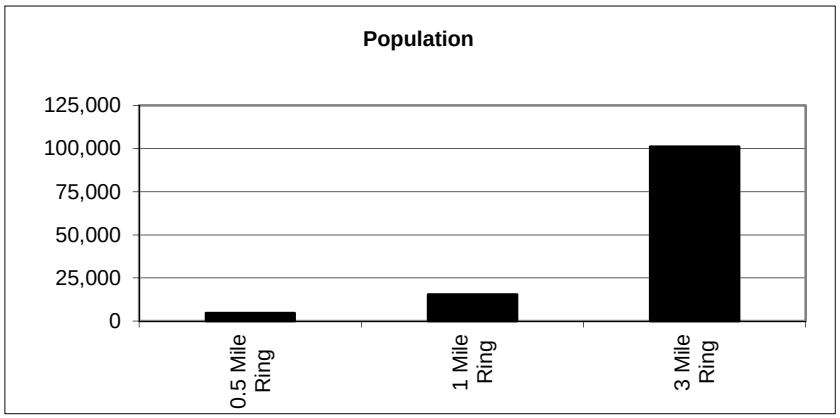
ATTACHMENT 1

DEMOGRAPHIC INFORMATION

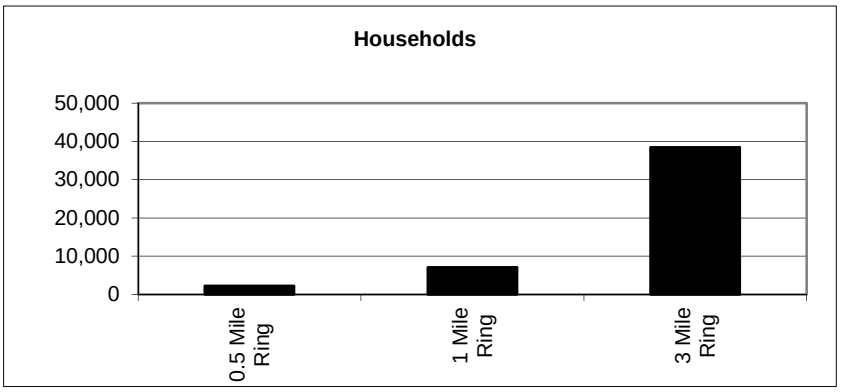
ATTACHMENT 1 - TABLE 1A

2011 SOCIO-ECONOMIC CHARACTERISTICS
LIDO VILLAGE
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

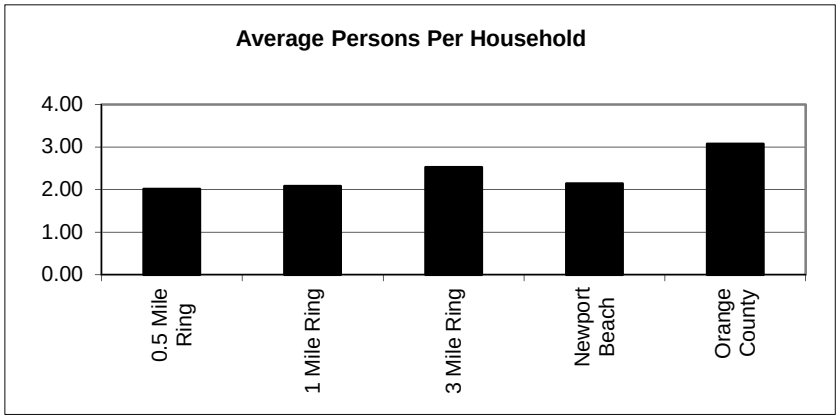
Population	
0.5 Mile Ring	4,600
1 Mile Ring	15,400
3 Mile Ring	101,100
Newport Beach	72,500
Orange County	3,063,500



Households	
0.5 Mile Ring	2,200
1 Mile Ring	7,100
3 Mile Ring	38,500
Newport Beach	33,400
Orange County	984,100



Average Persons Per Hhold	
0.5 Mile Ring	2.01
1 Mile Ring	2.08
3 Mile Ring	2.52
Newport Beach	2.14
Orange County	3.07

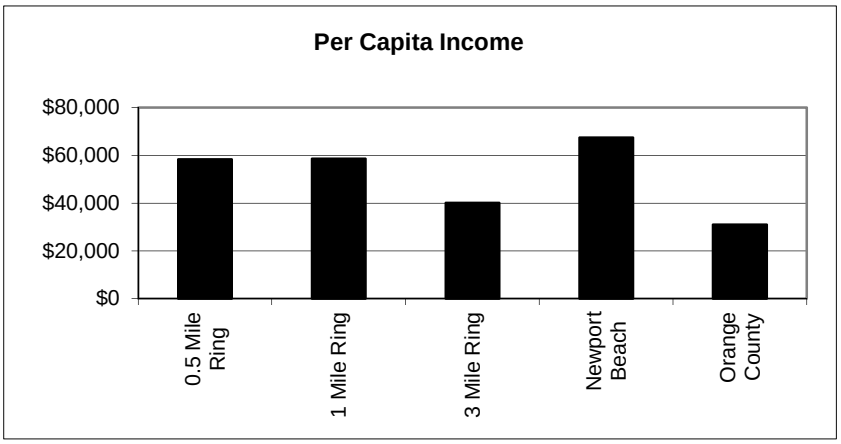


Source: Claritas 11/2011

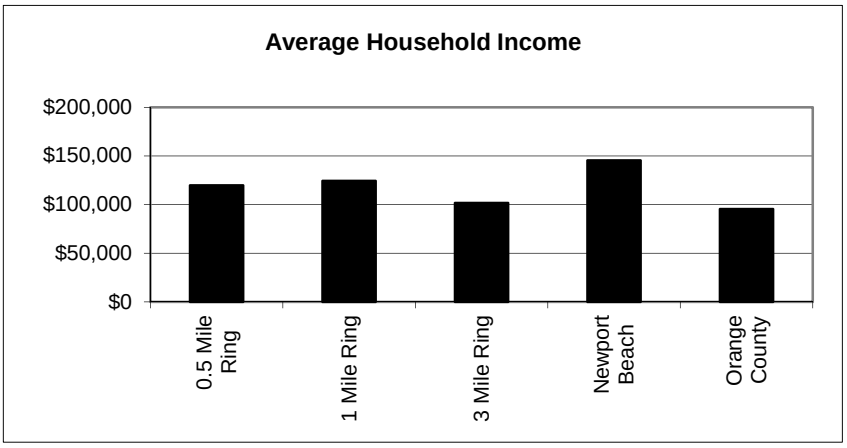
ATTACHMENT 1 - TABLE 1A (Continued)

2011 SOCIO-ECONOMIC CHARACTERISTICS
LIDO VILLAGE
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

Per Capita Income	
0.5 Mile Ring	$58,400
1 Mile Ring	$58,600
3 Mile Ring	$40,100
Newport Beach	$67,400
Orange County	$31,000



Average Household Income	
0.5 Mile Ring	$119,500
1 Mile Ring	$124,400
3 Mile Ring	$101,600
Newport Beach	$145,300
Orange County	$95,400



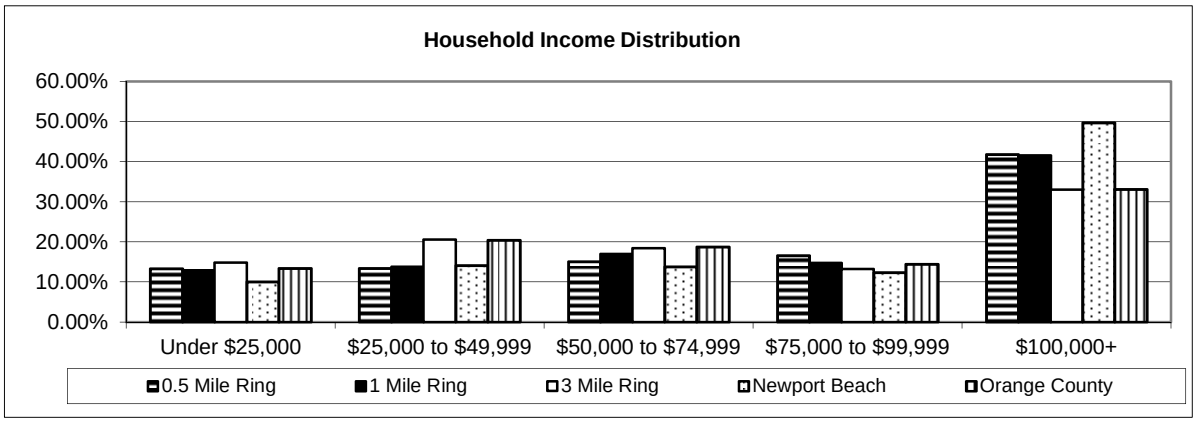
Source: Claritas 11/2011

ATTACHMENT 1 - TABLE 1A (Continued)

2011 SOCIO-ECONOMIC CHARACTERISTICS
LIDO VILLAGE
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

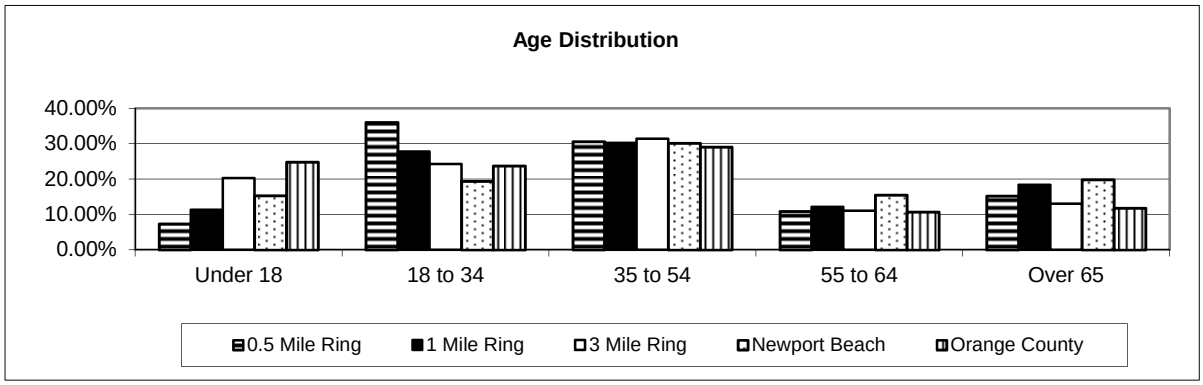
Household Income Distribution

	Under $25,000	$25,000 to $49,999	$50,000 to $74,999	$75,000 to $99,999	$100,000+
0.5 Mile Ring	13.31%	13.36%	15.02%	16.55%	41.78%
1 Mile Ring	12.92%	13.79%	17.01%	14.75%	41.55%
3 Mile Ring	14.85%	20.54%	18.41%	13.21%	32.97%
Newport Beach	10.05%	14.11%	13.79%	12.38%	49.66%
Orange County	13.42%	20.37%	18.74%	14.44%	33.05%



Age Distribution

	Under 18	18 to 34	35 to 54	55 to 64	Over 65
0.5 Mile Ring	7.35%	35.99%	30.56%	10.85%	15.26%
1 Mile Ring	11.36%	27.80%	30.24%	12.18%	18.42%
3 Mile Ring	20.29%	24.29%	31.37%	11.05%	13.01%
Newport Beach	15.28%	19.38%	30.09%	15.45%	19.79%
Orange County	24.83%	23.68%	29.05%	10.69%	11.76%



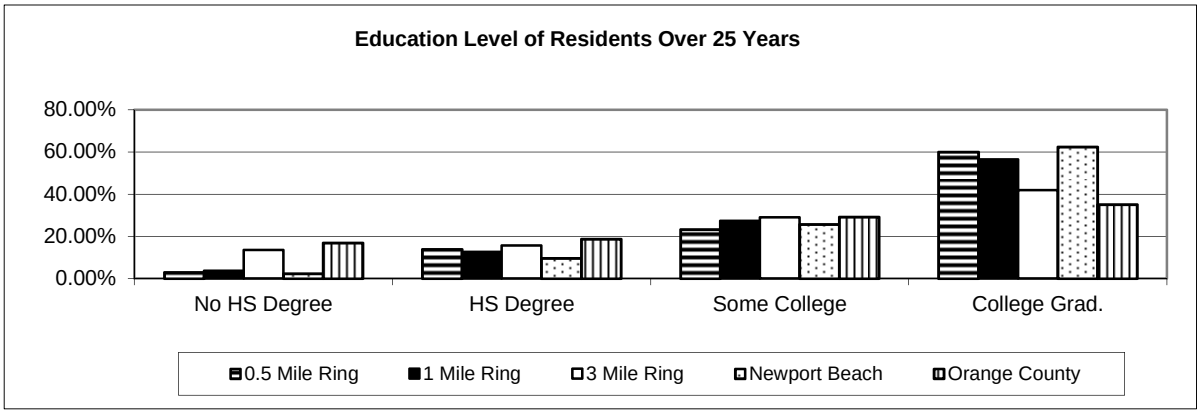
Source: Claritas 11/2011

ATTACHMENT 1 - TABLE 1A (Continued)

2011 SOCIO-ECONOMIC CHARACTERISTICS
LIDO VILLAGE
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

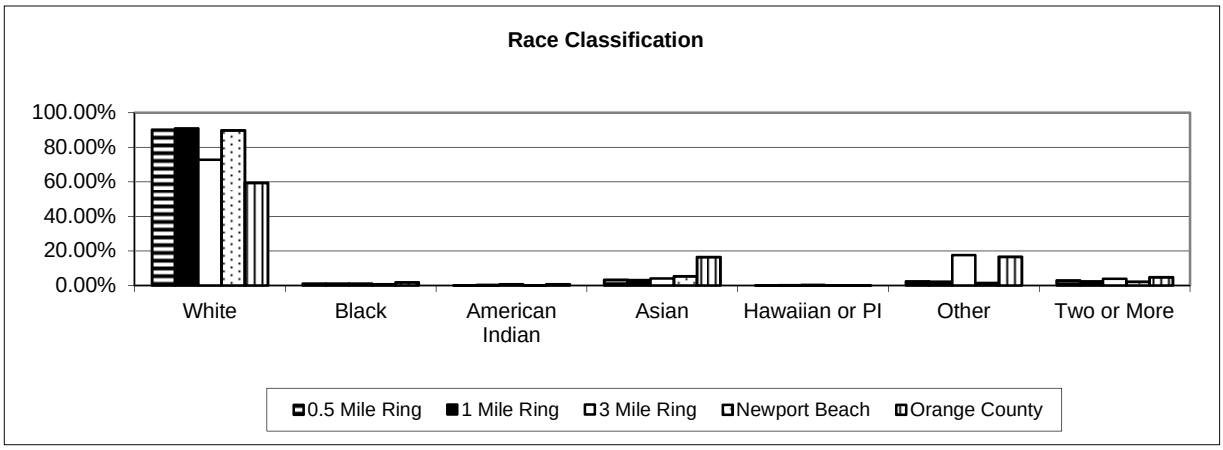
Education Level of Residents Over 25 Years

	No HS Degree	HS Degree	Some College	College Grad.
0.5 Mile Ring	2.89%	13.91%	23.28%	59.90%
1 Mile Ring	3.67%	12.63%	27.30%	56.41%
3 Mile Ring	13.49%	15.62%	28.96%	41.92%
Newport Beach	2.35%	9.65%	25.66%	62.34%
Orange County	16.95%	18.73%	29.18%	35.13%



Race Classification

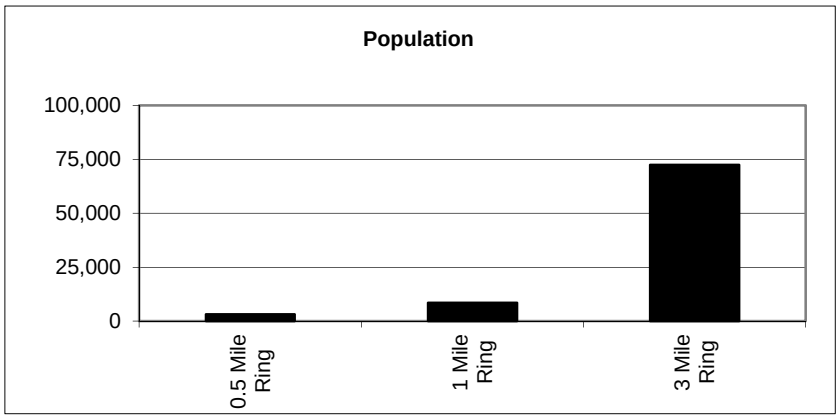
	White	Black	American Indian	Asian	Hawaiian or PI	Other	Two or More
0.5 Mile Ring	90.15%	1.03%	0.31%	3.27%	0.13%	2.25%	2.86%
1 Mile Ring	90.92%	0.96%	0.29%	3.12%	0.18%	2.15%	2.38%
3 Mile Ring	72.66%	0.97%	0.70%	3.98%	0.32%	17.59%	3.78%
Newport Beach	89.80%	0.73%	0.26%	5.38%	0.12%	1.48%	2.23%
Orange County	59.45%	1.74%	0.73%	16.49%	0.33%	16.55%	4.71%



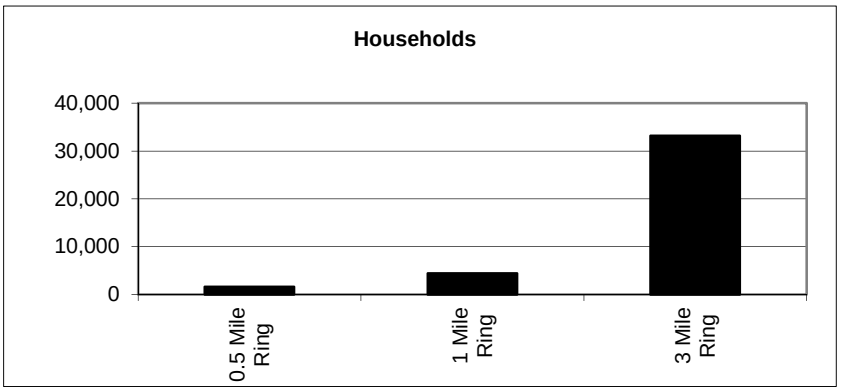
ATTACHMENT 1 - TABLE 1B

2011 SOCIO-ECONOMIC CHARACTERISTICS
BALBOA VILLAGE
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

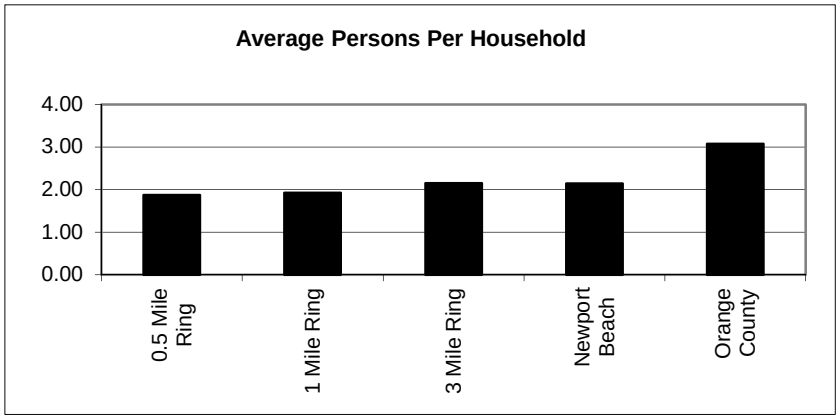
Population	
0.5 Mile Ring	3,100
1 Mile Ring	8,500
3 Mile Ring	72,400
Newport Beach	72,500
Orange County	3,063,500



Households	
0.5 Mile Ring	1,600
1 Mile Ring	4,400
3 Mile Ring	33,200
Newport Beach	33,400
Orange County	984,100



Average Persons Per Hhold	
0.5 Mile Ring	1.87
1 Mile Ring	1.92
3 Mile Ring	2.15
Newport Beach	2.14
Orange County	3.07

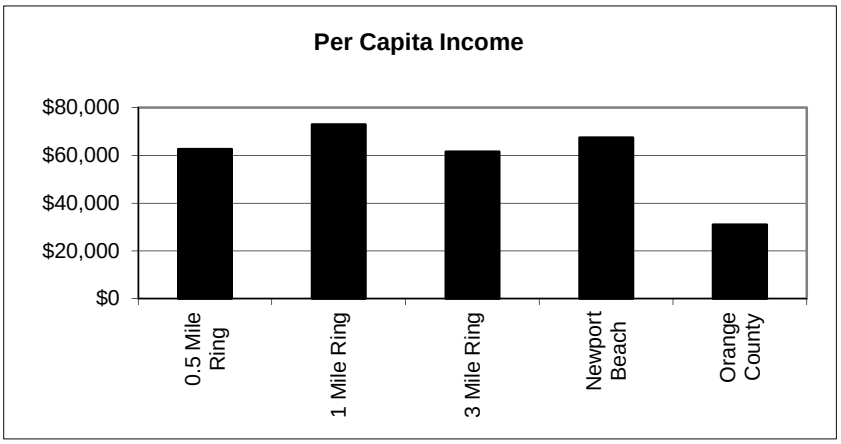


Source: Claritas 11/2011

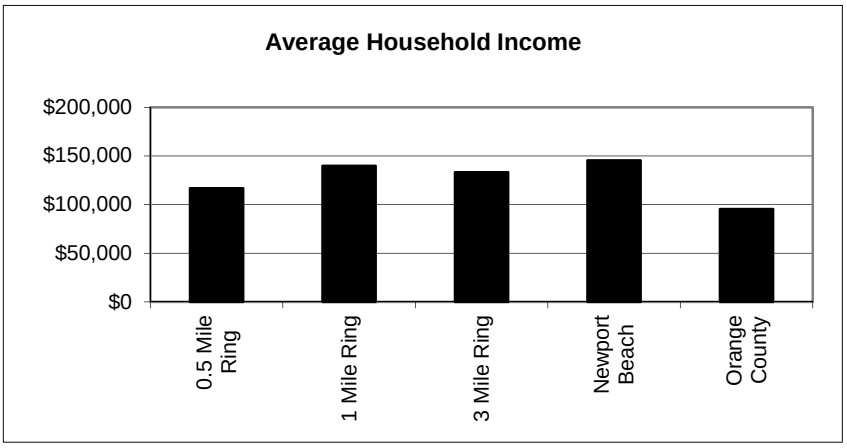
ATTACHMENT 1 - TABLE 1B (Continued)

2011 SOCIO-ECONOMIC CHARACTERISTICS
BALBOA VILLAGE
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

Per Capita Income	
0.5 Mile Ring	$62,600
1 Mile Ring	$73,000
3 Mile Ring	$61,500
Newport Beach	$67,400
Orange County	$31,000



Average Household Income	
0.5 Mile Ring	$116,600
1 Mile Ring	$139,700
3 Mile Ring	$133,100
Newport Beach	$145,300
Orange County	$95,400



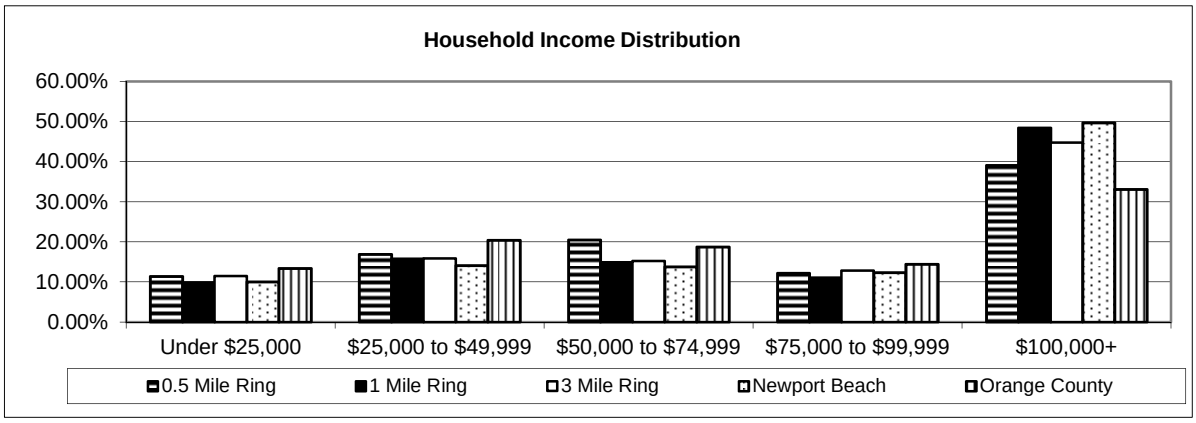
Source: Claritas 11/2011

ATTACHMENT 1 - TABLE 1B (Continued)

2011 SOCIO-ECONOMIC CHARACTERISTICS
BALBOA VILLAGE
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

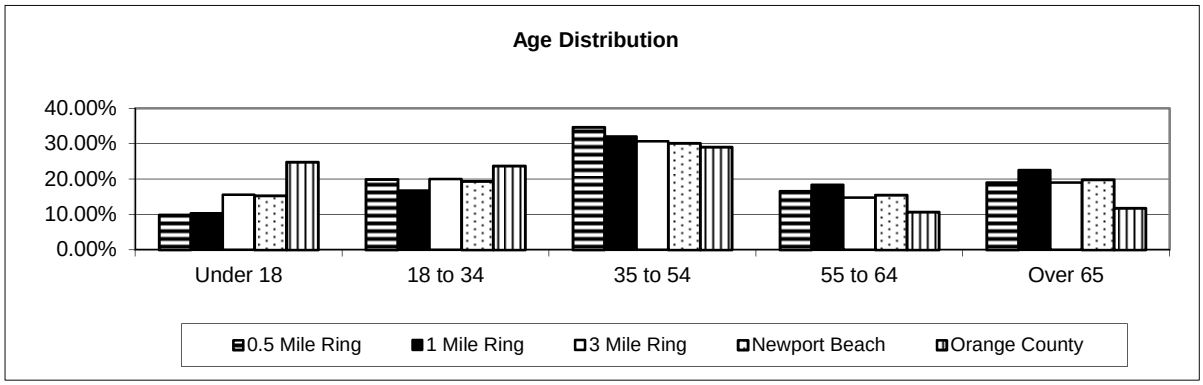
Household Income Distribution

	Under $25,000	$25,000 to $49,999	$50,000 to $74,999	$75,000 to $99,999	$100,000+
0.5 Mile Ring	11.37%	16.86%	20.46%	12.16%	39.03%
1 Mile Ring	9.87%	15.78%	14.89%	11.09%	48.37%
3 Mile Ring	11.43%	15.82%	15.18%	12.85%	44.71%
Newport Beach	10.05%	14.11%	13.79%	12.38%	49.66%
Orange County	13.42%	20.37%	18.74%	14.44%	33.05%



Age Distribution

	Under 18	18 to 34	35 to 54	55 to 64	Over 65
0.5 Mile Ring	9.88%	19.92%	34.61%	16.55%	19.01%
1 Mile Ring	10.37%	16.74%	32.02%	18.35%	22.52%
3 Mile Ring	15.54%	20.03%	30.65%	14.74%	19.03%
Newport Beach	15.28%	19.38%	30.09%	15.45%	19.79%
Orange County	24.83%	23.68%	29.05%	10.69%	11.76%



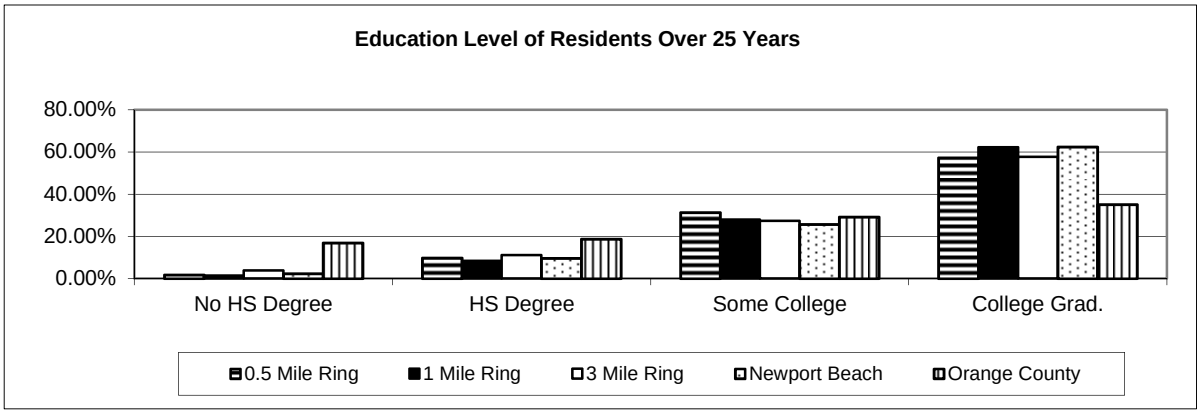
Source: Claritas 11/2011

ATTACHMENT 1 - TABLE 1B (Continued)

2011 SOCIO-ECONOMIC CHARACTERISTICS
BALBOA VILLAGE
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

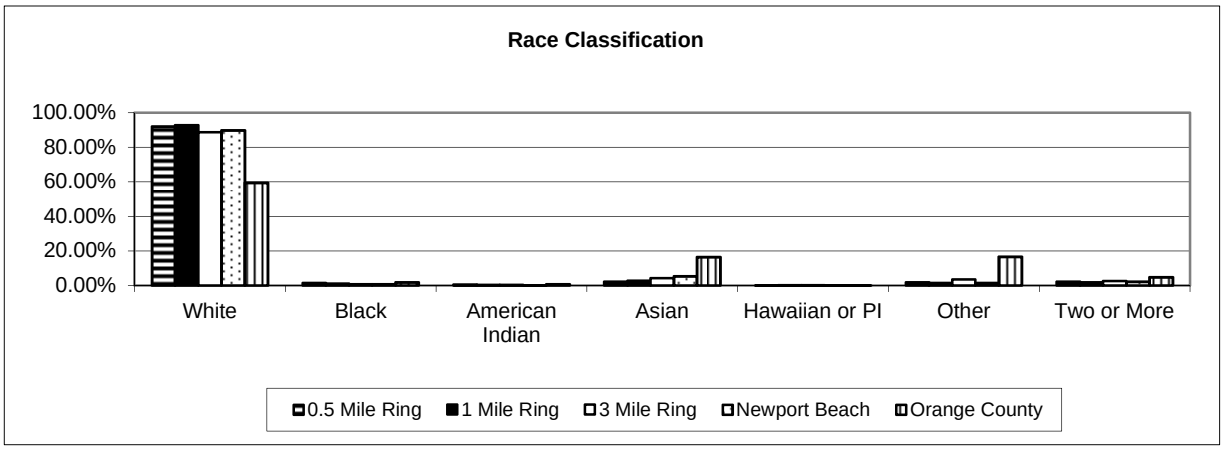
Education Level of Residents Over 25 Years

	No HS Degree	HS Degree	Some College	College Grad.
0.5 Mile Ring	1.75%	9.76%	31.29%	57.17%
1 Mile Ring	1.42%	8.41%	28.01%	62.17%
3 Mile Ring	3.81%	11.16%	27.41%	57.62%
Newport Beach	2.35%	9.65%	25.66%	62.34%
Orange County	16.95%	18.73%	29.18%	35.13%



Race Classification

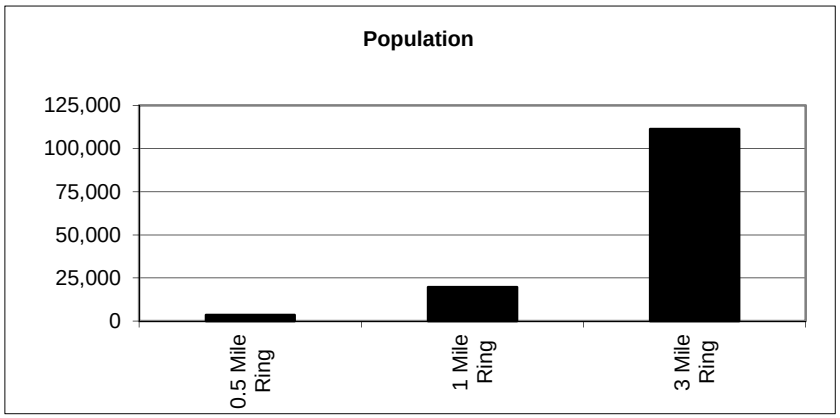
	White	Black	American Indian	Asian	Hawaiian or PI	Other	Two or More
0.5 Mile Ring	91.99%	1.31%	0.56%	2.06%	0.26%	1.73%	2.09%
1 Mile Ring	92.71%	0.94%	0.29%	2.76%	0.14%	1.42%	1.75%
3 Mile Ring	88.67%	0.75%	0.31%	4.23%	0.17%	3.43%	2.45%
Newport Beach	89.80%	0.73%	0.26%	5.38%	0.12%	1.48%	2.23%
Orange County	59.45%	1.74%	0.73%	16.49%	0.33%	16.55%	4.71%



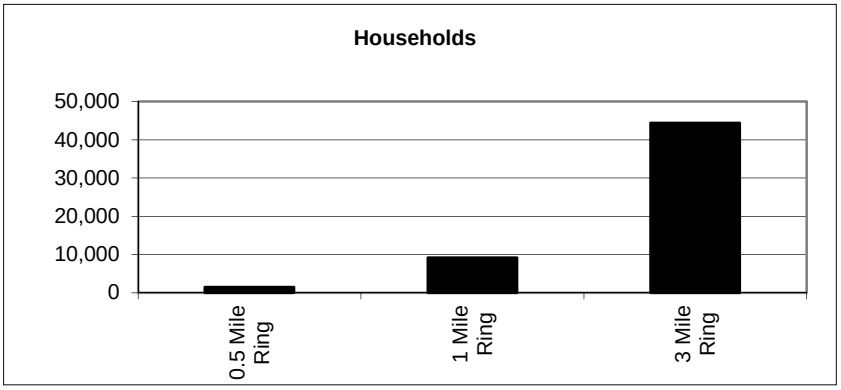
ATTACHMENT 1 - TABLE 1C

2011 SOCIO-ECONOMIC CHARACTERISTICS
MARINER'S MILE
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

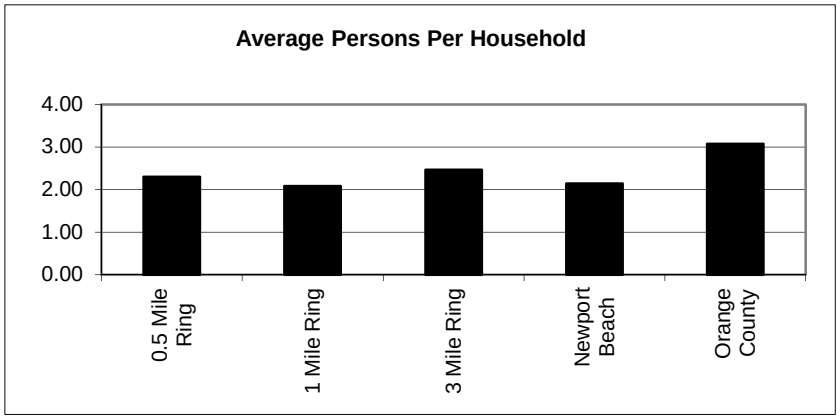
Population	
0.5 Mile Ring	3,500
1 Mile Ring	19,700
3 Mile Ring	111,300
Newport Beach	72,500
Orange County	3,063,500



Households	
0.5 Mile Ring	1,500
1 Mile Ring	9,200
3 Mile Ring	44,400
Newport Beach	33,400
Orange County	984,100



Average Persons Per Hhold	
0.5 Mile Ring	2.30
1 Mile Ring	2.08
3 Mile Ring	2.46
Newport Beach	2.14
Orange County	3.07

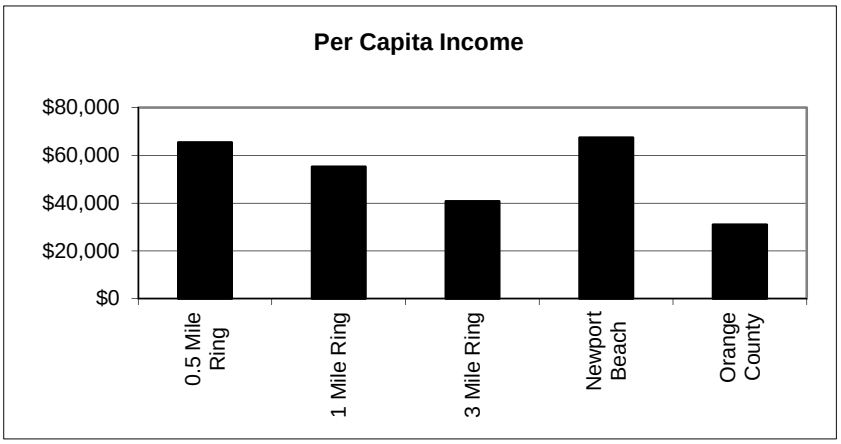


Source: Claritas 11/2011

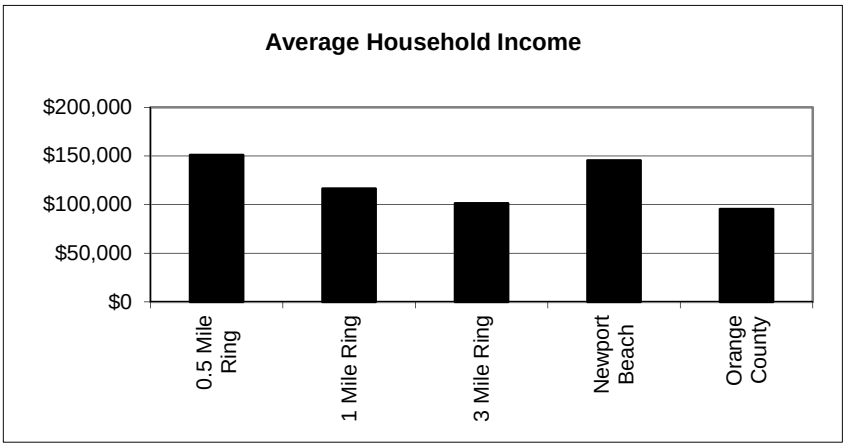
ATTACHMENT 1 - TABLE 1C (Continued)

2011 SOCIO-ECONOMIC CHARACTERISTICS
MARINER'S MILE
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

Per Capita Income	
0.5 Mile Ring	$65,400
1 Mile Ring	$55,200
3 Mile Ring	$40,800
Newport Beach	$67,400
Orange County	$31,000



Average Household Income	
0.5 Mile Ring	$151,000
1 Mile Ring	$116,500
3 Mile Ring	$101,300
Newport Beach	$145,300
Orange County	$95,400



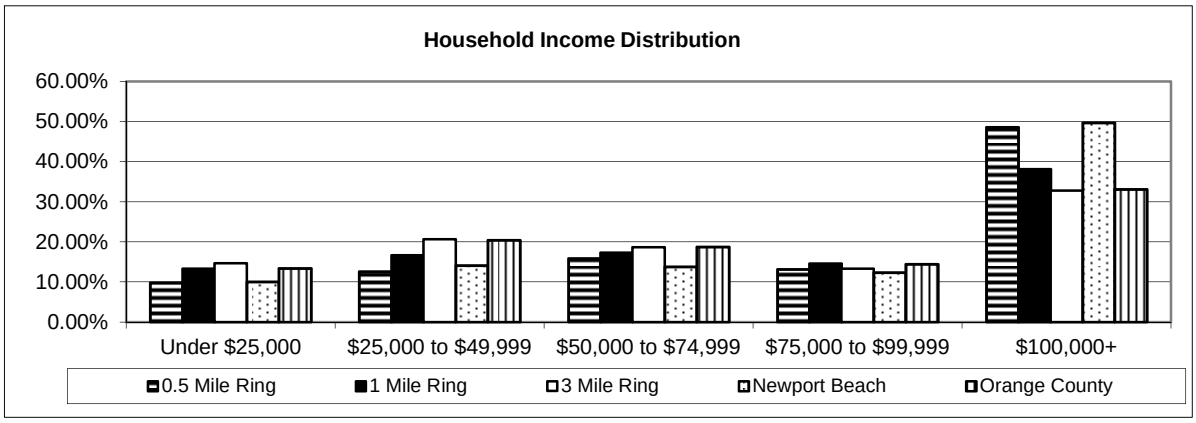
Source: Claritas 11/2011

ATTACHMENT 1 - TABLE 1C (Continued)

2011 SOCIO-ECONOMIC CHARACTERISTICS
MARINER'S MILE
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

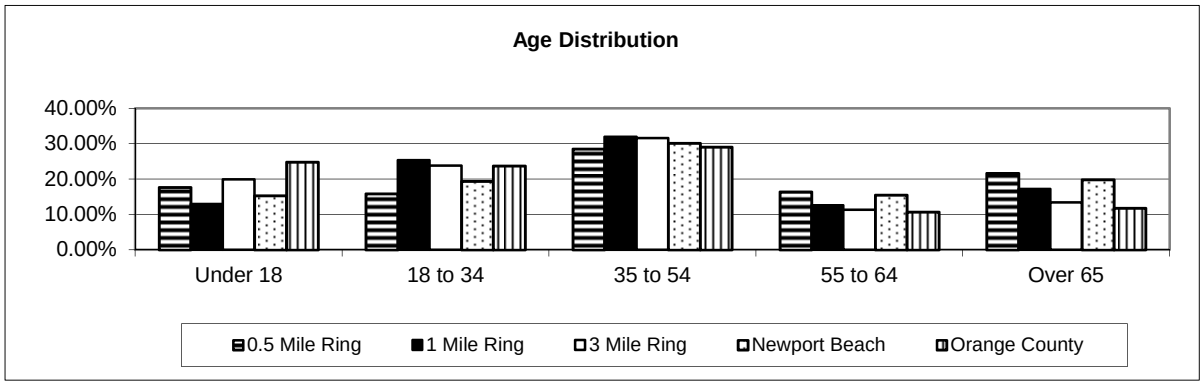
Household Income Distribution

	Under $25,000	$25,000 to $49,999	$50,000 to $74,999	$75,000 to $99,999	$100,000+
0.5 Mile Ring	9.79%	12.61%	15.83%	13.14%	48.56%
1 Mile Ring	13.31%	16.63%	17.33%	14.61%	38.10%
3 Mile Ring	14.65%	20.67%	18.62%	13.33%	32.75%
Newport Beach	10.05%	14.11%	13.79%	12.38%	49.66%
Orange County	13.42%	20.37%	18.74%	14.44%	33.05%



Age Distribution

	Under 18	18 to 34	35 to 54	55 to 64	Over 65
0.5 Mile Ring	17.65%	15.89%	28.45%	16.41%	21.60%
1 Mile Ring	12.97%	25.36%	31.90%	12.60%	17.16%
3 Mile Ring	19.87%	23.84%	31.60%	11.30%	13.39%
Newport Beach	15.28%	19.38%	30.09%	15.45%	19.79%
Orange County	24.83%	23.68%	29.05%	10.69%	11.76%



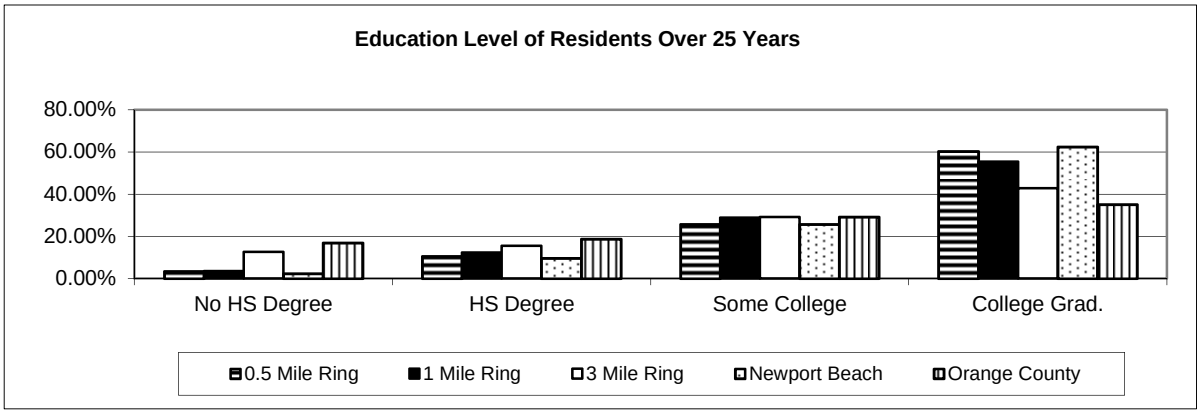
Source: Claritas 11/2011

ATTACHMENT 1 - TABLE 1C (Continued)

2011 SOCIO-ECONOMIC CHARACTERISTICS
MARINER'S MILE
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

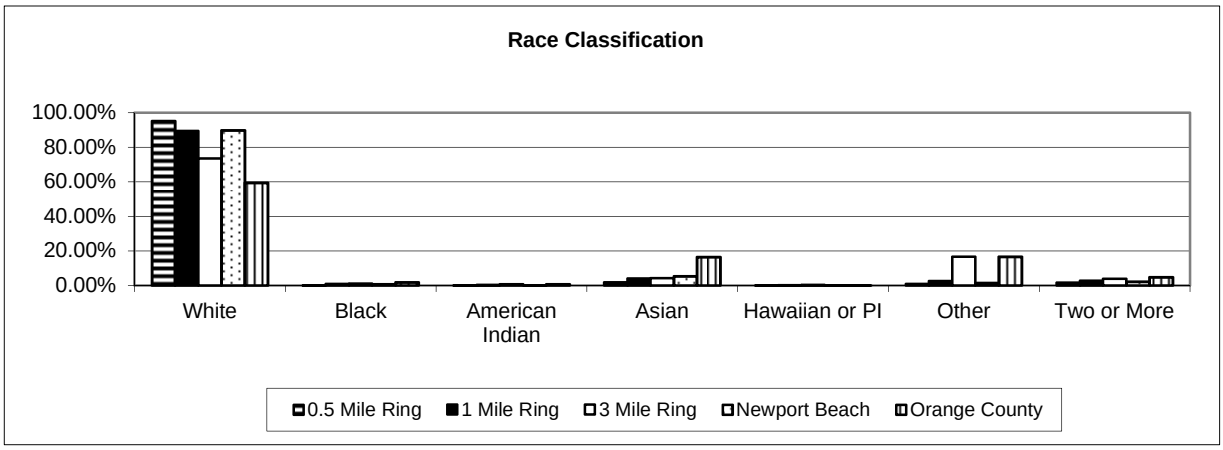
Education Level of Residents Over 25 Years

	No HS Degree	HS Degree	Some College	College Grad.
0.5 Mile Ring	3.45%	10.57%	25.68%	60.31%
1 Mile Ring	3.58%	12.28%	28.83%	55.32%
3 Mile Ring	12.58%	15.52%	29.12%	42.78%
Newport Beach	2.35%	9.65%	25.66%	62.34%
Orange County	16.95%	18.73%	29.18%	35.13%



Race Classification

	White	Black	American Indian	Asian	Hawaiian or PI	Other	Two or More
0.5 Mile Ring	95.15%	0.34%	0.23%	1.79%	0.06%	0.82%	1.56%
1 Mile Ring	89.47%	0.78%	0.33%	3.97%	0.16%	2.60%	2.69%
3 Mile Ring	73.53%	0.98%	0.68%	4.11%	0.34%	16.65%	3.72%
Newport Beach	89.80%	0.73%	0.26%	5.38%	0.12%	1.48%	2.23%
Orange County	59.45%	1.74%	0.73%	16.49%	0.33%	16.55%	4.71%



ATTACHMENT 1 - TABLE 2

SCAG POPULATION, HOUSEHOLD & EMPLOYMENT PROJECTIONS
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

	POPULATION							
	2003	2005	2010	2015	2020	2025	2030	2035
Newport Beach	81,739	83,652	88,340	91,320	93,195	95,428	96,892	97,766
Costa Mesa	111,450	113,137	120,501	122,828	124,692	125,675	126,492	126,958
Huntington Beach	197,084	200,349	212,957	217,822	220,892	222,569	224,788	225,815
Irvine	178,516	191,808	235,633	256,721	264,322	265,965	268,246	269,802
Laguna Beach	24,429	24,931	25,886	26,371	26,670	26,787	26,950	27,045
Regional Market Total [1]	593,218	613,877	683,317	715,062	729,771	736,424	743,368	747,386
Orange County	2,999,320	3,059,952	3,314,948	3,451,755	3,533,935	3,586,283	3,629,539	3,653,990

Change	2003-2005	2005-2010	2010-2015	2015-2020	2020-2025	2025-2030	2030-2035	2003-2035
Newport Beach	2.3%	5.6%	3.4%	2.1%	2.4%	1.5%	0.9%	19.6%
Costa Mesa	1.5%	6.5%	1.9%	1.5%	0.8%	0.7%	0.4%	13.9%
Huntington Beach	1.7%	6.3%	2.3%	1.4%	0.8%	1.0%	0.5%	14.6%
Irvine	7.4%	22.8%	8.9%	3.0%	0.6%	0.9%	0.6%	51.1%
Laguna Beach	2.1%	3.8%	1.9%	1.1%	0.4%	0.6%	0.4%	10.7%
Regional Market Total [1]	3.5%	11.3%	4.6%	2.1%	0.9%	0.9%	0.5%	26.0%
Orange County	2.0%	8.3%	4.1%	2.4%	1.5%	1.2%	0.7%	21.8%

1 Includes Newport Beach, Costa Mesa, Huntington Beach, Irvine and Laguna Beach.

Source: Southern California Association of Governments

ATTACHMENT 1 - TABLE 2 (continued)

SCAG POPULATION, HOUSEHOLD & EMPLOYMENT PROJECTIONS
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

HOUSEHOLDS

	2003	2005	2010	2015	2020	2025	2030	2035
Newport Beach	37,258	38,011	38,980	40,086	40,688	41,751	42,272	42,764
Costa Mesa	39,735	39,841	41,214	41,453	41,628	41,818	41,937	42,126
Huntington Beach	75,082	75,601	77,237	77,720	77,968	78,315	78,839	79,241
Irvine	59,065	65,421	82,479	90,937	93,098	93,421	93,498	94,168
Laguna Beach	11,645	11,644	11,661	11,688	11,706	11,719	11,753	11,797
Regional Market Total [1]	222,785	230,518	251,571	261,884	265,088	267,024	268,299	270,096
Orange County	964,090	980,964	1,039,201	1,071,810	1,088,375	1,102,370	1,110,659	1,118,490

Change	2003-2005	2005-2010	2010-2015	2015-2020	2020-2025	2025-2030	2030-2035	2003-2035
Newport Beach	2.0%	2.5%	2.8%	1.5%	2.6%	1.2%	1.2%	14.8%
Costa Mesa	0.3%	3.4%	0.6%	0.4%	0.5%	0.3%	0.5%	6.0%
Huntington Beach	0.7%	2.2%	0.6%	0.3%	0.4%	0.7%	0.5%	5.5%
Irvine	10.8%	26.1%	10.3%	2.4%	0.3%	0.1%	0.7%	59.4%
Laguna Beach	0.0%	0.1%	0.2%	0.2%	0.1%	0.3%	0.4%	1.3%
Regional Market Total [1]	3.5%	9.1%	4.1%	1.2%	0.7%	0.5%	0.7%	21.2%
Orange County	1.8%	5.9%	3.1%	1.5%	1.3%	0.8%	0.7%	16.0%

1 Includes Newport Beach, Costa Mesa, Huntington Beach, Irvine and Laguna Beach.

Source: Southern California Association of Governments

ATTACHMENT 1 - TABLE 2 (continued)

SCAG POPULATION, HOUSEHOLD & EMPLOYMENT PROJECTIONS
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

EMPLOYMENT

	2003	2005	2010	2015	2020	2025	2030	2035
Newport Beach	74,898	76,439	77,319	77,940	78,198	78,366	78,824	78,979
Costa Mesa	88,780	91,305	99,562	100,478	102,245	102,631	103,565	103,816
Huntington Beach	78,924	81,599	92,028	96,842	98,226	98,752	99,830	100,085
Irvine	208,796	219,454	247,713	272,183	292,558	309,741	324,848	341,977
Laguna Beach	13,040	13,402	14,254	14,642	14,818	14,930	15,019	15,067
Regional Market Total [1]	464,438	482,199	530,876	562,085	586,045	604,420	622,086	639,924
Orange County	1,567,389	1,615,936	1,755,167	1,837,771	1,897,352	1,933,058	1,960,633	1,981,901

Change	2003-2005	2005-2010	2010-2015	2015-2020	2020-2025	2025-2030	2030-2035	2003-2035
Newport Beach	2.1%	1.2%	0.8%	0.3%	0.2%	0.6%	0.2%	5.4%
Costa Mesa	2.8%	9.0%	0.9%	1.8%	0.4%	0.9%	0.2%	16.9%
Huntington Beach	3.4%	12.8%	5.2%	1.4%	0.5%	1.1%	0.3%	26.8%
Irvine	5.1%	12.9%	9.9%	7.5%	5.9%	4.9%	5.3%	63.8%
Laguna Beach	2.8%	6.4%	2.7%	1.2%	0.8%	0.6%	0.3%	15.5%
Regional Market Total [1]	3.8%	10.1%	5.9%	4.3%	3.1%	2.9%	2.9%	37.8%
Orange County	3.1%	8.6%	4.7%	3.2%	1.9%	1.4%	1.1%	26.4%

1 Includes Newport Beach, Costa Mesa, Huntington Beach, Irvine and Laguna Beach.

Source: Southern California Association of Governments

ATTACHMENT 1 - TABLE 3

EMPLOYMENT & BUSINESSES
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

	LIDO VILLAGE - 1-MILE RADIUS					BALBOA VILLAGE - 1-MILE RADIUS				
	Bus.	Emp.	Pop./Bus.	Pop./Emp.	Emp./Bus.	Bus.	Emp.	Pop./Bus.	Pop./Emp.	Emp./Bus.
Retail Trade	**320**	**2,816**	**48**	**5.5**	**8.8**	**168**	**1,163**	**51**	**7.3**	**6.9**
Home Improvement Stores	16	53	960	289.8	3.3	2	9	4,265	947.7	4.5
General Merchandise Stores	1	2	15,357	7,678.5	2.0	0	0	NA	NA	NA
Food Stores	13	87	1,181	176.5	6.7	13	131	656	65.1	10.1
Auto Dealers & Gas Stations	56	499	274	30.8	8.9	13	125	656	68.2	9.6
Apparel & Accessory Stores	27	91	569	168.8	3.4	38	94	224	90.7	2.5
Furniture/Home Furnishings	24	75	640	204.8	3.1	6	17	1,422	501.7	2.8
Eating & Drinking Places	95	1,747	162	8.8	18.4	45	656	190	13.0	14.6
Miscellaneous Retail Stores	88	262	175	58.6	3.0	51	131	167	65.1	2.6
Finance, Insurance & Real Estate	**199**	**841**	**77**	**18.3**	**4.2**	**64**	**444**	**133**	**19.2**	**6.9**
Banks, Savings & Lending Inst.	30	215	512	71.4	7.2	9	50	948	170.6	5.6
Securities Brokers & Investors	29	89	530	173	3.1	10	47	853	181.5	4.7
Insurance Carriers & Agents	33	118	465	130.1	3.6	5	17	1,706	501.7	3.4
Real Estate-Trust-Holding Co.	107	419	144	36.7	3.9	40	330	213	25.8	8.3
Services	**962**	**10,990**	**16**	**1.4**	**11.4**	**164**	**798**	**52**	**10.7**	**4.9**
Hotels & Lodging	7	549	2,194	28.0	78.4	4	21	2,132	406.1	5.3
Personal Services	161	497	95	30.9	3.1	28	114	305	74.8	4.1
Business Services	255	1,140	60	13.5	4.5	55	164	155	52.0	3.0
Motion Pictures & Amusement	60	1,002	256	15.3	16.7	21	195	406	43.7	9.3
Health Services	306	6,675	50	2.3	21.8	14	94	609	90.7	6.7
Legal Services	54	188	284	81.7	3.5	7	13	1,218	656.1	1.9
Education Services	16	222	960	69.2	13.9	5	9	1,706	947.7	1.8
Social Services	21	399	731	38.5	19.0	1	1	8,529	8,529.0	1.0
Other Services	82	318	187	48.3	3.9	29	187	294	45.6	6.4
Agriculture	**23**	**310**	**668**	**49.5**	**13.5**	**2**	**6**	**7,679**	**2,559.5**	**3.0**
Mining	**0**	**0**	**NA**	**NA**	**NA**	**0**	**0**	**NA**	**NA**	**NA**
Construction	**95**	**472**	**162**	**32.5**	**5.0**	**19**	**61**	**449**	**139.8**	**3.2**
Manufacturing	**47**	**357**	**327**	**43.0**	**7.6**	**9**	**43**	**948**	**198.3**	**4.8**
Trans., Comm. & Pub. Util.	**51**	**440**	**301**	**34.9**	**8.6**	**20**	**147**	**426**	**58.0**	**7.4**
Wholesale Trade	**66**	**247**	**233**	**62.2**	**3.7**	**14**	**81**	**609**	**105.3**	**5.8**
Government	**17**	**778**	**903**	**19.7**	**45.8**	**4**	**115**	**2,132**	**74.2**	**28.8**
Total	**1,780**	**17,251**	**9**	**0.9**	**9.7**	**464**	**2,858**	**18**	**3.0**	**6.2**

Source: Claritas 11/2011

ATTACHMENT 1 - TABLE 3

EMPLOYMENT & BUSINESSES
LIDO VILLAGE, BALBOA VILLAGE, MARINE
NEWPORT BEACH, CALIFORNIA

	MARINER'S MILE - 1-MILE RADIUS				
	Bus.	**Emp.**	**Pop./Bus.**	**Pop./Emp.**	**Emp./Bus.**
Retail Trade	**434**	**3,934**	**45**	**5.0**	**9.1**
Home Improvement Stores	23	74	855	265.8	3.2
General Merchandise Stores	1	2	19,667	9,833.5	2.0
Food Stores	19	290	1,035	67.8	15.3
Auto Dealers & Gas Stations	73	768	269	25.6	10.5
Apparel & Accessory Stores	40	121	492	162.5	3.0
Furniture/Home Furnishings	33	99	596	198.7	3.0
Eating & Drinking Places	126	2,162	156	9.1	17.2
Miscellaneous Retail Stores	119	418	165	47.1	3.5
Finance, Insurance & Real Estate	**232**	**959**	**85**	**20.5**	**4.1**
Banks, Savings & Lending Inst.	34	226	578	87.0	6.6
Securities Brokers & Investors	33	85	596	231.4	2.6
Insurance Carriers & Agents	41	137	480	143.6	3.3
Real Estate-Trust-Holding Co.	124	511	159	38.5	4.1
Services	**1,192**	**12,172**	**16**	**1.6**	**10.2**
Hotels & Lodging	9	563	2,185	34.9	62.6
Personal Services	239	887	82	22.2	3.7
Business Services	301	1,364	65	14.4	4.5
Motion Pictures & Amusement	71	1,034	277	19.0	14.6
Health Services	357	7,011	55	2.8	19.6
Legal Services	57	194	345	101.4	3.4
Education Services	20	230	983	85.5	11.5
Social Services	35	496	562	39.7	14.2
Other Services	103	393	191	50.0	3.8
Agriculture	**31**	**418**	**634**	**47.1**	**13.5**
Mining	**0**	**0**	**NA**	**NA**	**NA**
Construction	**100**	**512**	**197**	**38.4**	**5.1**
Manufacturing	**63**	**563**	**312**	**34.9**	**8.9**
Trans., Comm. & Pub. Util.	**69**	**486**	**285**	**40.5**	**7.0**
Wholesale Trade	**83**	**361**	**237**	**54.5**	**4.3**
Government	**17**	**778**	**1,157**	**25.3**	**45.8**
Total	**2,221**	**20,183**	**9**	**1.0**	**9.1**

Source: Claritas 11/2011

ATTACHMENT 1 - TABLE 3

EMPLOYMENT & BUSINESSES
LIDO VILLAGE, BALBOA VILLAGE, MARINE
NEWPORT BEACH, CALIFORNIA

	CITY OF NEWPORT BEACH					ORANGE COUNTY				
	Bus.	Emp.	Pop./Bus.	Pop./Emp.	Emp./Bus.	Bus.	Emp.	Pop./Bus.	Pop./Emp.	Emp./Bus.
Retail Trade	**1,635**	**19,749**	**44**	**3.7**	**12.1**	**27,762**	**316,244**	**110**	**9.7**	**11.4**
Home Improvement Stores	69	738	1,050	98.2	10.7	1,529	16,756	2,004	182.8	11.0
General Merchandise Stores	22	846	3,294	85.7	38.5	686	27,412	4,466	111.8	40.0
Food Stores	89	1,450	814	50.0	16.3	2,259	31,727	1,356	96.6	14.0
Auto Dealers & Gas Stations	155	2,092	467	34.6	13.5	2,439	28,305	1,256	108.2	11.6
Apparel & Accessory Stores	213	1,605	340	45.1	7.5	2,471	21,697	1,240	141.2	8.8
Furniture/Home Furnishings	211	1,357	343	53.4	6.4	3,616	30,050	847	101.9	8.3
Eating & Drinking Places	417	8,746	174	8.3	21.0	7,347	115,315	417	26.6	15.7
Miscellaneous Retail Stores	459	2,915	158	24.9	6.4	7,415	44,982	413	68.1	6.1
Finance, Insurance & Real Estate	**2,188**	**22,698**	**33**	**3.2**	**10.4**	**16,530**	**137,892**	**185**	**22.2**	**8.3**
Banks, Savings & Lending Inst.	432	4,415	168	16.4	10.2	4,009	34,193	764	89.6	8.5
Securities Brokers & Investors	486	3,443	149	21.0	7.1	2,152	14,375	1,424	213.1	6.7
Insurance Carriers & Agents	299	5,943	242	12.2	19.9	3,257	31,218	941	98.1	9.6
Real Estate-Trust-Holding Co.	971	8,897	75	8.1	9.2	7,112	58,106	431	52.7	8.2
Services	**5,974**	**56,444**	**12**	**1.3**	**9.4**	**65,746**	**574,583**	**47**	**5.3**	**8.7**
Hotels & Lodging	41	3,378	1,767	21.5	82.4	621	23,610	4,933	129.8	38.0
Personal Services	727	4,194	100	17.3	5.8	13,033	54,996	235	55.7	4.2
Business Services	2,057	18,908	35	3.8	9.2	19,764	163,980	155	18.7	8.3
Motion Pictures & Amusement	238	2,827	304	25.6	11.9	3,181	31,256	963	98.0	9.8
Health Services	1,184	15,833	61	4.6	13.4	12,317	122,524	249	25.0	9.9
Legal Services	866	5,191	84	14.0	6.0	4,556	23,993	672	127.7	5.3
Education Services	127	2,549	571	28.4	20.1	2,491	91,540	1,230	33.5	36.7
Social Services	194	1,313	374	55.2	6.8	2,861	29,585	1,071	103.5	10.3
Other Services	540	2,251	134	32.2	4.2	6,922	33,099	443	92.6	4.8
Agriculture	**105**	**1,178**	**690**	**61.5**	**11.2**	**1,932**	**16,922**	**1,586**	**181.0**	**8.8**
Mining	**5**	**25**	**14,492**	**2,898.4**	**5.0**	**82**	**1,328**	**37,360**	**2,306.9**	**16.2**
Construction	**419**	**2,609**	**173**	**27.8**	**6.2**	**9,656**	**65,589**	**317**	**46.7**	**6.8**
Manufacturing	**380**	**10,577**	**191**	**6.9**	**27.8**	**7,918**	**176,672**	**387**	**17.3**	**22.3**
Trans., Comm. & Pub. Util.	**292**	**2,795**	**248**	**25.9**	**9.6**	**4,183**	**43,622**	**732**	**70.2**	**10.4**
Wholesale Trade	**372**	**2,856**	**195**	**25.4**	**7.7**	**7,182**	**81,530**	**427**	**37.6**	**11.4**
Government	**68**	**4,032**	**1,066**	**18.0**	**59.3**	**1,322**	**53,246**	**2,317**	**57.5**	**40.3**
Total	**11,438**	**122,963**	**6**	**0.6**	**10.8**	**142,313**	**1,467,628**	**22**	**2.1**	**10.3**

Source: Claritas 11/2011

ATTACHMENT 1 - TABLE 4

SHARE OF TOTAL BUSINESSES & EMPLOYMENT
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

	LIDO VILLAGE - 1-MILE RADIUS		BALBOA VILLAGE - 1-MILE RADIUS		MARINER'S MILE - 1-MILE RADIUS		CITY OF NEWPORT BEACH		ORANGE COUNTY	
	Businesses	**Employees**	**Businesses**	**Employees**	**Businesses**	**Employees**	**Businesses**	**Employees**	**Businesses**	**Employees**
Retail Trade	**18.0%**	**16.3%**	**36.2%**	**40.7%**	**19.5%**	**19.5%**	**14.3%**	**16.1%**	**19.5%**	**21.5%**
Home Improvement Stores	0.9%	0.3%	0.4%	0.3%	1.0%	0.4%	0.6%	0.6%	1.1%	1.1%
General Merchandise Stores	0.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.2%	0.7%	0.5%	1.9%
Food Stores	0.7%	0.5%	2.8%	4.6%	0.9%	1.4%	0.8%	1.2%	1.6%	2.2%
Auto Dealers & Gas Stations	3.1%	2.9%	2.8%	4.4%	3.3%	3.8%	1.4%	1.7%	1.7%	1.9%
Apparel & Accessory Stores	1.5%	0.5%	8.2%	3.3%	1.8%	0.6%	1.9%	1.3%	1.7%	1.5%
Furniture/Home Furnishings	1.3%	0.4%	1.3%	0.6%	1.5%	0.5%	1.8%	1.1%	2.5%	2.0%
Eating & Drinking Places	5.3%	10.1%	9.7%	23.0%	5.7%	10.7%	3.6%	7.1%	5.2%	7.9%
Miscellaneous Retail Stores	4.9%	1.5%	11.0%	4.6%	5.4%	2.1%	4.0%	2.4%	5.2%	3.1%
Finance, Insurance & Real Estate	**11.2%**	**4.9%**	**13.8%**	**15.5%**	**10.4%**	**4.8%**	**19.1%**	**18.5%**	**11.6%**	**9.4%**
Banks, Savings & Lending Inst.	1.7%	1.2%	1.9%	1.7%	1.5%	1.1%	3.8%	3.6%	2.8%	2.3%
Securities Brokers & Investors	1.6%	0.5%	2.2%	1.6%	1.5%	0.4%	4.2%	2.8%	1.5%	1.0%
Insurance Carriers & Agents	1.9%	0.7%	1.1%	0.6%	1.8%	0.7%	2.6%	4.8%	2.3%	2.1%
Real Estate-Trust-Holding Co.	6.0%	2.4%	8.6%	11.5%	5.6%	2.5%	8.5%	7.2%	5.0%	4.0%
Services	**54.0%**	**63.7%**	**35.3%**	**27.9%**	**53.7%**	**60.3%**	**52.2%**	**45.9%**	**46.2%**	**39.2%**
Hotels & Lodging	0.4%	3.2%	0.9%	0.7%	0.4%	2.8%	0.4%	2.7%	0.4%	1.6%
Personal Services	9.0%	2.9%	6.0%	4.0%	10.8%	4.4%	6.4%	3.4%	9.2%	3.7%
Business Services	14.3%	6.6%	11.9%	5.7%	13.6%	6.8%	18.0%	15.4%	13.9%	11.2%
Motion Pictures & Amusement	3.4%	5.8%	4.5%	6.8%	3.2%	5.1%	2.1%	2.3%	2.2%	2.1%
Health Services	17.2%	38.7%	3.0%	3.3%	16.1%	34.7%	10.4%	12.9%	8.7%	8.3%
Legal Services	3.0%	1.1%	1.5%	0.5%	2.6%	1.0%	7.6%	4.2%	3.2%	1.6%
Education Services	0.9%	1.3%	1.1%	0.3%	0.9%	1.1%	1.1%	2.1%	1.8%	6.2%
Social Services	1.2%	2.3%	0.2%	0.0%	1.6%	2.5%	1.7%	1.1%	2.0%	2.0%
Other Services	4.6%	1.8%	6.3%	6.5%	4.6%	1.9%	4.7%	1.8%	4.9%	2.3%
Agriculture	**1.3%**	**1.8%**	**0.4%**	**0.2%**	**1.4%**	**2.1%**	**0.9%**	**1.0%**	**1.4%**	**1.2%**
Mining	**0.0%**	**0.0%**	**0.0%**	**0.0%**	**0.0%**	**0.0%**	**0.0%**	**0.0%**	**0.1%**	**0.1%**
Construction	**5.3%**	**2.7%**	**4.1%**	**2.1%**	**4.5%**	**2.5%**	**3.7%**	**2.1%**	**6.8%**	**4.5%**
Manufacturing	**2.6%**	**2.1%**	**1.9%**	**1.5%**	**2.8%**	**2.8%**	**3.3%**	**8.6%**	**5.6%**	**12.0%**
Trans., Comm. & Pub. Util.	**2.9%**	**2.6%**	**4.3%**	**5.1%**	**3.1%**	**2.4%**	**2.6%**	**2.3%**	**2.9%**	**3.0%**
Wholesale Trade	**3.7%**	**1.4%**	**3.0%**	**2.8%**	**3.7%**	**1.8%**	**3.3%**	**2.3%**	**5.0%**	**5.6%**
Government	**1.0%**	**4.5%**	**0.9%**	**4.0%**	**0.8%**	**3.9%**	**0.6%**	**3.3%**	**0.9%**	**3.6%**
Total Businesses	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**

Source: Claritas 11/2011

ATTACHMENT 2

RETAIL MARKET ANALYSIS

ATTACHMENT 2 - TABLE 1

TOTAL & PER CAPITA RETAIL SALES
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

	Total Taxable Sales (000's) 2009							
	Newport Beach	Huntington Beach	Irvine	Laguna Beach	Costa Mesa	Five-City Region	Orange County	State of California
Home Furnishing & Appliances	$40,242	$77,385	$282,865	$5,064	$259,031	$664,587	$2,829,758	$21,865,359
Building Materials & Garden Equipment	43,636	126,341	71,913	12,755	101,276	355,921	2,039,686	23,978,313
Food & Beverage Stores	96,597	143,136	121,813	24,383	125,904	511,833	1,894,642	22,546,285
Clothing & Clothing Accessories	161,013	95,231	167,816	24,297	737,172	1,185,529	2,742,626	25,641,272
General Merchandise	155,230	163,612	282,394	614	346,776	948,626	4,376,154	44,921,639
Food Services & Drinking Places	358,898	308,763	437,132	109,056	321,946	1,535,795	5,024,380	49,921,542
Other Retail Group	142,201	239,179	290,684	48,429	239,127	959,620	3,969,219	38,774,164
Retail Stores Total	**$997,817**	**$1,153,647**	**$1,654,617**	**$224,598**	**$2,131,232**	**$6,161,911**	**$22,876,465**	**$227,648,574**

	Per Capita Sales 2009							
Population	**86,252**	**202,480**	**212,793**	**25,208**	**116,479**	**643,212**	**3,139,017**	**37,883,992**
	Newport Beach	Huntington Beach	Irvine	Laguna Beach	Costa Mesa	Five-City Region	Orange County	State of California
Home Furnishing & Appliances	$467	$382	$1,329	$201	$2,224	$1,033	$901	$577
Building Materials & Garden Equipment	506	624	338	506	869	553	650	633
Food & Beverage Stores	1,120	707	572	967	1,081	796	604	595
Clothing & Clothing Accessories	1,867	470	789	964	6,329	1,843	874	677
General Merchandise	1,800	808	1,327	24	2,977	1,475	1,394	1,186
Food Services & Drinking Places	4,161	1,525	2,054	4,326	2,764	2,388	1,601	1,318
Other Retail Group	1,649	1,181	1,366	1,921	2,053	1,492	1,264	1,023
Retail Stores Total	**$11,569**	**$5,698**	**$7,776**	**$8,910**	**$18,297**	**$9,580**	**$7,288**	**$6,009**

Source: California State Board of Equalization; and California State Department of Finance (Table E1, population as of 1/1/09)

ATTACHMENT 2 - TABLE 2

TOTAL PERMITS & SALES PER PERMIT
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

	Total Permits 2009							
	Newport Beach	Huntington Beach	Irvine	Laguna Beach	Costa Mesa	Five-City Region	Orange County	State of California
Home Furnishing & Appliances	249	250	553	82	456	1,590	4,761	38,751
Building Materials & Garden Equipment	42	87	75	25	129	358	1,298	16,335
Food & Beverage Stores	75	122	97	20	114	428	2,090	28,205
Clothing & Clothing Accessories	324	413	343	151	1,054	2,285	5,947	60,999
General Merchandise	33	142	76	20	218	489	1,385	15,024
Food Services & Drinking Places	369	495	568	108	465	2,005	7,960	90,797
Other Retail Group	1,269	2,500	1,724	806	4,091	10,390	29,230	332,222
Retail Stores Total	2,361	4,009	3,436	1,212	6,527	17,545	52,671	582,333

	Taxable Sales Per Permit 2009							
	Newport Beach	Huntington Beach	Irvine	Laguna Beach	Costa Mesa	Five-City Region	Orange County	State of California
Home Furnishing & Appliances	$161,614	$309,540	$511,510	$61,756	$568,050	$417,979	$594,362	$564,253
Building Materials & Garden Equipment	1,038,952	1,452,195	958,840	510,200	785,085	994,193	1,571,407	1,467,910
Food & Beverage Stores	1,287,960	1,173,246	1,255,804	1,219,150	1,104,421	1,195,871	906,527	799,372
Clothing & Clothing Accessories	496,954	230,584	489,259	160,907	699,404	518,831	461,178	420,356
General Merchandise	4,703,939	1,152,197	3,715,711	30,700	1,590,716	1,939,930	3,159,678	2,989,992
Food Services & Drinking Places	972,623	623,764	769,599	1,009,778	692,357	765,983	631,204	549,815
Other Retail Group	112,058	95,672	168,610	60,086	58,452	92,360	135,793	116,712
Retail Stores Average	$422,625	$287,764	$481,553	$185,312	$326,526	$351,206	$434,328	$390,925

	Residents Per Permit 2009							
Population	**86,252**	**202,480**	**212,793**	**25,208**	**116,479**	**643,212**	**3,139,017**	**37,883,992**
	Newport Beach	Huntington Beach	Irvine	Laguna Beach	Costa Mesa	Five-City Region	Orange County	State of California
Home Furnishing & Appliances	346	N/A	385	307	255	405	659	978
Building Materials & Garden Equipment	2,054	2,327	2,837	1,008	903	1,797	2,418	2,319
Food & Beverage Stores	1,150	1,660	2,194	1,260	1,022	1,503	1,502	1,343
Clothing & Clothing Accessories	266	490	620	167	111	281	528	621
General Merchandise	2,614	1,426	2,800	1,260	534	1,315	2,266	2,522
Food Services & Drinking Places	234	409	375	233	250	321	394	417
Other Retail Group	68	81	123	31	28	62	107	114
Retail Stores Average	37	51	62	21	18	37	60	65

Source: California State Board of Equalization; and California State Department of Finance (Table E1, population as of 1/1/09)

Prepared by: Keyser Marston Associates, Inc.
File name: 3_29_12_NB Mkt Study; II_2; trb

ATTACHMENT 2 - TABLE 3

ESTIMATED MARKET POTENTIAL - EXISTING CONDITIONS
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

Population in City of Newport Beach [1]	72,461
Per Capita Income [1]	$67,400
Gross City Income	$4,883,871,000

Establishment Type	Newport Beach (2009)	Newport Beach (2011) [2]	Newport Beach Potential (2011)	Newport Beach Surplus/ (Leakage)	Typical Productivity	Additional Development
Home Furnishing & Appliances	$40,242,000	$41,688,400	$148,163,000	($106,474,600)	$350	304,200
Building Materials & Garden Equipment	43,636,000	45,204,300	106,796,000	(61,591,700)	$400	154,000
Food & Beverage Stores [3]	275,991,400	285,911,000	283,432,000	2,479,000	$450	0
Clothing & Clothing Accessories	161,013,000	166,800,100	143,601,000	23,199,100	$450	0
General Merchandise [4]	163,400,000	169,272,900	241,190,000	(71,917,100)	$400	179,800
Food Services & Drinking Places	358,898,000	371,797,400	263,071,000	108,726,400	$400	0
Other Retail Group	142,201,000	147,311,900	207,824,000	(60,512,100)	$350	172,900
Retail Stores Total	$1,185,381,400	$1,227,986,000	$1,394,077,000	($166,091,000)		810,900

Source: California State Board of Equalization; Bureau of Labor Statistics-CPI (Los Angeles-Riverside-Orange County; All items); DOF; and Claritas.
1 Based on estimates from Claritas.
2 Sales in 2011 assume annual rate of change between 2009 and 2011 for the CPI (Los Angeles-Riverside-Orange County) during this period.
3 Assumes food store sales are 35% taxable.
4 Assumes general merchandise store sales are 95% taxable.

ATTACHMENT 2 - TABLE 4

ESTIMATED MARKET POTENTIAL - FUTURE CONDITIONS 2016
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

Population in City of Newport Beach [1]	75,502
Per Capita Income [1]	$73,600
Gross City Income	$5,556,947,000

Establishment Type	Newport Beach (2016) [2]	Newport Beach Potential (2016)	Newport Beach Surplus/ (Leakage)	Typical Productivity	Additional Development
Home Furnishing & Appliances	$49,738,000	$168,582,000	($118,844,000)	$350	339,600
Building Materials & Garden Equipment	53,933,000	121,514,000	(67,581,000)	$400	169,000
Food & Beverage Stores[3]	341,120,000	322,494,000	18,626,000	$450	0
Clothing & Clothing Accessories	199,009,000	163,391,000	35,618,000	$450	0
General Merchandise[4]	201,959,000	274,430,000	(72,471,000)	$400	181,200
Food Services & Drinking Places	443,591,000	299,326,000	144,265,000	$400	0
Other Retail Group	175,758,000	236,465,000	(60,707,000)	$350	173,400
Retail Stores Total	$1,465,108,000	$1,586,202,000	($121,094,000)		863,200

Source: California State Board of Equalization; Bureau of Labor Statistics-CPI (Los Angeles-Riverside-Orange County; All items); DOF; and Claritas.

1 Based on estimates from Claritas.

2 Sales in 2016 assume annual rate of change between 2009 and 2011 for the CPI Los Angeles-Riverside-Orange County Region and no new development.

3 Assumes food store sales are 35% taxable.

4 Assumes general merchandise store sales are 95% taxable.

ATTACHMENT 2 - TABLE 5

RETAIL SALES SURPLUS/LEAKAGE DATA SUMMARY
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

City of Newport Beach	Expenditures	Sales	Gap/Surplus	Total Sales PSF	Potential (SF)
Motor Vehicle and Parts Dealers-441	$313,149,710	$539,592,284	($226,442,574)	NA	NA
Furniture and Home Furnishings Stores-442	43,920,094	20,254,562	23,665,532	$300	78,885
Electronics and Appliance Stores-443	42,811,767	9,904,671	32,907,096	$400	82,268
Building Material, Garden Equip Stores-444	165,925,146	58,167,538	107,757,608	$300	359,192
Food and Beverage Stores-445	198,555,016	182,205,050	16,349,966	$400	40,875
Health and Personal Care Stores-446	89,211,228	77,714,869	11,496,359	$33	348,375
Gasoline Stations-447	140,462,386	124,640,938	15,821,448	NA	NA
Clothing and Clothing Accessories Stores-448	88,090,806	185,152,017	(97,061,211)	$300	0
Sporting Goods, Hobby, Book, Music Stores-451	38,885,364	39,865,080	(979,716)	$300	0
General Merchandise Stores-452	217,541,888	156,223,895	61,317,993	$300	204,393
Miscellaneous Store Retailers-453	43,337,629	25,808,024	17,529,605	$300	58,432
Non-Store Retailers-454	133,397,901	70,795,894	62,602,007	NA	NA
Foodservice and Drinking Places-722	184,115,881	322,419,976	(138,304,095)	$400	0
Total Retail Sales Incl Eating and Drinking Places	**$1,699,404,816**	**$1,812,744,798**	**($113,339,982)**		**1,172,420**

Lido Village- 1 Mile Market	Expenditures	Sales	Gap/Surplus	Total Sales PSF	Potential (SF)
Motor Vehicle and Parts Dealers-441	$62,847,400	$64,967,330	($2,119,930)	NA	NA
Furniture and Home Furnishings Stores-442	8,165,530	2,904,855	5,260,675	$300	17,536
Electronics and Appliance Stores-443	8,327,719	2,495,372	5,832,347	$400	14,581
Building Material, Garden Equip Stores-444	31,321,599	9,509,539	21,812,060	$300	72,707
Food and Beverage Stores-445	39,356,367	24,567,142	14,789,225	$400	36,973
Health and Personal Care Stores-446	16,511,277	13,637,775	2,873,502	$33	87,076
Gasoline Stations-447	29,121,047	62,432,228	(33,311,181)	NA	NA
Clothing and Clothing Accessories Stores-448	16,846,231	10,195,483	6,650,748	$300	22,169
Sporting Goods, Hobby, Book, Music Stores-451	7,384,401	5,953,903	1,430,498	$300	4,768
General Merchandise Stores-452	41,982,928	1,016,962	40,965,966	$300	136,553
Miscellaneous Store Retailers-453	8,484,322	4,359,253	4,125,069	$300	13,750
Non-Store Retailers-454	25,437,704	17,143,408	8,294,296	NA	NA
Foodservice and Drinking Places-722	36,871,547	75,462,821	(38,591,274)	$400	0
Total Retail Sales Incl Eating and Drinking Places	**$332,658,072**	**$294,646,071**	**$38,012,001**		**406,113**

ATTACHMENT 2 - TABLE 5

RETAIL SALES SURPLUS/LEAKAGE DATA SUMMARY
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

Balboa Village - 1 Mile Market	Expenditures	Sales	Gap/Surplus	Total Sales PSF	Potential (SF)
Motor Vehicle and Parts Dealers-441	$40,281,870	$73,358,401	($33,076,531)	NA	NA
Furniture and Home Furnishings Stores-442	5,567,277	621,900	4,945,377	$300	16,485
Electronics and Appliance Stores-443	5,455,171	513,232	4,941,939	$400	12,355
Building Material, Garden Equip Stores-444	20,753,944	3,131,245	17,622,699	$300	58,742
Food and Beverage Stores-445	25,279,273	29,209,445	(3,930,172)	$400	0
Health and Personal Care Stores-446	11,717,376	8,033,047	3,684,329	$33	111,646
Gasoline Stations-447	18,278,396	4,697,449	13,580,947	NA	NA
Clothing and Clothing Accessories Stores-448	10,923,680	17,400,968	(6,477,288)	$300	0
Sporting Goods, Hobby, Book, Music Stores-451	4,855,057	2,125,042	2,730,015	$300	9,100
General Merchandise Stores-452	27,387,301	465,187	26,922,114	$300	89,740
Miscellaneous Store Retailers-453	5,532,250	3,464,862	2,067,388	$300	6,891
Non-Store Retailers-454	17,042,939	692,059	16,350,880	NA	NA
Foodservice and Drinking Places-722	23,724,615	43,208,949	(19,484,334)	$400	0
Total Retail Sales Incl Eating and Drinking Places	**$216,799,149**	**$186,921,786**	**$29,877,363**		**304,960**

Mariner's Mile - 1 Mile Market	Expenditures	Sales	Gap/Surplus	Total Sales PSF	Potential (SF)
Motor Vehicle and Parts Dealers-441	$76,429,645	$111,230,099	($34,800,454)	NA	NA
Furniture and Home Furnishings Stores-442	10,081,638	4,560,485	5,521,153	$300	18,404
Electronics and Appliance Stores-443	10,425,055	3,480,746	6,944,309	$400	17,361
Building Material, Garden Equip Stores-444	39,033,797	12,292,129	26,741,668	$300	89,139
Food and Beverage Stores-445	50,821,772	35,848,973	14,972,799	$400	37,432
Health and Personal Care Stores-446	21,211,298	29,842,567	(8,631,269)	$33	0
Gasoline Stations-447	37,283,032	58,394,326	(21,111,294)	NA	NA
Clothing and Clothing Accessories Stores-448	21,054,659	15,052,244	6,002,415	$300	20,008
Sporting Goods, Hobby, Book, Music Stores-451	9,242,380	8,910,319	332,061	$300	1,107
General Merchandise Stores-452	53,375,161	9,212,358	44,162,803	$300	147,209
Miscellaneous Store Retailers-453	10,738,649	11,363,514	(624,865)	$300	0
Non-Store Retailers-454	32,180,225	17,771,759	14,408,466	NA	NA
Foodservice and Drinking Places-722	47,008,768	109,176,140	(62,167,372)	$400	0
Total Retail Sales Incl Eating and Drinking Places	**$418,886,079**	**$427,135,659**	**($8,249,580)**		**330,660**

Source: Claritas; KMA

ATTACHMENT 2 - TABLE 6

RETAIL LEASE RATE COMPARABLES
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

No.	Address	Property Type	Asking Rent	Type	Building Size	SF Available	Vacancy
1	120 Tustin Ave	Street Retail	$3.50	NNN	10,000	500	5%
2	2900 Newport Blvd	Restaurant	$3.17	NNN	3,000	3,000	100%
3	3424-3432 Vio Oporto	Creative/Loft	$1.95	FS	13,074	1,934	47%
		Creative/Loft	$2.35	FS		1,260	
		Creative/Loft	$1.92	FS		481	
		Retail	$1.75	NNN		2,410	
4	3431 Via Oporto	Street Retail	$1.75	NNN	16,264	1,871	12%
5	3400 Via Oporto	Street Retail	$1.95	NNN	5,703	1,173	21%
6	3400 Via Lido	Street Retail	$2.00	NNN	2,593	2,593	100%
7	3440-3446 Via Oporto	Retail	$1.75	NNN	8,393	1,711	20%
8	3408-3412 Via Oporto	Creative/Loft	$1.95	FS	19,077	1,338	17%
		Restaurant	$2.00	NNN		985	
		Street Retail	$1.75	NNN		957	
9	3444 Via Lido	Street Retail	$3.00	NNN	11,074	11,074	100%
10	514 E. Oceanfront	Street Retail	$2.95	NNN	10,000	2,250	73%
		Anchor	$4.50	NNN		5,000	
11	3404 Via Oporto	Street Retail	$1.75	NNN	5,636	998	33%
		Creative/Loft	$1.95	FS		870	
12	3636 Newport Blvd	Free Standing Retail	$2.25	NNN	1,846	1,846	100%
13	3450 Via Oporto	Restaurant	$2.50	NNN	15,658	9,441	100%
		Retail	$2.50	NNN		6,217	
14	Newport Blvd & 30th St	Neighborhood Center	$4.25	NNN	50,000	1,998	4%
15	1100 W. Coast Hwy	Vehicle Showcase Bldg	$2.58	MG	10,468	10,468	100%
16	1910 W. Balboa Blvd	Street Retail	$2.50	NNN	3,629	1,229	34%
17	2700 W. Coast Hwy	Retail/Office	$2.65	FS	2,475	2,475	100%
18	2233 W. Balboa Blvd	Retail	$2.50	NNN	10,260	1,220	54%
			$1.75	NNN		4,370	
19	3201 Newport Blvd	Free Standing Retail	$3.46	NNN	4,275	4,275	100%
20	705 Balboa	Retail	$2.50		1,100	1,100	100%
	Total					**85,000**	

Lease Rate Range	**$1.75 - $4.50**
Weighted Average Lease Rate	**$2.65**

Note: Data search includes the Newport Beach Peninsula and Mariner's Mile.

Source: LoopNet.com 11/2011

ATTACHMENT 2 - TABLE 7

RETAIL BUILDING SALES
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

No.	Building Type	Address	Sale Date	Year Built / Renovated	GLA (SF)	Sales Price	Price Per SF	Zoning
1	Retail Storefront	415 29th Street	12/30/2010	NA	3,200	$1,350,000	$422	SP-6
2	Retail Storefront	419 31st Street	11/4/2011	1999	3,600	$2,340,000	$650	MU-CV
3	Freestanding Retail	608 E. Balboa Blvd	3/8/2010	1935	5,700	$3,500,000	$614	SP-8
4	Retail Storefront/Residential	703 E. Balboa Blvd	1/14/2011	1975	2,355	$915,000	$389	MU-V
5	Freestanding Retail	1910-1920 W. Balboa Blvd	6/23/2011	1975	4,080	$1,540,000	$377	SP-6
6	Retail Storefront	2633 W. Coast Highway	1/18/2011	1995	5,900	$5,800,000	$983	MUW-1
7	Retail/Restaurant	3400 Via Lido	10/26/2010	1953	2,696	$1,100,000	$408	RSC
					Weighted Average		**$601**	

Note: Data search includes the Newport Beach peninsula and Mariner's Mile from 11/28/2009 to 11/28/2011. Non-arms length transactions, multi-property sales and sales transactions without

Source: Costar 11/2011

ATTACHMENT 3

OFFICE MARKET ANALYSIS

ATTACHMENT 3 - TABLE 1

3RD QUARTER 2011 OFFICE MARKET - ORANGE COUNTY OFFICE REPORT
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

Building Type	Square Feet (Net Rentable Area)	Vacancy Rate	Net Absorption (Year-to-date)	Under Construction	Average Asking Lease Rate
Class A	25,049,013	19.80%	(75,386)	0	$2.17
Class B	20,323,662	12.40%	88,563	0	$1.79
Class C	1,759,275	18.30%	(5,799)	0	$1.58
Total	**47,131,950**		**7,378**	**0**	**$2.01**

(1) City is located within the Greater Airport Area Submarket.

Source: CBRE Orange County Office Report 3rd Quarter 2011.

ATTACHMENT 3 - TABLE 2

3RD QUARTER 2011 OFFICE MARKET - ORANGE COUNTY OFFICE REPORT
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

Submarket	Square Feet (Net Rentable Area)	Overall Vacancy Rate	Direct Vacancy Rate	Overall Absorption (Year-to-date)	Under Construction	Completed Construction	Direct Weighted Average Rental Rate (Class A)	Overall Average Rental Rate (All Classes)
Newport Beach	7,336,698	15.10%	14.80%	200,408	0	0	$2.43	$2.27
Total	**7,336,698**	**15.10%**	**14.80%**	**200,408**	**0**	**0**	**$2.43**	**$2.27**

Source: Cushman & Wakefield Marketbeat Orange County Office Report 3rd Quarter 2011.

ATTACHMENT 3 - TABLE 3

OFFICE LEASE RATE COMPARABLES
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

No.	Address	Property Type	Year Built	Asking Rent	Type	Building Size	SF Available	Vacancy
1	2244 W. Pacific Coast Hwy	Class B Office	1981	$2.30	FS	17,108	12,708	74%
2	3300 W. Coast Hwy	Class A Office - Medical	NA	$3.50	NNN	16,513	4,301	26%
3	3101 W. Coast Hwy	Office	NA	$2.75	FS	40,140	3,008	31%
				$3.25	FS		6,994	
				$2.50	FS		1,902	
				$3.25	NNN		690	
4	3416-3420 Via Oporto	Class B - Creative/Loft	NA	$2.01	FS	19,077	386	11%
				$2.25	FS		1,795	
5	3408-3412 Via Oporto	Class B - Creative/Loft	NA	$1.95	FS	19,077	1,338	7%
6	3700 Newport Blvd	Office	NA	$1.96	FS	17,130	369	44%
				$2.00	FS		1,387	
				$2.11	FS		471	
				$1.87	FS		428	
				$2.25	FS		1,289	
				$2.15	FS		585	
				$2.16	FS		340	
				$2.28	FS		186	
				$2.10	FS		762	
				$1.85	FS		723	
				$1.97	FS		394	
				$1.95	FS		589	
7	514 E. Oceanfront	Office/Retail	NA	$3.50	NNN	10,000	1,050	11%
8	3404 Via Oporto	Office - Creative/Loft	NA	$1.95	FS	5,636	870	15%
9	30th Street Loft	Class A - Creative/Loft	2005	$3.38	MG	800	800	100%
10	509 31st Street	Class B - Creative/Loft	NA	$2.46	NA	2,550	650	25%
11	151 Shipyard Way, Ste. 7	Class A Office	NA	$1.99	NA	5,000	600	17%
				$2.55	NA		240	
12	3471 Via Lido Plaza	Class A Office	NA	$2.25	MG	12,000	4,891	41%
13	2436 W. Coast Hwy	Class C Office	NA	$1.99	MG	9,512	1,249	13%
	Total						**51,000**	

Lease Rate Range	**$1.85 - $3.50**
Weighted Average Lease Rate	**$2.55**

Note: Data search includes the Newport Beach Peninsula and Mariner's Mile.

Source: LoopNet.com 11/2011

ATTACHMENT 3 - TABLE 4

OFFICE BUILDING SALES
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

No.	Building Type	Address	Sale Date	Year Built	RBA (SF)	Sales Price	Price Per Sf	Zoning	Parking (Spaces/1000sf)
1	Class B Office/Residential	411 29th Street	10/20/2010	2005	3,376	$1,387,000	$411	SP-6	1.2
2	Class C Office	417 29th Street	5/4/2010	1946	1,221	$950,000	$778	SP-6	2.5
3	Class C Office Live/Work	505 30th Street	3/19/2010	2004	2,450	$1,425,000	$582	SP-6	2.5
4	Class C Office w/Street Retail	3355 Via Lido	10/28/2011	1957	31,885	$7,262,500	$228	RSC	1.3
5	Class B Office/Residential	3388 Via Lido	10/28/2011	1954	21,279	$9,514,000	$447	APF	3.0
					Weighted Average		**$341**		

Note: Data search includes the Newport Beach peninsula and Mariner's Mile from 11/28/2009 to 11/28/2011. Non-arms length transactions, multi-property sales and sales transactions without sales

Source: Costar 11/2011

ATTACHMENT 4

RESIDENTIAL MARKET ANALYSIS

ATTACHMENT 4 - TABLE 1

KEY HOUSING STATISTICS
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

		Single-Family Homes		Multi-Family Homes		Mobile		Percent	Size of
	Total	Detached	Attached	2 to 4	5 Plus	Homes	Occupied	Vacant	Household
California									
2000	12,214,550	6,883,107	931,928	1,024,896	2,804,931	569,688	11,502,871	5.83	2.87
2005	12,941,231	7,401,694	943,086	1,045,690	2,969,952	580,809	12,184,048	5.85	2.94
2010	13,591,866	7,780,117	967,176	1,072,187	3,175,448	596,938	12,790,143	5.90	2.96
Change 2000-2010									
Percent	11.28%	13.03%	3.78%	4.61%	13.21%	4.78%	11.19%	1.24%	2.85%
Absolute	1,377,316	897,010	35,248	47,291	370,517	27,250	1,287,272	0.07	0.08
Orange County									
2000	969,484	489,657	124,702	88,804	233,871	32,450	935,287	3.53	3.00
2005	1,013,634	513,079	126,832	90,823	250,547	32,353	977,547	3.56	3.07
2010	1,040,544	521,768	130,118	91,400	265,146	32,112	1,005,502	3.37	3.11
Change 2000-2010									
Percent	7.33%	6.56%	4.34%	2.92%	13.37%	-1.04%	7.51%	-4.53%	3.60%
Absolute	71,060	32,111	5,416	2,596	31,275	(338)	70,215	(0.16)	0.11
City of Newport Beach									
2000	37,288	16,095	6,685	5,351	8,294	863	33,071	11.31	2.09
2005	42,143	18,918	7,166	5,475	9,721	863	37,561	10.87	2.18
2010	43,515	19,467	7,166	5,599	10,420	863	38,784	10.87	2.21
Change 2000-2010									
Percent	16.70%	20.95%	7.20%	4.63%	25.63%	0.00%	17.27%	-3.87%	5.89%
Absolute	6,227	3,372	481	248	2,126	0	5,713	(0.44)	0.12

Source: California Department of Finance

ATTACHMENT 4 - TABLE 2

HISTORIC DISTRIBUTION OF HOUSING UNIT MIX AND GROWTH
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

		Single-Family Homes				Multi-Family Homes					
	Total [1]	Detached	As a % of Total	Attached	As a % of Total	2 to 4 Attached	As a % of Total	5 Plus Attached	As a % of Total	Multiple Subtotal	As a % of Total
California											
2000	11,644,862	6,883,107	59%	931,928	8%	1,024,896	9%	2,804,931	24%	3,829,827	33%
2005	12,360,422	7,401,694	60%	943,086	8%	1,045,690	8%	2,969,952	24%	4,015,642	32%
2010	12,994,928	7,780,117	60%	967,176	7%	1,072,187	8%	3,175,448	24%	4,247,635	33%
Orange County											
2000	937,034	489,657	52%	124,702	13%	88,804	9%	233,871	25%	322,675	34%
2005	981,281	513,079	52%	126,832	13%	90,823	9%	250,547	26%	341,370	35%
2010	1,008,432	521,768	52%	130,118	13%	91,400	9%	265,146	26%	356,546	35%
City of Newport Beach											
2000	36,425	16,095	44%	6,685	18%	5,351	15%	8,294	23%	13,645	37%
2005	41,280	18,918	46%	7,166	17%	5,475	13%	9,721	24%	15,196	37%
2010	42,652	19,467	46%	7,166	17%	5,599	13%	10,420	24%	16,019	38%

[1] Does not include mobile home units
Source: California Department of Finance

ATTACHMENT 4 - TABLE 3

SUMMARY OF RECENT DETACHED HOME SALES WITHIN ONE MILE OF LIDO VILLAGE (January 2010 - September 2011)
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

			Unit Size (Sf)		Sales Price			Price Per Square Foot		
	Count	Average Year Built	Low	High	Low	High	Median	Low	High	Average
1 Bedroom - 1 Bath	6	1936	268	1,151	$555,000	$3,900,000	$1,191,208	$721	$5,942	$2,400
2 Bedroom - 1 Bath	26	1942	608	1,505	$475,000	$1,875,000	$905,000	$352	$2,156	$1,123
2 Bedroom - 2 Bath	9	1947	741	1,739	$625,500	$4,400,000	$950,000	$435	$5,938	$1,298
Total/Average	**35**	**1943**	**608**	**1,739**	**$475,000**	**$4,400,000**	**$950,000**	**$352**	**$5,938**	**$1,168**
3 Bedroom - 2 Bath	27	1954	1,120	2,991	$319,500	$3,300,000	$1,120,000	$235	$1,596	$691
3 Bedroom - 2.5 Bath	5	1973	1,440	2,684	$404,000	$2,593,000	$445,000	$236	$1,048	$507
Total/Average	**32**	**1957**	**1,120**	**2,991**	**$319,500**	**$3,300,000**	**$1,085,000**	**$235**	**$1,596**	**$662**
4 Bedroom - 2 Bath	6	1954	1,438	2,229	$950,000	$3,200,000	$1,447,500	$460	$2,086	$998

Note: Data search includes the one-mile radius surrounding the intersection of Lido Marina Village and Newport Beach Boulevard. Unit types were excluded if there were <5 transactions. Only full transactions ≥$100,000 were included.

Source: DataQuick (11/2010 - 11/2011)

ATTACHMENT 4 - TABLE 4

SUMMARY OF RECENT ATTACHED HOME SALES WITHIN ONE MILE OF LIDO VILLAGE (January 2010 - September 2011)
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

			Unit Size (Sf)		Sales Price			Price Per Square Foot		
	Count	Average Year Built	Low	High	Low	High	Median	Low	High	Average
1 Bedroom - 1 Bath	10	1974	465	1,095	$186,000	$365,000	$258,500	$261	$459	$339
2 Bedroom - 2 Bath	26	1977	682	1,673	$269,500	$615,000	$447,500	$252	$652	$374
2 Bedroom - 2.5 Bath	19	1977	1,122	2,115	$339,000	$3,500,000	$500,000	$255	$2,298	$681
Total/Average	**45**	**1977**	**682**	**2,115**	**$269,500**	**$3,500,000**	**$460,000**	**$252**	**$2,298**	**$503**
3 Bedroom - 2.5 Bath	7	1975	1,531	1,790	$419,000	$810,000	$540,000	$274	$488	$354
3 Bedroom - 3 Bath	8	1975	1,543	1,778	$420,000	$645,000	$557,500	$272	$363	$311
Total/Average	**15**	**1975**	**1,531**	**1,790**	**$419,000**	**$810,000**	**$555,000**	**$272**	**$488**	**$331**
4 Bedroom - 2.5 Bath	5	1976	1,903	2,315	$530,000	$720,000	$570,000	$229	$372	$303

Note: Data search includes the one-mile radius surrounding the intersection of Lido Marina Village and Newport Beach Boulevard. Unit types were excluded if there were <5 transactions. Only full transactions ≥$100,000 were included.

Source: DataQuick (11/2010 - 11/2011)

ATTACHMENT 4 - TABLE 5

MARKET AREA HOME SALES - 2008 & 2010
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

2008

		Single-Family Homes				Condominiums		
City	Zip	Units	Median Price	Change from 2007	Home Price/SF	Units	Median Price	Change from 2007
Newport Beach	92660	197	$1,350	-15.60%	$608	53	$675	-27.00%
Newport Beach	92661	27	$1,968	-25.60%	$1,747	5	$950	3.30%
Newport Beach	92663	99	$2,000	13.30%	$1,173	77	$565	-12.50%

2010

		Single-Family Homes				Condominiums		
City	Zip	Units	Median Price	Change from 2009	Home Price/SF	Units	Median Price	Change from 2009
Newport Beach	92660	335	$1,192	11.4%	$509	89	$548	-0.4%
Newport Beach	92661	48	$1,968	22.2%	$1,233	5	$650	-44.1%
Newport Beach	92663	136	$1,341	14.1%	$858	108	$464	-6.4%

Source: DQ News - 2011

ATTACHMENT 4 - TABLE 6

HISTORIC NEWPORT BEACH MARKET RENTS
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

Year	Average Asking Rent	Average Occupancy
2003	$1,604	93.9%
2004	$1,669	94.5%
2005	$1,791	95.2%
2006	$1,921	94.9%
2007	$2,022	94.8%
2008	$1,966	94.7%
2009	$1,858	93.3%
2010	$1,901	94.6%
2011 (YTD)	$1,952	95.8%

Source: RealFacts

ATTACHMENT 4 - TABLE 7

CURRENT NEWPORT BEACH MARKET RENTS
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

Unit Type	Units in Sample	Average Square Feet	Average Rent	Average Rent PSF
Studio	773	514	$1,235	2.40
Junio One Bedroom	30	683	$1,785	2.61
One Bedroom - One Bath	2,518	758	$1,646	2.17
One Bedroom - 1.5 Bath	75	1,201	$1,825	1.52
One Bedroom Townhome	24	1,152	$2,400	2.08
Two Bedroom - 1.5 Bath	16	1,100	$2,683	2.44
Two Bedroom - Two Bath	2,818	1,110	$2,303	2.07
Two Bedroom Townhome	292	1,165	$2,251	1.93
Three Bedroom - Two Bath	127	1,484	$3,579	2.41
Three Bedroom - Three Bath	5	1,989	$8,466	4.26
Three Bedroom - Townhome	250	1,372	$2,921	2.13
Overall	**6,928**	**934**	**$1,987**	**2.13**

Source: RealFacts

ATTACHMENT 4 - TABLE 8

SUMMARY OF LOCAL APARTMENT RENTS
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

No.	Name	Address	Bedrooms	Apartment Sf	Rental Rate	Rent per Sf
1	The Terrace Apts @ Balboa Bay	1221 W. Coast Hwy	0/1	750	$1,850	$2.47
2	The Terrace Apts @ Balboa Bay	1221 W. Coast Hwy	0/1	870	$2,750	$3.16
3	Newport Bluffs	100 Vilaggio	0/1	549	$1,680	$3.06
			Average	**723**	**$2,093**	**$2.90**
4	The Terrace Apts @ Balboa Bay	1221 W. Coast Hwy	1/1	1,137	$3,300	$2.90
5	The Terrace Apts @ Balboa Bay	1221 W. Coast Hwy	1/1	1,357	$3,600	$2.65
6	Mariner Square	1244 Irvine Avenue	1/1	850	$1,747	$2.06
7	Baypointe	2500 Baypointe Drive	1/1	777	$1,915	$2.46
8	Newport North	2 Milano	1/1	687	$1,685	$2.45
9	Newport North	2 Milano	1/1	681	$1,695	$2.49
10	Newport North	2 Milano	1/1 + Loft	818	$1,775	$2.17
11	Newport Bluffs	100 Vilaggio	1/1	626	$1,685	$2.69
12	Newport Bluffs	100 Vilaggio	1/1	626	$1,970	$3.15
13	Newport Bluffs	100 Vilaggio	1/1 + Den	936	$2,120	$2.26
14	The Bays	1 Baywood Drive	1/1	775	$1,710	$2.21
15	The Bays	1 Baywood Drive	1/1	790	$1,710	$2.16
16	The Colony @ Fashion Island	5100 Colony Plaza	1/1	1,008	$2,905	$2.88
17	Newport Ridge	1 White Cap Lane	1/1	751	$2,030	$2.70
18	Newport Ridge	1 White Cap Lane	1/1	799	$1,915	$2.40
19	Promontory Point	200 Promontory Drive West	1/1	760	$2,490	$3.28
20	Promontory Point	200 Promontory Drive West	1/1 + Loft	870	$2,660	$3.06
21	Promontory Point	200 Promontory Drive West	1/1 + Loft	1,050	$2,995	$2.85
22	Promontory Point	200 Promontory Drive West	1/1 + Loft	1,050	$3,170	$3.02
23	Promontory Point	200 Promontory Drive West	1/1	750	$2,395	$3.19
24	Promontory Point	200 Promontory Drive West	1/2	850	$2,445	$2.88
			Average	**855**	**$2,282**	**$2.66**

ATTACHMENT 4 - TABLE 8

SUMMARY OF LOCAL APARTMENT RENTS
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

No.	Name	Address	Bedrooms	Apartment Sf	Rental Rate	Rent per Sf
25	The Terrace Apts @ Balboa Bay	1221 W. Coast Hwy	2/2	1,359	$4,000	$2.94
26	The Terrace Apts @ Balboa Bay	1221 W. Coast Hwy	2/2	1,579	$4,700	$2.98
27	Mariner Square	1244 Irvine Avenue	2/1.5	1,280	$2,280	$1.78
28	Baypointe	2500 Baypointe Drive	2/2	1,065	$2,260	$2.12
29	Baypointe	2500 Baypointe Drive	2/2	1,074	$2,250	$2.09
30	Baypointe	2500 Baypointe Drive	2/2	1,074	$2,330	$2.17
31	Baypointe	2500 Baypointe Drive	2/2	1,168	$2,420	$2.07
32	Newport North	2 Milano	2/2	1,091	$2,040	$1.87
33	Newport North	2 Milano	2/2	926	$1,865	$2.01
34	Newport North	2 Milano	2/2.5	1,071	$2,060	$1.92
35	Newport Bluffs	100 Vilaggio	2/2	945	$2,140	$2.26
36	Newport Bluffs	100 Vilaggio	2/2	945	$2,710	$2.87
37	Newport Bluffs	100 Vilaggio	2/2	1,103	$2,810	$2.55
38	The Bays	1 Baywood Drive	2/2	1,075	$2,040	$1.90
39	The Bays	1 Baywood Drive	2/2	1,095	$1,955	$1.79
40	The Bays	1 Baywood Drive	2/2	1,095	$2,030	$1.85
41	The Bays	1 Baywood Drive	2/1.5	1,355	$2,520	$1.86
42	The Colony @ Fashion Island	5100 Colony Plaza	2/2	1,273	$3,150	$2.47
43	The Colony @ Fashion Island	5100 Colony Plaza	2/2	1,273	$3,600	$2.83
44	The Colony @ Fashion Island	5100 Colony Plaza	2/2	1,365	$3,450	$2.53
45	The Colony @ Fashion Island	5100 Colony Plaza	2/2	1,365	$3,850	$2.82
46	The Colony @ Fashion Island	5100 Colony Plaza	2/2 + Den	1,546	$3,740	$2.42
47	The Colony @ Fashion Island	5100 Colony Plaza	2/2 + Den	1,546	$4,540	$2.94
48	Bordeaux	1 Ambrose	2/2.5	1,303	$2,735	$2.10
49	Bordeaux	1 Ambrose	2/2.5	1,327	$2,800	$2.11
50	Newport Ridge	1 White Cap Lane	2/2	1,000	$2,240	$2.24
51	Newport Ridge	1 White Cap Lane	2/2	1,039	$2,330	$2.24
52	Newport Ridge	1 White Cap Lane	2/2	1,039	$2,220	$2.14
53	Newport Ridge	1 White Cap Lane	2/2	1,058	$2,255	$2.13
54	Newport Ridge	1 White Cap Lane	2/2	1,058	$2,130	$2.01
55	Promontory Point	200 Promontory Drive West	2/2	1,100	$2,495	$2.27
56	Promontory Point	200 Promontory Drive West	2/2	1,100	$2,770	$2.52
57	Promontory Point	200 Promontory Drive West	2/2	1,065	$2,245	$2.11
58	Promontory Point	200 Promontory Drive West	2/2	1,080	$2,425	$2.25
59	Promontory Point	200 Promontory Drive West	2/2	1,120	$2,940	$2.63
60	Promontory Point	200 Promontory Drive West	2/2	1,120	$2,680	$2.39
61	Promontory Point	200 Promontory Drive West	2/2	1,060	$2,525	$2.38
62	Promontory Point	200 Promontory Drive West	2/2	1,060	$2,845	$2.68

ATTACHMENT 4 - TABLE 8

SUMMARY OF LOCAL APARTMENT RENTS
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

No.	Name	Address	Bedrooms	Apartment Sf	Rental Rate	Rent per Sf
63	Promontory Point	200 Promontory Drive West	2/2	1,130	$3,605	$3.19
64	Promontory Point	200 Promontory Drive West	2/2	1,130	$3,455	$3.06
65	Promontory Point	200 Promontory Drive West	2/2	1,150	$3,145	$2.73
66	Promontory Point	200 Promontory Drive West	2/1.5	1,110	$2,845	$2.56
67	Promontory Point	200 Promontory Drive West	2/2 + Loft	1,490	$3,760	$2.52
			Average	**1,168**	**$2,772**	**$2.36**
68	The Terrace Apts @ Balboa Bay	1221 W. Coast Hwy	3/2	1,616	$5,300	$3.28
69	The Terrace Apts @ Balboa Bay	1221 W. Coast Hwy	3/2	1,836	$6,300	$3.43
70	The Terrace Apts @ Balboa Bay	1221 W. Coast Hwy	3/2.5	2,606	$7,300	$2.80
71	The Terrace Apts @ Balboa Bay	1221 W. Coast Hwy	3/2.5	3,160	$9,300	$2.94
72	The Terrace Apts @ Balboa Bay	1221 W. Coast Hwy	3/3	1,989	$8,000	$4.02
73	The Terrace Apts @ Balboa Bay	1221 W. Coast Hwy	3/3	2,511	$10,300	$4.10
74	Newport North	2 Milano	3/2.5	1,203	$2,505	$2.08
75	Newport Bluffs	100 Vilaggio	3/2	1,336	$2,990	$2.24
76	Newport Bluffs	100 Vilaggio	3/2.5	1,317	$3,175	$2.41
77	Newport Bluffs	100 Vilaggio	3/2.5	1,317	$3,490	$2.65
78	The Bays	1 Baywood Drive	3/2	1,285	$2,615	$2.04
79	The Bays	1 Baywood Drive	3/2	1,305	$2,520	$1.93
80	Bordeaux	1 Ambrose	3/2.5	1,507	$3,180	$2.11
81	Bordeaux	1 Ambrose	3/2.5	1,634	$3,075	$1.88
			Average	**1,759**	**$5,004**	**$2.71**

Note: Apartments without known square footages were not included.
Source: Apartments.com, 11/2011

ATTACHMENT 5

HOTEL MARKET ANALYSIS

ATTACHMENT 5 - TABLE 1

2005-2011 OCCUPANCY RATES[1]
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

	Coastal Orange County	Orange County
2005	65.6%	71.7%
2006	69.6%	72.7%
2007	70.8%	72.9%
2008	68.3%	71.0%
2009	58.0%	64.3%
2010 (E)	64.2%	68.5%
2011 (F)	67.4%	70.2%
Average	**66.1%**	**70.2%**

E - Estimate
F - Forecast

(1) Source: PKF "The 2011 Southern California Lodging Forecast"

ATTACHMENT 5 - TABLE 2

2005-2011 AVERAGE DAILY RATE[1]
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

	Coastal Orange County	Orange County
2005	$219.44	$104.69
2006	$238.88	$118.16
2007	$258.85	$128.17
2008	$252.15	$128.16
2009	$220.50	$115.51
2010 (e)	$220.23	$113.35
2011 (f)	$230.14	$118.82
Average	**$234.31**	**$118.12**

E - Estimate
F - Forecast

(1) Source: PKF "The 2011 Southern California Lodging Forecast"

ATTACHMENT 5 - TABLE 3

2005-2011 ANNUAL REVPAR (occupancy x room rate)
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

	Coastal Orange County	Orange County
2005	$143.94	$75.06
2006	$166.37	$85.92
2007	$183.19	$93.37
2008	$172.13	$90.94
2009	$127.80	$74.30
2010 (e)	$141.37	$77.68
2011 (f)	$155.11	$83.41
Average	**$155.70**	**$82.95**

E - Estimate
F - Forecast

(1) Source: PKF "The 2011 Southern California Lodging Forecast"

ATTACHMENT 5 - TABLE 4

HOTEL MARKET PERFORMANCE [1]
LIDO VILLAGE, BALBOA VILLAGE, MARINER'S MILE MARKET STUDY
NEWPORT BEACH, CALIFORNIA

	Occupancy	Average Daily Rate	Occupied Room Nights Per Year	Occupied Room Nights Change	RevPar	RevPar Change
Coastal Orange County						
2005	65.6%	$219.44	1,125,991		$143.95	
2006	69.6%	$238.88	1,195,556	6.2%	$166.26	15.5%
2007	70.8%	$258.85	1,214,802	1.6%	$183.27	10.2%
2008	68.3%	$252.15	1,180,274	-2.8%	$172.22	-6.0%
2009	58.0%	$220.50	1,083,815	-8.2%	$127.89	-25.7%
2010 (e)	64.2%	$220.23	1,214,808	12.1%	$141.39	10.6%
2011 (f)	67.4%	$230.14	1,275,548	5.0%	$155.11	9.7%
2005-11	2.7%	4.9%	13.3%	2.1%	7.8%	
Orange County						
2005	71.7%	$104.69	12,326,014		$75.06	
2006	72.7%	$118.16	13,245,130	7.5%	$85.90	14.4%
2007	72.9%	$128.17	13,825,532	4.4%	$93.44	8.8%
2008	71.0%	$128.16	13,580,431	-1.8%	$90.99	-2.6%
2009	64.3%	$115.51	12,520,143	-7.8%	$74.27	-18.4%
2010 (e)	68.5%	$113.35	13,501,934	7.8%	$77.64	4.5%
2011 (f)	70.2%	$118.82	13,848,941	2.6%	$83.41	7.4%
2005-11	-2.1%	13.5%	12.4%	2.0%	11.1%	

E - Estimate
F - Forecast

(1) Source: PKF "The 2011 Southern California Lodging Forecast"

KEYSER MARSTON ASSOCIATES
ADVISORS IN PUBLIC/PRIVATE REAL ESTATE DEVELOPMENT

MEMORANDUM

ADVISORS IN:
REAL ESTATE
REDEVELOPMENT
AFFORDABLE HOUSING
ECONOMIC DEVELOPMENT

SAN FRANCISCO
A. JERRY KEYSER
TIMOTHY C. KELLY
KATE EARLE FUNK
DEBBIE M. KERN
ROBERT J. WETMORE
REED T. KAWAHARA

LOS ANGELES
KATHLEEN H. HEAD
JAMES A. RABE
PAUL C. ANDERSON
GREGORY D. SOO-HOO
KEVIN E. ENGSTROM
JULIE L. ROMEY
DENISE BICKERSTAFF

SAN DIEGO
GERALD M. TRIMBLE
PAUL C. MARRA

To: Kimberly Brandt, Director Community Development Department
City of Newport Beach

From: Kathleen Head
Kevin Engstrom

Date: April 10, 2012

Subject: Balboa Village: Implementation Strategies

In an accompanying analysis, Keyser Marston Associates, Inc. (KMA) evaluated the market opportunities available in the Balboa Village Study Area. The following analysis provides KMA recommendations for strategies the City of Newport Beach (City) can potentially implement to enhance the economic development opportunities in Balboa Village. The KMA recommendations are based, in part, on the market opportunities analysis results and interviews with stakeholders in the Balboa Village Study Area.

BACKGROUND STATEMENT

Market Analysis Summary

The KMA market study identified the following opportunities and constraints for the Balboa Village Study Area:

Retail

Retail demand is typically driven by residents, with ancillary support provided by visitors. The market area for Balboa Village is characterized by high-income households, but the population base is too small to support a significant amount of retail development. For this reason, the viability of retail development is largely dependent on visitors that are drawn to the ocean and the bay.

The attraction of visitors to Balboa Village is constrained by access issues. This problem is exacerbated by the fact that there are a number of competing commercial concentrations with more conveniently located along the route to Balboa Village. These issues to do not deter visitors during the peak season, but they do limit opportunities during non-peak times.

The retail sales volumes being achieved in Balboa Village suggest that there is currently a surplus of retail space. This can lead to property owners being forced to accept less desirable tenants, at lower rents, in order to keep the space occupied. This will ultimately compromise the viability of the retail development.

The development of the ExplorOcean project and the opening of the Balboa Performing Arts Theater could provide a catalyst for specific types of retail development. The most likely uses are small-scale sit-down restaurants and retailers that can benefit from visitor demand and the development of the catalytic projects.

Office

The market analysis concluded that Balboa Village does not have the locational characteristics required to support a significant amount of office development. The demand for office space in Balboa Village is very limited, and that demand is likely to be drawn primarily from small professional firms.

Residential

Balboa Village exhibits appealing characteristics for both rental and ownership residential development. Given that Balboa Village has a number of parcels that have Mixed-Use Vertical zoning designations, it is likely that residential development will be concentrated in a mixed-use environment. Recognizing the limited retail demand in Balboa Village, it is anticipated that the premium value associated with the residential use will be needed to backstop the ground-floor commercial space.

Hotel

The market analysis concluded that demand may exist for a 35 to 45 room hotel. However, it may be difficult to attract this type of hotel due to operating inefficiencies, marketing and financing issues. Given these factors, it is unlikely that a private property owner would undertake this type of development. However, this type of project may be well suited for development on the City-owned parking lot at Palm Street and Balboa Boulevard.

Development Constraints

Low population densities and accessibility concerns limit commercial viability in Balboa Village. In addition, Balboa Village stakeholders identified perceived development constraints such as density and height limits; stringent parking requirements; and the intense role the public plays in the approval process for proposed development projects.

EXECUTIVE SUMMARY

The KMA implementations strategy analysis is organized as follows:

1. Implementation Activities:

    a. A discussion of the potential zoning modifications and regulatory relief that the City could offer to assist in attracting desired development is provided.

    b. An array of economic development activities that could be undertaken by the City are described.

    c. A sample of potential marketing and activities programs are discussed.

2. Financial resources available to assist in economic development and capital improvement programs in Balboa Village are identified.

3. Conceptual pro forma analyses for potential development of the 37,717 square foot City-owned parking site at Palm Street and Balboa Boulevard are presented.

Based on our analysis of Balboa Village, KMA recommends the following implementation strategy actions. These recommendations call for focused use of available City resources to achieve the desired enhancement of the Balboa Village Study Area:

1. The City should consider selectively modifying development standards, and providing regulatory relief, in order to enhance development opportunities in Balboa Village.

2. The City should evaluate the opportunity for creating economic development programs in Balboa Village. Potential programs include:

    a. The City should consider supporting and facilitating the development of ExplorOcean and the Balboa Theater.

b. A façade improvement program could be developed. The program could be set up to provide seed money to qualified property owners throughout the area, or it could involve the City funding all of the improvements in a designated target area.

c. A tenant improvement loan program could be created to attract desirable new tenants to Balboa Village.

d. Business attraction programs could be devised that provide assistance to defray start-up expenses for selected businesses.

e. A public improvement plan could be developed to provide enhancements to Balboa Village.

3. The City should establish a marketing/activity program to attract visitors during off-peak periods.

4. Parking:

a. The City should consider creating a Parking Management Plan that addresses parking congestion issues. As part of the Plan, the City may wish to form a Parking Benefit District to generate revenues that would be programmed by the City Council.

b. The City should evaluate the potential for renting parking spaces in the City-owned beach lot to recreational vehicles during off-peak periods. The allocation of the revenues generated by this activity would be based on City Council policy decisions.

5. It may be advantageous to make the City-owned site available for development. KMA performed conceptual pro forma analyses for this site that generated the following order-of-magnitude results:

a. The development of a 237 space stand-alone public parking structure generates an annual shortfall of approximately $532,000 per year.

b. A public parking structure with a hotel on the upper levels could potentially generate net revenue to the City. However, to attract a hotel during the near term, it will likely be necessary to provide a discounted ground-lease payment structure and/or a reduction in the City's parking requirements.

c. A private development with ground-floor commercial space and upper-floor residential units is projected to support ground-lease payments that could potentially be used to fund programs identified in this Balboa Village implementation strategy.

IMPLEMENTATION ACTIVITIES

Regulatory Relief

Zoning

The City has the ability to establish zoning guidelines that incentivize private sector development and redevelopment. Important factors under the City's control include parking requirements, height limits, density, and land use flexibility. The current zoning standards for Balboa Village maintain the general character of the area. However, given the premium costs that must be incurred to purchase improved properties, the relatively low allowable densities, height limitations and parking standards inhibit the potential for existing uses to be redeveloped. It may be advisable to selectively increase the allowable densities, and to eliminate parking requirements for new or intensified commercial uses, to attract uses that meet the City's goals and objectives.

Permit and Entitlement Process

The permit and entitlement process in Newport Beach is perceived to be difficult. In addition to the lengthy time projects require to move through the City's process, developers in Balboa Village also need to obtain California Coastal Commission approvals. The combination of these two factors can extend a project's development timeline for months and even years.

An extended development timeframe can have a significant impact on development feasibility, as the carrying costs for property acquisitions can be significant, the pre-development costs are increased and shifts in the financial and real estate markets can render projects infeasible. As such, it may be advantageous for the City to streamline the entitlement process for projects that meet defined goals and objectives.

Economic Development Programs

Cultural Uses

It is anticipated that both the Balboa Performing Arts Theater and ExplorOcean projects will provide catalytic benefits to the surrounding area. These projects are expected to draw visitors from outside the area, and to help offset the significant seasonality for the commercial sector. In particular, restaurants, miscellaneous retailers and lodging

establishments could benefit from the increased visitation created by these developments. Therefore, it would be advantageous for the City to support and facilitate the development of these uses.

Façade Improvement Programs

Façade improvement programs can be implemented to assist in creating aesthetically pleasing, tenant preferred, commercial space. A well designed program can increase business exposure, enhance visual attractiveness, stimulate private investment and create harmonious commercial districts. Façade improvement assistance programs run the gamut from the provision of seed money to property owners, to programs that fund 100% of the approved façade improvement costs.

To entice property owners to participate in the program, façade improvement assistance is often provided in the form of a grant. However, to ensure that the desired tenancies remain in place over a specified timeframe, this assistance is sometimes treated as a forgivable loan. For example, the loan could be forgiven in 20% increments over a five year period. In that case, if a tenant remains for the entire five years, then the loan is forgiven in full.

Typically, the eligible work is limited to upgrading the facades that are visible from the street. The eligible improvements can include painting, masonry cleaning, exterior lighting, signage, accessibility improvements and so forth.

<u>Seed Money Program</u>

In a seed money program, the City would establish a loan or grant fund that provides qualified property owners with a grant or loan equal to a portion of the façade improvement costs. For example the City could contribute up to 50% of the eligible façade improvement costs up to a defined limit. One way to measure the grants is to tie the assistance to the number of linear feet encompassed by the façade. For example, seed money assistance could be set within the following range:

Façade under 25 feet	$15,000
Façade between 25 and 50 feet	$25,000
Façade between 50 and 75 feet	$37,500
Façade above 75 feet	$50,000

In a seed money program it is advisable for the City staff to identify target buildings, and to notify the property owners that the program is available. To further encourage participation, it may be useful to offer technical assistance to these owners in the preparation of the loan/grant applications.

Full Cost Program

A more aggressive program would involve the City controlling the entire process. In this program, the City would bear the entire cost burden for the façade improvements. In return, building owners would grant the City a façade easement, typically in the range of 10 years. In addition, after the improvements are completed, the property owners would be responsible for ongoing upkeep of the improvements.

To achieve the maximum impact, this type of program would require the participation of all the owners within the designated target area. With the City controlling the process, the design elements would be consistent, economies of scale could be achieved for the construction costs, and the improvements could be completed expeditiously. For reference purposes, the costs incurred by other programs have fallen in the range of $1,000 to $1,800 per linear foot. Based on the characteristics of Balboa Village commercial properties, the total cost is estimated to range from approximately $100,000 to $175,000 per building

Tenant Improvement Loans

Tenant improvement loan programs are designed to bring new desirable tenants to an area. The tenants that are selected to receive assistance should meet defined City objectives such as significant sales tax generation; ability to attract shoppers, diners, and visitors; and/or creation of “spin off” benefits to other businesses in the area. These programs are typically utilized to catalyze an area that is underperforming by making it financially attractive for desired tenants to rent space in the area.

In a tenant improvement loan program, the City assistance would be provided to qualified businesses to improve building interiors; assistance related to business operations should not be provided. Tenant improvement loans are particularly useful for restaurants, which have higher tenant improvement costs than other commercial uses due to the required kitchen equipment, décor and furnishings. However, they can also be used to attract desired retail shop space.

Programs that KMA has assisted in structuring require the building owner, the tenant and the City to contribute funds for the tenant improvement costs. The City contribution is typically capped at no more than 50% of the tenant improvement costs, and the assistance costs have fallen in the range of $30 to $70 per square foot of building area. The cost range is directly tied to type of tenancy and the magnitude of the improvements being constructed.

Tenant improvement programs often structure the assistance as a forgivable loan. A common structure is to allow for annual forgiveness of principal and interest payments as long as the tenant remains in place. Under this structure, the City can also require the tenant to provide participation payments to the City in any year that the tenant's gross sales exceed a defined threshold.

Business Attraction Programs

The City could create a program that provides credits to business license fees, utility users taxes and certain building permit fees on a project-by-project basis. This program could apply to businesses in specific sectors of the economy. The program should provide assistance over a limited period of time, with the goal of reducing the risks during the initial start-up period for the selected businesses.

Public Improvement Program

The City could create a public improvement program that provides enhancements to the Balboa Village area. This program could identify and fund needed improvements such as new or refurbished street furniture, benches, planters, trash receptacles, etc. As part of this program, the City could develop a maintenance plan for the Boardwalk and other public spaces.

Marketing/Activity Programs

The City could establish a marketing/activity program for Balboa Village that would attract patrons during the off-peak season. The activities should be oriented toward the interests of both residents and employees in the area. Local businesses and the community could collaborate in identifying and sponsoring those events that contribute to Balboa Village's identity and vitality. For instance, activities such as farmers' markets and events such as Lobsterfest can stimulate activity during non-peak times and seasons.

The City should work with the existing Business Improvement District (BID) in the area to explore activities that are well suited to Balboa Village. These activities would then serve as marketing programs for the area.

Parking

Parking Management Plan

In concurrence with the Nelson\Nygaard parking study findings, KMA believes the City should consider the creation of a Parking Management Plan in Balboa Village. A Parking Management Plan could address parking congestion and demand issues by

setting parking rates at amounts designed to keep an appropriate percentage of the spaces vacant and available. New parking meter technologies have improved customer convenience by providing several different payment options, while at the same time maximizing revenues by allowing for more effective and precise time windows, and reduced operating costs.

The Parking Management Plan could potentially include the creation of a Parking Benefit District that would generate revenues that could be used to pay for existing Tidelands parking obligation shortfalls. Once those obligations have been fulfilled, the City Council could make a policy decision regarding the deployment of these funds. One option would be to use the revenues to fund economic development and capital improvement programs.

Recreational Vehicle Parking Program

The Nelson\Nygaard parking study concluded that excess parking spaces are available during off-peak periods. It may be advantageous to create a program that allows recreational vehicle owners to rent spaces in the City-owned beach parking lot during the off-peak seasons. This use would create revenues that could be programmed by the City Council. It would also add to the close-in population that will create demand for goods and services during the off-peak seasons.

FINANCIAL RESOURCES

KMA identified 13 different funding sources and financing mechanisms that are potentially available to the City (See Attachment 1). KMA then evaluated each funding source and financing mechanism to identify the tools that offer the best chance of success in Balboa Village. The potential tools are described in the following table:

Source	Description
Community Development Block Grant Funds (CDBG)	These funds are awarded to the City by the federal government. The funds can be used to achieve defined national objectives, including the construction of public improvements such as streetscape improvements.
Disposition of City Assets	The City can sell or lease City owned property to attract desired uses.
General Fund	Includes sales taxes, transient occupancy taxes (TOT), property taxes, motor vehicle license fees, etc. These funds can be used to fund economic development and capital programs.
Parking Benefit District Revenues and Recreational Vehicle Parking Revenues	Parking revenues can be used to fill gap in funding existing parking obligations. In the future, the City Council could make the policy decision to direct revenues back into Balboa Village to fund implementation activities.
Community Facilities Districts (CFD) and Special Assessment Districts	A special tax is assessed on properties to fund public facilities and services.
Development Impact Fees	The City can impose impact fees directly tied to improvements and/or services necessitated by development.
Developer Advances	Developers can be asked to pay for public improvements in return for repayment from the public revenues generated by their project over time.
California Infrastructure and Economic Development Bank (IBANK)	The Bank offers a low interest bonds for projects such as streets, parks, and transit. The loans range from $250,000 to $10 million.

DEVELOPMENT PROGRAMS

The 37,717 square foot City-owned site located at Palm Street and Balboa Boulevard offers a major opportunity to catalyze the surrounding area. To test the potential for development on this "Study Site", KMA prepared pro forma analyses to provide order-of-magnitude estimates of the operating costs and/or land values that can be supported by three development alternatives.

It is important to note that the pro forma analyses are conceptual in nature, and should only be used to gain an understanding of the relative viability of the three alternatives being tested. It will be necessary to re-evaluate the results of the analysis if and when a formal development proposal is submitted for the Study Site.

Development Standards

To identify potential development programs, KMA reviewed the City's "Development Standards for Vertical and Horizontal Mixed-Use Zoning Districts" and worked with the City to estimate the potential scale of development. Assuming the projects are vertical mixed use, key sizing factors for the prototypes include:

1. Residential lot area required: The minimum lot size is set at 1,631 per square foot per unit. This allows for a maximum of 19 residential units on the 31,717 square foot Study Site.

2. Floor Area Ratio (FAR): The FAR is allowed to be .35 to .50 for non-residential uses, and 1.0 for residential uses. This indicates that the commercial space could range from 11,100 square feet to 15,850 square feet, and the residential use would be capped at 31,717 square feet of building area.

3. Height: The height limit is set at 31 feet with a sloped roof. This allows for three levels of development.

Prototype Projects

Alternative 1 – Public Parking Structure

Alternative 1 is a 237 space, three-level parking structure. Current parking demand during the peak summer months is extremely high, but it is very modest during the non-peak seasons. However, the potential development of two catalytic projects, ExplorOcean and The Balboa Performing Arts Theater, could generate demand for additional parking in the area during the non-peak seasons. Further, a public parking structure could allow for parking requirements to be relaxed for new or intensified development.

Alternative 2 – Public Parking Structure with Hotel

Alternative 2 is comprised of a four-story structure with 154 parking spaces on the first two floors, and 44 hotel units on the top two floors. The garage would include 44 dedicated spaces for the hotel and 110 spaces available to the public. The public parking spaces would address the same issues identified in Alternative 1, while the hotel would meet the General Plan's goal of introducing a small-scale lodging development into the area.

Alternative 3 – Mixed-Use Commercial and Residential

Alternative 3 is a project that includes apartments and ground-floor commercial space. The commercial component consists of 11,100 square feet, and the residential includes 19 rental units. This mix maximizes the number of residential units and minimizes the amount of commercial space in the project. To maximize the residential square footage, a mix of 1,400 and 1,600 square foot units are assumed, as presented in the following table:

	Building Area (Square Feet)
Residential Development	
Nine Units at 1,400 square feet	12,600
Ten units at 1,600 square feet	16,000
Circulation & Public Amenities (10%)	2,860
Total Residential Development	31,460
Commercial Development	11,100
Parking [1]	41,200
Total Building Area	83,760

Summary of Development Alternatives

The identified development alternatives were selected for the following reasons:

1. The public parking structure alternative was selected, because it has the potential to catalyze private development in the vicinity. Ground-floor commercial space was not included, because the limited income it would generate would not significantly defray the costs associated with this alternative.

[1] Assumes 2.5 spaces per residential unit and 5.0 spaces per 1,000 square feet of commercial space.

2. Hotel development was evaluated, because it is considered a desirable use, and given investment constraints, it is unlikely to occur without the provision of public financial incentives.

3. The vertical mixed-use project with a small amount of ground-floor commercial space and upper-level residential units was tested to demonstrate the land value supported by a project that is deemed feasible from both market and financial feasibility standpoints.

Financial Analysis: Alternative 1 – Public Parking Structure

The pro forma analysis for Alternative 1 is shown in Attachment 2. The parking structure is assumed to include 237 spaces at an average of 400 square feet per space. This equates to a 94,800 square foot structure.

Estimated Construction Costs (Attachment 2 – Table 1)

The KMA construction cost analysis is based on the following assumptions:

1. Direct Construction Costs:

    a. The on-site improvement costs are estimated at $7.00 per square foot of land area.

    b. The direct building costs are estimated at $20,000 per space, for a total of $5.9 million.

    c. A 10% direct cost contingency allowance is provided.

2. Indirect Costs:

    a. The indirect cost estimates used in the analysis are based on industry standards.

    b. KMA assumed that no public permits and fees cost would be applied to the public parking structure. The City staff will need to verify the accuracy of this assumption.

3. The construction period financing costs are based on an 18 month construction period, and the assumption that the City will use bond funds to finance the structure at a 5% interest rate.

As shown in Attachment 2 – Table 1, the total construction costs are estimated at $8.6 million. This equates to $36,000 per space.

Stabilized Net Operating Income (Attachment 2 - Table 2)

The following income analysis projects the on-site revenue generated by the parking structure. It should be noted that the projection does not address the transfer of parking revenues from other spaces in Balboa Village. Given the fact that the Nelson\Nygaard parking study concluded that outside the peak months there is limited to no demand demonstrated for new parking spaces in Balboa Village, when this transfer is considered, it is possible that the net new revenues could be minimal.

The net operating income estimates are based on the following assumptions:

1. Peak Day Revenues:

    a. The Nelson\Nygaard parking analysis concluded that there are 30 peak days per year, and that the spaces in the existing lot are utilized by 1.84 cars per day.

    b. The parking revenue is estimated at $5.52 per space per day. This translates to $39,000 per year for the 237 space garage.

2. Off-Peak Day Revenues:

    a. The utilization of the existing parking lot is relatively limited during the non-peak days. However, the proposed ExplorOcean project and Balboa Performing Arts Theater may generate additional parking demand in Balboa Village.

    b. Based on the potential and existing parking patterns, KMA estimated that on average, each space in the garage would be used for at least one hour per day by 1.84 cars.[2]

    c. The parking rate is set at $1.50 per hour, which results in total annual revenues of approximately $219,000.

3. The annual parking expenses are estimated at $500 per space.

The stabilized net operating income is estimated at $139,000.

[2] This is an aggressive estimate based on the survey research conducted by Walker Parking and reviewed by Nelson\Nygaard.

Net Annual Revenue/(Cost) to the City (Attachment 2 - Table 3)

As shown in Attachment 2 – Table 3, KMA's analysis assumes the City would utilize bond financing to pay for the project. To that end, we have provided an order-of-magnitude debt service estimate for the project based on the following assumptions:

1. Total construction costs of $8.59 million;

2. Bond issuance and contingency costs equal to 10% of total project costs; and

3. A 5% interest rate and a 25-year amortization term.

Based on these assumptions, the annual debt service for the project is $671,000. Comparatively, the net operating income is estimated at $139,000. Therefore, KMA estimates a funding shortfall of approximately $532,000 per year for Alternative 1.

Financial Analysis: Alternative 2 – Public Parking Structure with Hotel

The pro forma analysis for Alternative 2 is shown in Attachment 3. Attachment 3A estimates the return on investment for a 44-room hotel served by 44 parking spaces located in a parking garage below the hotel. Attachment 3B estimates the costs for 110 spaces public parking spaces that would be included in the garage. The pro forma analysis projects the City revenues that could be generated from the parking and the hotel ground lease.

Hotel (Attachment 3A)

The development scope assumes vertical mixed-use zoning for the project, which would allow for a commercial/hotel FAR of 1.0. Based on this standard, the hotel would include 31,717 square feet of building area. Typically, boutique hotels range from 600 to 800 square feet per key, and for this analysis we applied the midpoint of 700 square feet. This results in a total room count of 44 units. It is further assumed that the hotel would occupy the top two floors of the structure to take advantage of the views.

<u>Estimated Construction Costs (Attachment 3A - Table 1)</u>

The KMA construction cost analysis is based on the following assumptions:

1. Direct Construction Costs:

    a. The on-site improvement costs are estimated at $7.00 per square foot of land area.

b. The hotel developer would be responsible for paying the cost to construct 44 parking spaces in the on-site garage. The direct construction costs are estimated at $20,000 per space, or $880,000.

c. The direct building costs for the hotel are estimated at $150 per square foot of building area, or $4.8 million.

d. KMA provided a $25,000 per room allowance for furniture, fixtures and equipment (FF&E) costs. This reflects a high quality level.

e. A 10% direct cost contingency allowance is provided.

2. Indirect Costs:

a. The indirect cost estimates used in this analysis are based industry standards.

b. The public permits and fees costs are estimated at $10 per square foot of building area. The City staff should verify the accuracy of this estimate.

3. The financing costs are based on the following assumptions:

a. The construction period is set at 18 months, and the interest rate is set at 7%.

b. The loan to value ratio is set at 65%, and the loan origination fees are set at two points.

As shown in Attachment 3A – Table 1, the total construction costs are estimated at $10 million. This equates to approximately $228,000 per room.

<u>Stabilized Net Operating Income (Attachment 3A – Table 2)</u>

Attachment 3A- Table 2 summarizes the stabilized net operating income for the hotel. Based on our review of the market, and typical operating parameters for small-scale boutique hotels, KMA estimated the project's net operating income as follows:

1. Hotel Operating Income:

a. The average daily rate (ADR) for the hotel is estimated at $230, and the average occupancy level is set at 67%. This is consistent with the average for Coastal Orange County properties in 2011.

b. The revenue from "other" operating departments could include food and beverage, vending machines, telephone and rentals.

c. The parking revenues assume an 80% utilization rate for the parking spaces and a $15 overnight fee.

2. Operating Expenses

a. The undistributed expenses are estimated at 23% of gross revenues. These expenses include: administration, marketing/franchise costs, maintenance, utilities and management fees.

b. The fixed expenses are estimated at 5% of gross revenues, and include insurance and reserves.

c. Property taxes are estimated at 1.1% of project costs.

3. The analysis assumes the developer would enter into a ground or air rights lease with the City. Assuming this is case, KMA estimated the annual ground lease payments at 8% of room revenues, which is generally consistent with the current ground leases for the other Southern California coastal communities.

As shown in Attachment 3A – Table 2, the stabilized net operating income is estimated at $925,500.

<u>Estimated Developer Return (Attachment 3A – Table 3)</u>

The stabilized return on investment is estimated by dividing the net operating income by the total construction cost for the project. As can be seen in Attachment 3A – Table 3, the stabilized developer return for the 44-room hotel is estimated at 9.22%. This level of return is lower than the typical investor requirements of 10% to 11% for this type of product.

The market conditions for hotels have improved over the past two years; however, occupancy and ADR levels have still not reached 2007 peak levels. KMA conducted a sensitivity test for the project and found that an 8% increase in project RevPAR would provide a 10% return on costs for the project, and a 12% increase in RevPAR would provide an 11% return on costs.

Parking (Attachment 3B)

The pro forma analysis for the 110 public parking spaces is presented in Attachment 3B. At an average of 400 square feet per space, the public parking space area totals 44,000 square feet.

Estimated Construction Costs (Attachment 3B - Table 1)

The KMA construction cost analysis is based on the following assumptions:

1. Direct Construction Costs:

    a. The on-site improvement costs are estimated at $7.00 per square foot of land area.

    b. The direct building costs are estimated at $20,000 per space, for a total of $2.2 million.

    c. A 10% direct cost contingency allowance is provided.

2. Indirect Costs:

    a. The indirect costs are based on industry standards.

    b. KMA assumed that no public permits and fees costs would be assessed against the parking structure. The City will need to verify the accuracy of this assumption.

3. The construction period interest costs are based on an 18 month construction period and the assumption that the City will use bond financing at a 5% interest rate to finance the parking structure costs.

As shown in Attachment 3B – Table 1, the total construction costs are estimated at $3.4 million. This equates to $31,000 per space.

Stabilized Net Operating Income (Attachment 3B - Table 2)

1. For the Alternative 2 analysis, KMA applied the same underlying revenue assumptions as were used for Alternative 1. The resulting projected parking revenues are:

    a. The peak day revenues are estimated at $18,000 per year.

    b. The off-peak day revenues are estimated at $102,000.

2. The annual parking expenses are estimated at $500 per space.

Based on the preceding assumptions, the stabilized net operating income for the public parking is estimated at $65,000. In addition to the parking revenue, the hotel is estimated to generate $228,000 per year in ground rent payments. The total project income for Alternative 2 is estimated at $293,000.

Net Annual Revenue/(Cost) to the City (Attachment 3B - Table 3)

As shown in Attachment 3B – Table 3, KMA's analysis assumes the City utilizes bond financing to pay for the project. To that end, we have provided an order-of-magnitude estimate of the annual debt service costs for the parking structure based on the following assumptions:

1. Total construction costs of $3.4 million;

2. Bond issuance and contingency costs equal to 10% of total project costs; and

3. A 5% interest rate and a 25-year amortization term.

Based on these assumptions the annual debt service for the public parking is $267,000. Comparatively, the total project income is estimated at $293,000. Therefore, KMA estimates net annual revenue to the City of $26,000 for Alternative 2.

Financial Analysis: Alternative 3 – Mixed Use Commercial and Residential

The pro forma analysis for Alternative 3 is shown in Attachment 4. This Alternative includes 19 apartment units and 11,100 square feet of commercial space. It should be noted that this Alternative would remove a significant number of parking spaces from Balboa Village; however, the Nelson\Nygaard study indicates an adequate supply of parking spaces during the majority of the year.

Estimated Construction Costs (Attachment 4 - Table 1)

The KMA construction cost analysis is based on the following assumptions:

1. Direct Construction Costs:

    a. The on-site improvement costs are estimated at $7.00 per square foot of land area.

    b. A total of 104 parking spaces must be provided to serve the project. At a direct cost of $20,000 per space, the costs are estimated to total $1.11 million.

c. The building shell costs are estimated at the high end of the range for mixed-use projects reviewed by KMA in the region. These costs are estimated as follows:

i. The residential costs are estimated at $120 per square foot of building area; and

ii. The commercial costs are estimated at $110 per square foot of building area.

d. A 10% direct cost contingency allowance is provided.

2. Indirect Costs:

a. The indirect cost estimates used in the analysis are based on industry standards.

b. KMA applied a placeholder estimate for the public permits and fees costs that will need to be verified by the City. The estimated costs are:

i. $20,000 per unit for the residential units; and

ii. $10 per square foot of building area for the commercial use.

3. The financing costs are based on the following assumptions:

a. The construction period is set at 18 months and the interest rate is set at 7%.

b. A 70% loan to value ratio is applied, and the loan origination fees are set at two points.

As shown in Attachment 4 – Table 1, the total construction costs are estimated at $10.95 million. This equates to $260 per square foot of building area.

Stabilized Net Operating Income (Attachment 4 - Table 2)

KMA estimated the achievable residential rents based on the following methodology:

1. The average rent found in a KMA survey of Newport Beach apartment projects is $1,990 per unit, or $2.10 per square foot per month.

2. The pro forma used in this analysis is based on a review of high-end projects in Newport Beach. KMA found that these units are generating rents that are approximately 12% higher than the citywide average.

3. KMA applied a 10% premium over this average to reflect the premium associated with new construction.

4. The resulting residential rent estimates are:

    a. 1,400 Sf Units - $3,640 ($2.60 per square foot)

    b. 1,600 Sf Units - $4,080 ($2.55 per square foot)

The income projected to be generated by the project annually can be summarized as follows:

1. The gross residential rent income is estimated at $882,700 per year. When a $15 allowance is provided for miscellaneous income and a 5% vacancy and collection allowance is included, the residential effective gross income is estimated at $841,800.

2. The commercial rents are estimated at $3.00 per square foot per month, given the Study Site's high visibility in Balboa Village. After a 5% vacancy and collection allowance is applied, the commercial effective gross income is estimated at $379,600.

3. The operating expense estimates for residential and commercial uses are based on KMA's experience with similar projects in the region. The total operating expenses are estimated at $283,600.

The resulting stabilized net operating income is estimated at $937,800.

Residual Land Value (Attachment 4 - Table 3)

The land value that can be supported by the project is equal to the difference between the estimated construction costs and the amount of private investment that can be obtained. For this Alternative, the residual land value is estimated as follows:

<u>Supportable Private Investment</u>

The amount of private investment that can be supported is based on the project's net operating income and the threshold returns being required by investors in the marketplace. KMA estimates the supportable investment for the project based on the following assumptions:

1. The net operating income for the project is estimated at $937,800.

2. The threshold return on total investment is estimated at 6.9%. This return is based on the weighted average of the following:

    a. The threshold return for the residential component is set at 6%; and

    b. The threshold return for the commercial component is set at 9%.

The supportable private investment for the project is estimated at $13.53 million.

Estimated Residual Land Value

The residual land value for Alternative 3 is estimated as follows:

Supportable Private Investment	$13,528,000
(Less) Estimated Construction Costs	(10,950,000)
Residual Land Value	$2,578,000
Per Square Foot of Land Area	$81.00

Based on the preceding analysis, KMA estimates the residual land value for Alternative 3 at $2.58 million, or $81 per square foot of land area. If a ground lease of the Study Site is pursued, then the payments to the City could range from $206,000 to $258,000 per year.

RECOMMENDATIONS

KMA recommends that the City adopt an implementation strategy that maximizes the use of City assets, actively solicits new revenues, and creates opportunities for new revenue generators to locate in Balboa Village. To that end, KMA recommends that the City consider taking the following implementation actions in Balboa Village:

1. Selectively modify development standards and provide regulatory relief to enhance development opportunities in Balboa Village.

2. Support and facilitate the development of ExplorOcean and the Balboa Theater as they may catalyze complementary private development.

3. Create economic development programs targeted to property owners and desired tenant types.

4. Create a Parking Management Plan to address parking issues identified in Balboa Village. Consider including a Parking Benefit District and a Recreational Vehicle parking program to generate revenues to be distributed at the City Council's discretion.

5. Consider making the City-owned Study Site available for development. The pro forma analyses generated the following order-of-magnitude results:

    a. The development of a stand-alone public parking structure generates an annual shortfall estimated at approximately $532,000 per year.

    b. A public parking structure with a hotel on the upper levels could generate revenue to the City. However, to attract a hotel it may likely be necessary to provide a discounted ground-lease payment structure and/or a reduction in the City's parking requirements.

    c. The private mixed-use development alternative is projected to support a ground-lease payment in the range of $206,000 to $258,000 per year. These revenues could potentially be used to fund programs identified in the Balboa Village implementation strategy.

6. Create a Parking Management Plan address current parking constraints. A Parking Benefit District could be included as part of the Plan to generate funding for existing parking obligations. Once these obligations are met, the City Council would have the discretion to use funds in a variety of ways including the provision of funding for economic development and capital improvement programs.

ATTACHMENT 1
POTENTIAL FUNDING MECHANISMS

ATTACHMENT 1 - TABLE 1

POTENTIAL FUNDINDG MECHANISMS
IMPLEMENTATION STRATEGIES
BALBOA VILLAGE IMPLEMENTATION STRATEGIES
NEWPORT BEACH, CALIFORNIA

	Community Development Block Grants	**General Fund Revenue**
A. Description	● Entitlement program grant provided by the United States Department of Housing and Urban Development (HUD). Funds must be used to meet defined National Objectives.	● Fees collected in the City's General Fund, generated by property taxes, sales tax, transient occupancy tax, motor vehicle license fees, and other sources of revenue.
B. Eligible Uses	● Property acquisition ● Construction of public improvements ● Clearance, rehabilitation, and reconstruction of buildings ● Provision of public services ● Economic Development assistance ● Affordable housing activities	● City services such as police, fire, life safety, libraries, and parks and recreational facilities. ● Capital improvements.
C. Funding Parameters	● The City receives an annual grant from HUD based on funding allocation parameters.	● The City can elect to dedicate portions of specific revenues, e.g., TOT, sales tax, etc. to targeted capital improvements that the City determines that sufficient benefit exists for the assistance.
D, Funding Responsibilty	● Directly from City	● Directly from City

ATTACHMENT 1 - TABLE 1

POTENTIAL FUNDINDG MECHANISI
IMPLEMENTATION STRATEGIES
BALBOA VILLAGE IMPLEMENTATIC
NEWPORT BEACH, CALIFORNIA

	Disposition of City Assets	Infrastructure Facilities District
A. Description	● City can dispose of owned property in the Study Areas. ● Money generated by sale of properties can become funding source for other	● Property tax increment district. ● Voluntary program to fund capital costs of elgible public facilities (no school revenue) ● Typically, general fund is only participant ● Requires 2/3 voter approval ● Not yet available for urban areas.
B. Eligible Uses	● City services such as police, fire, life safety, libraries, and parks and recreational facilities. ● Capital Improvements	● Streets ● Streetscape & sidewalks ● Libraries ● Recreational facilities ● Sewage treatment, flood control, water ● Must serve broader community
C. Funding Parameters	● The City can elect to dedicate portions of revenue to targeted capital improvements and/or economic development programs.	● A portion of the growth in annual property tax revenues is deposited into the IFD (typically 5% to 20% of increment) ● Annual deposits can be monetized ● 30-Year program ● No new tax or liability on property owners
D, Funding Responsibilty	● Funded out of the sale of the asset.	● Funding derived from City's share of incremental share of property tax over established baseline.

ATTACHMENT 1 - TABLE 1

POTENTIAL FUNDINDG MECHANISI
IMPLEMENTATION STRATEGIES
BALBOA VILLAGE IMPLEMENTATIC
NEWPORT BEACH, CALIFORNIA

	Loan & Grant Programs	**I-Bank - Infrastructure State Revolving Fund Program**
A. Description	● City can administer revolving loan funds, low interest loan programs or loan guarantee programs. ● Local or regional lenders can be apprroached to ascertain their interest in contributing funds for lending.	● Low cost financing to public agencies for a wide variety of infrastructure projects.
B. Eligible Uses	● Tenant improvement loans ● Façade improvement loans ● Small business start-up loans	● City streets. ● Educational facilities. ● Environmental mitigation measures. ● Parks and recreational facilities. ● Public transit.
C. Funding Parameters	● Funds wold be available to applicants on a demonstrated needs basis.	● The Infrastructure State Revolving Fund Program offered by the I-Bank offers loans ranging between $250,000 to $10,000,000 with eligible repayment sources including General Fund revenues, tax increment revenues, and property assessments.
D, Funding Responsibilty	● Funding provided by City based on scale of program.	● Repaid by City with local tax revnues.

ATTACHMENT 1 - TABLE 1

POTENTIAL FUNDINDG MECHANISI
IMPLEMENTATION STRATEGIES
BALBOA VILLAGE IMPLEMENTATIC
NEWPORT BEACH, CALIFORNIA

	Community Facilities Districts (CFDs)	Special Assessment Districts
A. Description	● A special tax placed against property located within an established district to fund public facilities and services. ● Municipal bonds supported by revenues from the special tax are sold by the CFD to provide upfront funding to build improvements or fund services.	● Similar to a CFD but shifts the funding of infrastructure from all taxpayers to only those who benefit specifically from the improvement. ● Sets a fixed lien on every parcel within the assessment district. ● Municipal bonds supported by special assessments provide upfront funding.
B. Eligible Uses	● Funding of capital facilities including: - parks - schools - fire stations - water and sewer systems - government facilities ● Purchase, construction, and improvement or rehabilitation of real property.	● Construction of capital facilities such as roads, water, sewer, and flood control.
C. Funding Parameters	● Requires 2/3 vote of qualified electors in district. If fewer than 12 residents, vote is conducted on current landowners. ● Assessment based on allocation formula, not necessarily in proportion to the benefit received. ● Requires value-to-lien ratio of 3:1.	● Typically property owners petition a City to form a district to finance large-scale infrastructure improvements. ● Assessments on property owners are determined in proportion to the benefit received.
D, Funding Responsibilty	● Funding provided by landowners	● Funded by landowners benefiting from infrastructure improvement.

Prepared by: Keyser Marston Associates, Inc.
File name: NB_Balboa PF_4_10_12; Att 1

ATTACHMENT 1 - TABLE 1

POTENTIAL FUNDINDG MECHANISI
IMPLEMENTATION STRATEGIES
BALBOA VILLAGE IMPLEMENTATIC
NEWPORT BEACH, CALIFORNIA

	Development Impact Fees	**Property Owner / Developer Exactions**
A. Description	● Fees paid by developers to pay all or a portion of the costs of any public facility that benefits their development.	● Payments made by developers or property owners in addition to, or in lieu of, development impact fees. ● Funds contributed are used to install selected public improvements. ● Alternatively, developers are required to construct and deliver specific
B. Eligible Uses	● Capital facilities or ongoing services. Examples of impact fees include: - school impact fee - mitigation fee (police, fire, park, etc.) - water meter installation - sanitation capacity charge - water system facility/backup facility charge	● Dedication of right-of-way streets and utilities ● Provision of open space ● Parks or landscape improvements ● Schools and community facilities
C. Funding Parameters	● Fees are paid in the form of a predetermined money payment as a condition to the issuance of building permits, an occupancy permit, or subdivision map approval.	● Typically paid or committed as part of the development approval process.
D, Funding Responsibilty	● Paid by developers	● Typically paid or committed by developers as part of the development approval process.

ATTACHMENT 1 - TABLE 1

POTENTIAL FUNDINDG MECHANISI
IMPLEMENTATION STRATEGIES
BALBOA VILLAGE IMPLEMENTATIC
NEWPORT BEACH, CALIFORNIA

	Developer Advances/Reimbursement Agreements	**User Fees**
A. Description	● Advance of funds from developers for use toward backbone infrastructure. ● Alternatively, developers construct and deliver specific improvements. ● City and developer enter into Reimbursement Agreement.	● Fee imposed by a city, utility, or other franchise for services and facilities they provide.
B. Eligible Uses	● Backbone infrastructure.	● Water meter hook-ups. ● Gas, electric, cable, & telephone hook-ups. ● Park and recreation facilities.
C. Funding Parameters	● Typically repaid from redevelopment tax increment, CFD bond proceeds, and/or development impact fees collected from future developers.	● Use of user fee revenues are limited to paying for the service for which the fees are collected. ● The fee amount may not exceed the cost of providing the service but may include overhead, capital improvements, and debt service.
D, Funding Responsibilty	● Paid by developers.	● Paid by developers and property owners.

ATTACHMENT 1 - TABLE 1

POTENTIAL FUNDINDG MECHANISI
IMPLEMENTATION STRATEGIES
BALBOA VILLAGE IMPLEMENTATIC
NEWPORT BEACH, CALIFORNIA

	Landscape Districts/Parking Districts
A. Description	● Assessment on properties located within a specific district that benefit from landscaping and/or parking.
B. Eligible Uses	● Landscaping districts allow for the funding of lights, recreational equipment, landscaping, and irrigation. ● Parking districts allow for the acquisition, improvement, and operation of shared parking facilities.
C. Funding Parameters	● Funds are typically collected concurrently with the annual business license tax or property tax bill, with varying formulas for retail vs. non-retail businesses, and residential vs. non-residential property.
D, Funding Responsibilty	● Paid by developers and property owners

ATTACHMENT 2
DEVELOPMENT #1
PUBLIC PARKING STRUCTURE

ATTACHMENT 2 - TABLE 1

ESTIMATED CONSTRUCTION COSTS
237 PUBLIC PARKING SPACES
BALBOA VILLAGE IMPLEMENTATION STRATEGIES
NEWPORT BEACH, CALIFORNIA

I.	**Direct Costs** [1]						
	Off-Site Costs					$0	
	On-Site Costs	31,717	Sf	$7.00	/Sf of Land	222,000	
	Public Parking	237	Spaces	$25,000	/Space	5,925,000	
	Contractor/DC Contingency	10.0%	Other Direct Costs			615,000	
	Total Direct Costs						$6,762,000
II.	**Indirect Costs**						
	Arch, Engineering & Consulting	8.0%	Direct Costs			$541,000	
	Public Permits & Fees [2]	0	Sf of GBA	$0	/Sf	0	
	Taxes, Ins, Legal & Accounting	2.0%	Direct Costs			135,000	
	Developer Fee	10.0%	Direct Costs			676,000	
	Soft Cost Contingency Allowance	5.0%	Ind+Fin Costs			92,000	
	Total Indirect Costs						$1,444,000
III.	**Interest During Construction** [3]	$8,593,000	Cost	5.00%	Interest		$387,000
IV.	**Total Construction Cost**	237	Spaces	$36,000	/Space		$8,593,000

[1] Based on KMA's experience with similar projects.
[2] The estimate should be verified by the City staff.
[3] Assumes City cost of funds, an 18 month construction period and a 60% average outstanding balance.

ATTACHMENT 2 - TABLE 2

STABILIZED NET OPERATING INCOME
237 PUBLIC PARKING SPACES
BALBOA VILLAGE IMPLEMENTATION STRATEGIES
NEWPORT BEACH, CALIFORNIA

I.	**Parking Revenue** [1]						
	Peak Days - 30 Days	237	Spaces	$5.52	/Space/Day	$39,000	
	Off-Peak Days - 335 Days	237	Spaces	$2.76	/Space/Day	219,000	
							$258,000
II.	**Operating Expenses**	237	Spaces	$500	/Space		($119,000)
III.	**Net Operating Income**						$139,000

[1] High season rates and days based on Walker Parking & Nelson Nygaard research. KMA estimated low season rates.

ATTACHMENT 2 - TABLE 3

NET ANNUAL REVENUE/(COST) TO THE CITY
237 PUBLIC PARKING SPACES
BALBOA VILLAGE IMPLEMENTATION STRATEGIES
NEWPORT BEACH, CALIFORNIA

I.	**Net Operating Income**	See ATTACHMENT 2 - TABLE 2			$139,000
II.	**Parking Structure Costs**				
	Construction Cost	See ATTACHMENT 2 - TABLE 1			$8,593,000
	Issuance Costs & Contingency	10.0% of Construction Costs			859,000
	Total Parking Structure Costs				$9,452,000
III.	**Annual Debt Service Payment**	5.0% Interest	25	Year Term	($671,000)
IV.	**Total Net Annual Revenue/(Cost)**				($532,000)

ATTACHMENT 3
DEVELOPMENT #2
PUBLIC PARKING STRUCTURE AND HOTEL

ATTACHMENT 3A - TABLE 1

ESTIMATED CONSTRUCTION COSTS
44 ROOM HOTEL
BALBOA VILLAGE IMPLEMENTATION STRATEGIES
NEWPORT BEACH, CALIFORNIA

I.	**Direct Costs** [1]						
	Off-Site Costs					$0	
	On-Site Costs	31,717	Sf	$7.00	/Sf of Land	222,000	
	Hotel Parking	44	Spaces	$20,000	/Space	880,000	
	Hotel Shell Costs	31,717	Sf of GBA	$150	/Sf	4,758,000	
	Hotel FF&E	44	Rooms	$25,000	/Room	1,100,000	
	Contractor/DC Contingency	10.0%	Other Direct Costs			586,000	
	Total Direct Costs						$7,546,000
II.	**Indirect Costs**						
	Arch, Engineering & Consulting	8.0%	Direct Costs			$604,000	
	Public Permits & Fees [2]	31,717	Sf of GBA	$10	/Sf	317,000	
	Taxes, Ins, Legal & Accounting	2.0%	Direct Costs			151,000	
	Pre-Opening/Working Capital	44	Rooms	$3,000	/Room	132,000	
	Developer Fee	5.0%	Direct Costs			377,000	
	Soft Cost Contingency Allowance	5.0%	Ind+Fin Costs			125,000	
	Total Indirect Costs						$1,706,000
III.	**Financing Costs**						
	Interest During Construction [3]	$10,045,000	Cost	7.00%	Interest	$633,000	
	Loan Origination Fees [4]	$7,520,000	Cost	2.00	Points	150,000	
	Total Financing Costs						$783,000
IV.	**Total Construction Cost**	44	Rooms	$228,100	/Room		$10,035,000

[1] Based on KMA's experience with similar projects.
[2] The estimate should be verified by the City staff.
[3] Assumes an 18 month construction period and a 60% average outstanding balance.
[4] Based on a 65% loan to value ratio. The value is calculated based on a 8.00% capitalization rate.

ATTACHMENT 3A - TABLE 2

STABILIZED NET OPERATING INCOME
44 ROOM HOTEL
BALBOA VILLAGE IMPLEMENTATION STRATEGIES
NEWPORT BEACH, CALIFORNIA

I.	**Hotel Operating Income**						
	Room Revenues [1]	44	Rooms	$230	ADR	$2,474,800	
	Other Departments	10%	Room Revenue			247,500	
	Parking [2]	44	Spaces	$15	/Night	129,000	
	Gross Hotel Revenue						$2,851,300
II.	**Operating Expenses**						
	Distributed Expenses						
	Rooms	23%	Room Revenue			$569,000	
	Other	80%	Other Revenues			198,000	
	Parking	44	Spaces	$500	/Space	22,000	
	Total Distributed Expenses						
	Undistributed Expenses [3]	23%	Gross Hotel Revenue			655,800	
	Fixed Expenses [4]	5%	Gross Hotel Revenue			143,000	
	Property Taxes	1.1%	Development Costs			110,000	
	Total Operating Expenses						($1,697,800)
III.	**Ground Lease Payment [5]**	8.0%	Room Revenue				($228,000)
IV.	**Net Operating Income**						$925,500

[1] Based on PKF Coastal Orange County market performance. Assumes 67% occupancy rate.
[2] Assumes 80% utilization rate.
[3] Includes administrative costs, marketing/franchise fees, maintenance, utilities and management fees.
[4] Includes reserves and insurance
[5] Based on ground lease rates for other coastal communities in Southern California.

ATTACHMENT 3A - TABLE 3

ESTIMATED DEVELOPER RETURN
44 ROOM HOTEL
BALBOA VILLAGE IMPLEMENTATION STRATEGIES
NEWPORT BEACH, CALIFORNIA

I.	**Net Operating Income**	See ATTACHMENT 3A - TABLE 2	$925,500
II.	**Total Construction Cost**	See ATTACHMENT 3A - TABLE 1	$10,035,000
III.	**Estimated Devloper Return**		9.22%

ATTACHMENT 3B - TABLE 1

ESTIMATED CONSTRUCTION COSTS
110 PUBLIC PARKING SPACES
BALBOA VILLAGE IMPLEMENTATION STRATEGIES
NEWPORT BEACH, CALIFORNIA

I.	**Direct Costs** [1]						
	Off-Site Costs					$0	
	On-Site Costs	31,717	Sf	$7.00	/Sf of Land	222,000	
	Public Parking	110	Spaces	$20,000	/Space	2,200,000	
	Contractor/DC Contingency	10.0%	Other Direct Costs			242,000	
	Total Direct Costs						$2,664,000
II.	**Indirect Costs**						
	Arch, Engineering & Consulting	8.0%	Direct Costs			$213,000	
	Public Permits & Fees [2]	0	Sf of GBA	$0	/Sf	0	
	Taxes, Ins, Legal & Accounting	2.0%	Direct Costs			53,000	
	Developer Fee	10.0%	Direct Costs			266,000	
	Soft Cost Contingency Allowance	5.0%	Ind+Fin Costs			44,000	
	Total Indirect Costs						$576,000
III.	**Interest During Construction** [3]	$4,113,000	Cost	5.00%	Interest		$185,000
IV.	**Total Construction Cost**	110	Spaces	$31,000	/Space		$3,425,000

[1] Based on KMA's experience with similar projects.
[2] The estimate should be verified by the City staff.
[3] Assumes City cost of funds, an 18 month construction period and a 60% average outstanding balance.

ATTACHMENT 3B - TABLE 2

NET ANNUAL REVENUE/(COST) TO THE CITY
110 PUBLIC PARKING SPACES
BALBOA VILLAGE IMPLEMENTATION STRATEGIES
NEWPORT BEACH, CALIFORNIA

I.	**Parking Revenue** [1]						
	Peak Days - 30 Days	110	Spaces	$5.52	/Space/Day	$18,000	
	Off-Peak Days - 335 Days	110	Spaces	$2.76	/Space/Day	102,000	
						$120,000	
II.	**Operating Expenses**	110	Spaces	$500	/Space	($55,000)	
III.	**Parking Net Operating Income**						$65,000
IV.	**Net Annual Revenue/(Cost)**						
	Parking Net Operating Income					$65,000	
	Hotel Ground Lease Revenue					228,000	
	Total Net Annual Revenue/(Cost)						$293,000

[1] High season rates and days based on Walker Parking & Nelson Nygaard research. KMA estimated low season rates.

ATTACHMENT 3B - TABLE 3

ANNUAL OPERATING INCOME
110 PUBLIC PARKING SPACES
BALBOA VILLAGE IMPLEMENTATION STRATEGIES
NEWPORT BEACH, CALIFORNIA

I.	**Total Net Annual Revenue/(Cost)**	See ATTACHMENT 3B - TABLE 2			$293,000
II.	**Parking Structure Costs**				
	Construction Cost	See ATTACHMENT 3B - TABLE 1			$3,425,000
	Issuance Costs & Contingency	10.0% of Construction Costs			343,000
	Total Parking Structure Costs				$3,768,000
	Annual Debt Service Payment	5.0% Interest	25	Year Term	($267,000)
III.	**Total Net Annual Revenue/(Cost)**				$26,000

ATTACHMENT 4
DEVELOPMENT #3
MIXED-USE RESIDENTIAL AND COMMERCIAL

ATTACHMENT 4 - TABLE 1

ESTIMATED CONSTRUCTION COSTS
19 APARTMENT UNITS, 11,100 SF COMMERCIAL SPACE & 0 PUBLIC PARKING SPACES
BALBOA VILLAGE IMPLEMENTATION STRATEGIES
NEWPORT BEACH, CALIFORNIA

I.	**Direct Costs** [1]						
	Off-Site Costs					0	
	On-Site Costs	31,717	Sf	$7.00	/Sf of Land	222,000	
	Commercial Parking	56	Spaces	$20,000	/Space	1,110,000	
	Residential Parking	48	Spaces	$20,000	/Space	950,000	
	Building & Tenant Improvement Costs						
	Residential	31,460	Sf of GBA	$120	/Sf	3,775,000	
	Commercial	11,100	Sf of GBA	$110	/Sf	1,221,000	
	Contractor/DC Contingency	10.0%	Other Direct Costs			728,000	
	Total Direct Costs						$8,006,000
II.	**Indirect Costs**						
	Arch, Engineering & Consulting	8.0%	Direct Costs			$640,000	
	Public Permits & Fees [2]						
	Residential	19	Units	$20,000	/Unit	380,000	
	Commercial	11,100	Sf of GBA	$10	/Sf	111,000	
	Taxes, Ins, Legal & Accounting	2.0%	Direct Costs			160,000	
	Residential Insurance	19	Units	$2,500	/Unit	48,000	
	Marketing / Leasing						
	Residential	19	Units	$500	/Unit	10,000	
	Commercial	11,100	Sf of GLA	$10	/Sf	111,000	
	Developer Fee	5.0%	Direct Costs			400,000	
	Soft Cost Contingency Allowance	5.0%	Ind+Fin Costs			147,000	
	Total Indirect Costs						$2,007,000
III.	**Financing Costs**						
	Interest During Construction [3]	$10,950,000	Cost	7.00%	Interest	690,000	
	Loan Origination Fees [4]	$12,355,000	Cost	2.00	Points	247,000	
	Total Financing Costs						$937,000
IV.	**Total Construction Cost**	42,560	Sf of GBA	$257	/Sf		$10,950,000

[1] Based on KMA's experience with similar projects.
[2] The estimate should be verified by the City staff.
[3] Assumes an 18 month construction period and a 100% average outstanding balance.
[4] Based on a 70% loan to value ratio. The value is calculated based on a 4.50% capitalization rate for apartments and 7.5% for commercial.

ATTACHMENT 4 - TABLE 2

STABILIZED NET OPERATING INCOME
19 APARTMENT UNITS, 11,100 SF COMMERCIAL SPACE & 0 PUBLIC PARKING SPACES
BALBOA VILLAGE IMPLEMENTATION STRATEGIES
NEWPORT BEACH, CALIFORNIA

I.	**Residential Rental Income** [1]						
	Flat: 2-Bdrm @ 1,400 Sf	9	Units @	$3,640	/Month	393,100	
	Flat: 3-Bdrm @ 1,600 Sf	10	Units @	$4,080	/Month	489,600	
	Laundry/Miscellaneous Income	19	Units @	$15	/Month	3,400	
	Gross Income					$886,100	
	(Less) Vacancy & Collection Allow.	5.0%	Gross Income			(44,300)	
	Residential Effective Gross Income						$841,800
II.	**Commercial Rental Income**						
	Rental Income	11,100	/Sf of GLA	$3.00	/Sf	$399,600	
	(Less) Vacancy & Collection Allow.	5.0%	Gross Income			(20,000)	
	Commercial Effective Gross Income						$379,600
III.	**Operating Expenses**						
	Residential						
	General Operating Expenses	19	Units @	$4,000	/Unit	$76,000	
	Property Management	5%	Residential Effective Gross Income			42,100	
	Property Taxes [3]	19	Units @	$7,421	/Unit	141,000	
	Reserves Deposits	19	Units @	$200	/Unit	3,800	
	Commercial						
	Management	5%	Commercial Effective Gross Income			19,000	
	Reserve for Capital Repairs	11,100	/Sf of GLA	$0.15	/Sf	1,700	
	Total Operating Expenses						($283,600)
IV.	**Net Operating Income**						$937,800

[1] Based on KMA market research. Rents range from $2.55 to $2.60/Sf of GLA.

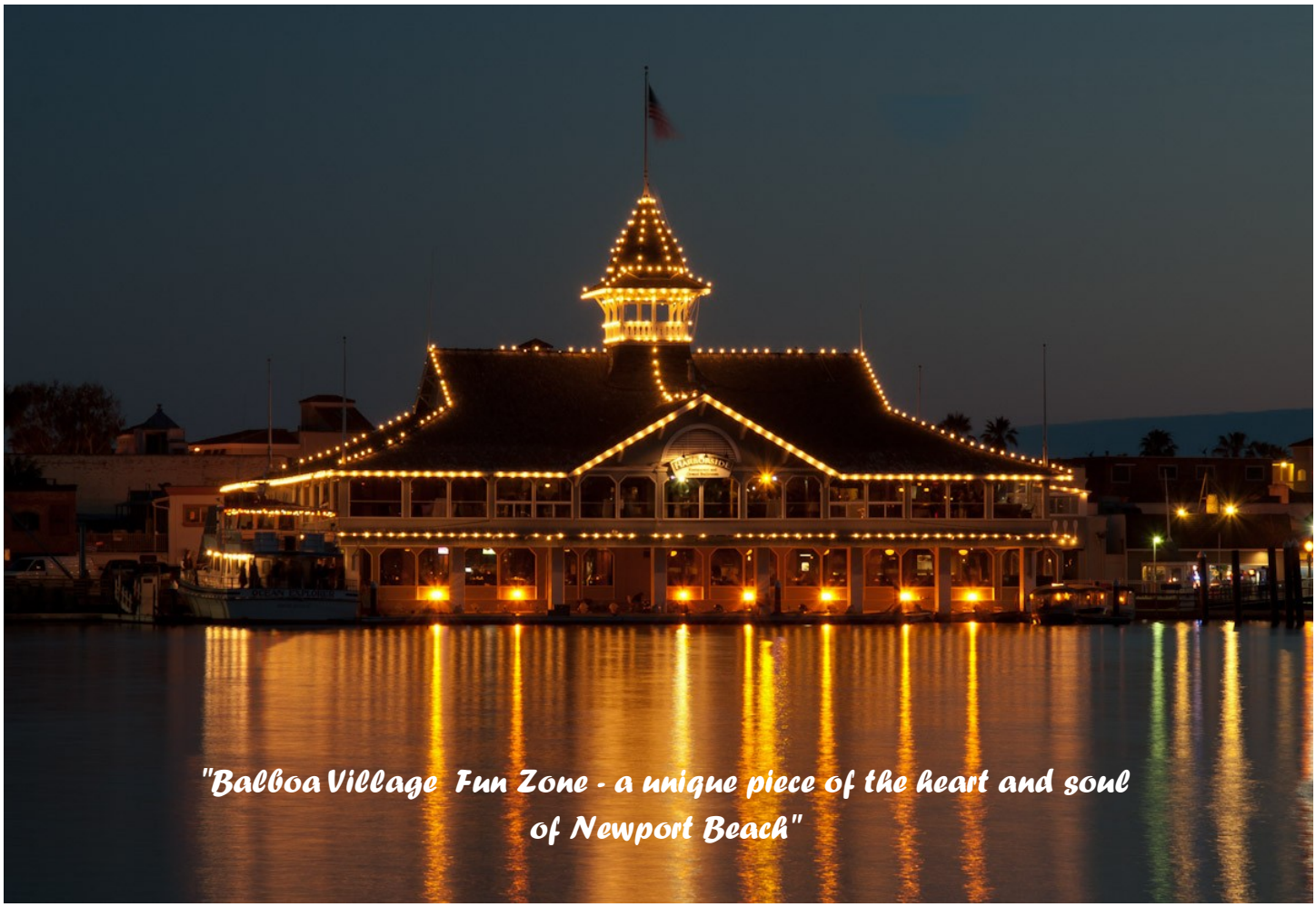
[2] Based on a 4.5% capitalization rate and a 1.1% property tax rate.

ATTACHMENT 4 - TABLE 3

RESIDUAL LAND VALUE
19 APARTMENT UNITS, 11,100 SF COMMERCIAL SPACE & 0 PUBLIC PARKING SPACES
BALBOA VILLAGE IMPLEMENTATION STRATEGIES
NEWPORT BEACH, CALIFORNIA

I.	**Supportable Investment**			
	Net Operating Income	See ATTACHMENT 4 - TABLE 2	$937,800	
	Threshold Return on Cost		6.9%	
	Total Supportable Investment			$13,528,000
II.	**Total Construction Cost**	See ATTACHMENT 4 - TABLE 1		$10,950,000

III.	**Residual Land Value**					
	Total	42,560	Sf of GBA	$60.60	/Sf	$2,578,000
	Annual Ground Lease Rate	8%	of Land Value			$206,200
	Annual Ground Lease Rate	10%	of Land Value			$257,800



BALBOA VILLAGE IMPLEMENTATION PLAN

Exhibit 3
Nelson Nygaard Associates Parking Management Plan

May 2012

City of Newport Beach

BALBOA VILLAGE PARKING MANAGEMENT PLAN

FINAL REPORT

May 2012

NELSON NYGAARD

Table of Contents

Page

1 Executive Summary 1-1
Overview 1-1
Existing Conditions 1-1
Current and Future Parking Demand 1-3
The California Coastal Commission and Parking Management 1-5
Summary of Parking Management Plan Recommendations 1-5

2 Existing Conditions 2-1
Overview 2-1
Parking Inventory and Regulations 2-1
Parking Utilization and Turnover 2-4

3 Current and Future Parking Demand 3-1
Inventory, Occupancy, and Level of Supply 3-1
Peak Demand 3-4
Future Demand 3-6

4 California Coastal Commission and Parking Management 4-1
Overview 4-1
Coastal Act and Parking Management 4-1
Summary of Selected RPP Applications to Coastal Commission 4-3
Summary of Key RPP Issues 4-5

5 Parking Management Plan 5-1
Principles for Effective Parking Management 5-1

Cover photo courtesy of Flickr user onestickyrice

Table of Figures

Page

Figure 1-1 Study Area Parking Facilities, by Type 1-2
Figure 1-2 Summer Utilization Rates, by Day and Facility Type 1-2
Figure 1-3 Parking Demand in Commercial Core – Mixed Land Use to Built Supply 1-4

Figure 2-1 Study Area Parking Facilities, by Type 2-2
Figure 2-2 Balboa Village Parking Revenue 2-3
Figure 2-3 Summer Utilization Rates by Day/Facility Type 2-5
Figure 2-4 Utilization Rates, Overall Study Area 2-5
Figure 2-5 Utilization Rates by Facility Type, Thursday 2-6
Figure 2-6 Utilization Rates by Facility Type, Saturday 2-6
Figure 2-7 On-street Utilization by Day 2-7
Figure 2-8 Off-street Utilization by Day 2-7
Figure 2-9 Peak Hour Utilization, Thursday 1 PM 2-9
Figure 2-10 Peak Hour Utilization, Saturday 1 PM 2-10

Figure 3-1 Occupancy, Inventory, and Level of Supply – Thursday 3-2
Figure 3-2 Occupancy, Inventory, and Level of Supply – Saturday 3-3
Figure 3-3 Parking Demand in Commercial Core – Mixed Land Use to Built Supply 3-4
Figure 3-4 Built Parking Supply and Actual Peak Demand, Selected Cities 3-5

Figure 5-1 Projected Range of Revenue for Permit Program 5-16
Figure 5-2 Summary of New Development Impact Fees, Selected CA Cities 5-24
Figure 5-3 Park-Once District 5-25

1 EXECUTIVE SUMMARY

OVERVIEW

Balboa Village in the City of Newport Beach is one of the region's most popular areas. It provides access to coastal areas and recreational opportunities, while also offering direct ferry connections to Balboa Island and Catalina Island. In addition, Balboa Village is home to a unique blend of residential neighborhoods and local commercial districts. Given its strong local community and regional status, one of the most challenging issues facing Balboa Village is how to effectively manage its parking supply and mitigate the impacts of parking demand, especially during peak periods (i.e. summer weekends).

This Parking Management Plan is the first step in the City's efforts to address parking challenges in Balboa Village. The Plan documents existing parking inventory, supply, and demand through parking counts of on- and off-street supply. These counts are utilized in order to examine actual parking data, not commonly accepted perceptions about parking, and conclusively establish key parking trends occurring throughout Balboa Village. Based on the key findings from the parking data, this Plan proposes a coordinated set of recommendations designed to improve parking within Balboa Village, while accounting for the unique regulatory framework that Balboa Village operates in as a coastal jurisdiction. These recommendations were also developed based on input from City staff, the Balboa Village Citizen Advisory Panel (CAP), the Newport Beach City Council, and other local stakeholders.

It is crucial to note that the recommendations in this parking management plan are established on the premise that parking and transportation are not ends in themselves, but means to achieve broader community goals. These recommendations seek to leverage Balboa Village's existing assets, respond to its current challenges, and further the overall vision for the area.

EXISTING CONDITIONS

An inventory of parking facilities was undertaken by Walker Parking Consultants in 2008 as a part of the Balboa Village Parking Policy Plan. The general boundaries of this study were Coronado Street to the west, the Newport Bay to the north, B Street to east, and the beach parking lots to the south. Figure 1-1 shows the breakdown of the parking facilities within this study area.

Figure 1-1 Study Area Parking Facilities, by Type

Location	Standard	Customers Only / Reserved	Metered / Paid	Loading (All)	Total	% of Parking
On-Street	212	0	53	15	280	17%
	76%	*0%*	*19%*	*5%*	*100%*	
Off-Street	0	198	1,158	0	1,356	83%
	0%	*15%*	*85%*	*0%*	*100%*	
Total	212	198	1211	15	1,636	100%
	13%	*12%*	*74%*	*1%*	*100%*	

Based on the data collected in this study a number of key parking trends can be observed regarding use of these parking facilities. These findings are summarized below:

Key Finding #1: Balboa Village has a large supply of parking, the majority of which is located in off-street facilities.

A total of 1,636 parking spaces exist in Balboa Village, 1,356 of which (83%) are located in various public and private off-street facilities. Of these off-street spaces, 1,158 are in paid lots open to the public. Only 280 on-street facilities exist in Balboa Village, 212 (76%) of which are unregulated and free of charge.

Key Finding #2: Balboa Village's parking supply is underutilized for all but the busiest summer weekends.

It should be emphasized that the parking counts reflect summer demand and that the Balboa Village area only experiences "peak" parking demand on roughly 30-35 days per year. Balboa Village has more than enough supply to meet current levels of demand during the vast majority of the year. During summer weekday counts (a figure that should be comparable and possibly higher than non-summer weekday and weekend counts), combined utilization rates never exceeded 67%, meaning that at any given time, 540 spaces *or more* are available in Balboa Village.

Figure 1-2 Summer Utilization Rates, by Day and Facility Type

	10 AM	1 PM	7 PM
Thursday			
On-Street	78%	89%	95%
Off-Street	47%	62%	51%
All	52%	67%	58%
Saturday			
On-Street	90%	96%	97%
Off-Street	86%	97%	82%
All	86%	96%	84%

Key Finding #3: While the parking supply is underutilized, various "hot-spots" of demand exist, even during non-peak months.

Various "pockets" of high demand exist in Balboa Village, even during non-peak times and months. Prime metered on-street spaces, unregulated and free on-street spaces, and off-street facilities closest to the beach and Balboa Island Ferry Terminal experienced the highest utilization rates. While these areas were highly utilized, large amounts of available parking existed within a short walk. These parking demand patterns are likely due to the following reasons:

- Most on-street spaces are free, while all publicly accessible off-street spaces are paid. As a result, motorists are incentivized to seek out and "circle" for available on-street spaces before deciding to enter a paid off-street lot.
- Many of Balboa Village's largest attractions are concentrated along the beachfront and ferry terminal area.
- Wayfinding signage does not exist to point visitors to off-street facilities with significant availability. Consequently, many motorists are unaware of the proximity and availability of additional parking facilities.

Key Finding #4: Balboa Village exhibits a drastic seasonal peaking of parking demand with capacity highly constrained on summer weekends.

Parking demand is highest in Balboa Village during summer weekends. During these times, on-street and off-street utilization peak at rates higher than target rates, meaning many motorists are stuck searching or "cruising" for parking.

Key Finding #5: Current pricing schemes discourage the use of off-street facilities, encourage excessive "cruising" for available on-street spaces, and cause parking spillover into surrounding residential streets. During peak summer months, these trends are exacerbated.

Currently, the only free, unregulated, publicly available parking in Balboa Village is located on-street, mostly along the area's residential roadways. The remaining parking supply, whether on- or off-street, is either paid parking or limited to customer or tenants only. As such, recreational visitors to the area typically seek out free on-street spaces before entering a paid lot. This causes excessive "cruising" for available spaces and creates parking spillover into Balboa Village's residential areas.

Key Finding #6: Parking turnover is relatively low, as most vehicles stay parked in off street spaces for long periods of time.

Turnover data suggests that approximately 52% of spaces in the count area were occupied by vehicles parked for five hours or more. The lack of on-street turnover represents an inefficient use of curb space, especially for visitors or customers wishing to access local businesses.

CURRENT AND FUTURE PARKING DEMAND

Utilizing the data gathered during the parking inventory as well as an inventory of existing land use and projected land uses, existing parking demand ratios were calculated, and these parking ratios were then used to estimate future parking demand. Parking demand ratio calculations reveal two different, but equally useful correlations, as shown in Figure 1-3:

- *Built Stalls to Built Land Use Ratio*. This represents the total number of existing parking stalls correlated to total existing land use square footage (occupied or vacant) within the study area. At this time, about **1.84 parking stalls per 1,000 GSF** of built land use

have been developed/provided within the commercial core (combining the on-and off-street parking supplies).

- *Combined Peak Demand to Occupied Land Use Ratio.* This represents peak hour occupancy within the commercial core combining the on- and off-street supply. Current peak hour demand stands at a ratio of approximately **1.78 occupied parking stalls per 1,000 GSF** of built land use.

Figure 1-3 Parking Demand in Commercial Core – Mixed Land Use to Built Supply

Time Period	A	B	C	D	E	F
	GSF (Built)	GSF (Occupied)	Total Supply Inventoried in Study Area	Built Ratio of Parking (per 1,000 GSF)	Total Occupied Spaces	Actual Ratio of Parking Demand (per 1,000 GSF)
Thursday, 10 AM	286,926	265,342	528	1.84	156	0.59
Thursday, 1 PM					220	0.83
Thursday, 7 PM					255	0.96
Saturday, 7 PM					309	1.16
Saturday, 10 AM					326	1.23
Saturday, 1 PM					472	1.78

To date, parking has been *built* at an average rate of 1.84 stalls per 1,000 GSF of development in Balboa Village's commercial core. This rate appears to have provided close to the right amount of parking, with commercial land uses in the study area generating parking *demand* ratios of 1.78 vehicles per 1,000 GSF. It is important to note that corresponds to the peak period of the summer months, and parking demand during the rest of the year is far below 1.78. For example, the Thursday peak demand for the commercial core (a more accurate representation of typical demand throughout the majority of the year) was at .96 vehicles per 1,000 GSF.

Future Demand

Based on information provided by the City of Newport Beach, the only large-scale, commercial development that is proposed for Balboa Village is the expansion and redevelopment of the ExplorOcean Newport Harbor Nautical Museum located at 600 East Bay Avenue. The existing museum would be expanded to three levels consisting of 38,685 SF. Based on the net square footage and existing demand in Balboa Village for commercial uses, it is estimated that the new museum would generate parking demand of roughly 27 net new parking spaces at peak demand.

Given the high level of demand during summer peak periods, it is likely that parking will be in high demand for parking facilities in proximity to the new museum. However, Nelson\Nygaard believes that this level of net new parking can be accommodated within the existing parking supply through more effective parking management strategies, and that the available development scenarios do not necessitate new parking supply. In addition, any new development would be subject to the requirements of the proposed "Parking & Multimodal" impact fee, which would fund additional traffic and parking mitigations.

THE CALIFORNIA COASTAL COMMISSION AND PARKING MANAGEMENT

Because Balboa Village is located within the Coastal Zone, the California Coastal Commission (Commission) has regulatory authority and will play an integral role in shaping the final recommendations of this parking management plan. The Coastal Commission takes a particularly keen interest in all residential permits within the Coastal Zone, as they have the potential to limit coastal and beach access for the general public. In brief, there are a number of key issues and concerns that the Commission repeatedly emphasized while evaluating previous RPP permit applications over the years. These include:

- Preservation of "24-hour" *public* access is the Commission's primary concern.
- The Commission strives to achieve regulatory "balance," but errs on the side of public access.
- Local jurisdictions can use policy to regulate parking, but cannot give *exclusive* access to residents.
- In order to prevent *exclusive* residential access, local jurisdictions must "replace" all public on-street parking that is "lost" to an RPP.
- The Commission typically views RPPs as "pilot" efforts to be reevaluated in the future.
- Nuisance issues fall under the purview of local law enforcement and are not to be regulated by residential permits.

SUMMARY OF PARKING MANAGEMENT PLAN RECOMMENDATIONS

Historically, a city wishing to "solve its parking problem" has almost always meant an increase in supply. Unfortunately, simply increasing parking supply often encourages more auto use, as people are incentivized to drive to places that offer plenty of "free parking." Furthermore, simply increasing supply does not address the core problem of concentrated demand, in which popular on-street spaces are consistently oversubscribed while nearby off-street spaces remain underutilized. Above all else, this plan proposes a parking management approach that utilizes policies and programs that will enable more efficient utilization of existing supply to meet a variety of parking needs.

The recommendations in this Plan are designed to work together to meet the City's parking management goals. While these recommendations could theoretically be implemented piece by piece, they are most effective if implemented together. It is important that to the greatest extent possible the recommendations be implemented as a cohesive "package" of reforms.

As Balboa Village continues to grow and evolve its parking needs will change as well. This Plan recommends techniques to both address current challenges and also allow the City to be nimble in reacting to future parking challenges. Finally, it is important to emphasize that these recommendations are specific to Balboa Village and *would not necessarily apply* to other neighborhoods within the City of Newport Beach.

RECOMMENDATION #1: MAXIMIZE USE OF "SMART" METER TECHNOLOGY FOR ALL COMMERCIAL CURB SPACES IN THE BUSINESS CORE AND REMOVE TIME LIMITS FOR ALL METERED SPACES. IMPLEMENT DEMAND-BASED PRICING FOR ON- AND OFF-STREET PARKING FACILITIES.

This recommendation proposes the elimination of all existing time limits for metered spaces. Instead, it is recommended that the City explore upgrading its existing "smart" parking meters for all curb spaces along the primary commercial corridors in Balboa Village. On- and off-street parking should use variable pricing as a means to meet target occupancy levels and generate an appropriate level of turnover.

Outlined below are the specific project locations and program parameters recommended for demand-based pricing of Balboa Village's on- and off-street spaces.

- On-street meter location: Existing on-street spaces on East Balboa Boulevard and East Bay Avenue between Adams Street and A Street, as well as Palm Avenue.
- The City recently installed roughly 1,600 new single and multi-space "smart" meters citywide, including on streets in Balboa Village. These new meters accept credit card payments. Moving forward, the City should also explore implementation of wireless meters, which would allow motorists to pay-by-phone, while improving revenue collection, enforcement, and parking data management for the City. Wireless meters can also allow the City to provide a free, publicly accessible wireless network in Balboa Village.
- Pricing may need to be adjusted periodically (i.e. quarterly) to meet target occupancy rates (85% for on-street spaces and 90% for off-street spaces).
- Initial Hours & Pricing Structure:

On-street
Peak period (Summer): *8 AM – 6 PM, 7 days*
▪ $2.00 per hour (0-2 hours)
▪ $2.50 per hour (2+ hours)
Off-peak period (non-Summer): *8 AM – 6 PM, 7 days*
▪ $1.00 per hour (0-2 hours)
▪ $1.50 per hour (2+ hours)
Off-street
Peak period (Summer)
▪ $1.50 per hour (no max)
Off-peak period (non-Summer)
▪ $.50 per hour (no max)

RECOMMENDATION #2: ESTABLISH A COMMERCIAL PARKING BENEFIT DISTRICT IN BALBOA VILLAGE.

Parking benefits districts (PBDs) are defined geographic areas in which any revenue generated from on-street and off-street parking facilities within the district is returned to the district to finance neighborhood improvements.

In practice, a successful PBD in Balboa Village would be implemented via adoption of city ordinance creating a Balboa Village PBD, stipulating that all parking revenue generated within the PBD be used to fund designated neighborhood improvements. In addition, establishment of an appropriate governing body to develop a program of expenditures and ensure proper oversight of PBD revenue is required. Any governing body should establish well-defined procedures for soliciting and incorporating resident input. This body and its structure will be determined pending additional study.

Potential PBD Expenditures can include a wide variety of transportation related expenditures designed to not only improve parking management, but also improve overall mobility, accessibility, and quality of life within the district.

RECOMMENDATION #3: ESTABLISH A RESIDENTIAL PARKING PERMIT PROGRAM.

A residential parking permit program (RPP) operates by exempting permitted vehicles from the parking restrictions and time limits for non-metered, on-street parking spaces within a geographic area. The primary goal of an RPP is to manage parking "spillover" into residential neighborhoods. The following program parameters are recommended for a potential RPP specific to the Balboa area.

- RPP District Boundaries: All residential streets between 7th Street and Adams Street
- Program Eligibility: All residences within the proposed zone are eligible to purchase permits, including rental home owners. In addition, Bay Island residents would be eligible to purchase permits.
- Hours of Operation: No Parking: 4 PM – 9 AM, 7 days, excluding holidays. Permit holders exempt.
- Maximum Number of Permits: 4 per household; Guest permits will be studied further to determine the most appropriate pricing and issuance structure
- Permit Type: Rearview mirror "hangtag" that is a solid color (to change annually) and clearly indicate the year of permit issued.
- Permit Costs: Permits should be priced at an escalating rate to encourage residents to make full use of their garages and purchase only the number of permits they actually need. Initial prices for the RPP are proposed below, although the City may need to adjust the pricing structure in future years to respond to demand for permits.
  - 1st permit: $20 per year
  - 2nd permit: $20 per year
  - 3rd permit: $60 per year
  - 4th permit: $100 per year
- Compliance with California Coastal Commission: The Coastal Commission will need to approve any RPP proposed by the City of Newport Beach for the 7th to Adams District. It is recommended that the City of Newport Beach permit application for the RPP emphasize a number of key program elements to ensure its approval.

RECOMMENDATION #4: ESTABLISH AN EMPLOYEE PARKING PERMIT PROGRAM FOR BALBOA VILLAGE.

An employee parking permit program offers employers or employees the option to purchase a permit that provides priority parking in a designated area. Employee parking permit programs provide a consistent parking option for employees, reducing the need for an employee to "hunt" for a parking space, move their vehicle to avoid parking restrictions, or occupy "prime" on-street spaces for customers.

The following program parameters are recommended for an employee permit program specific to the Balboa area.

- Eligibility: All employers and employees within Balboa Village
- Designated employee parking zone: Approximately 100 spaces in the north western portion of the Balboa Village Municipal Beach parking lot. During summer weekends, reduce to 50 spaces to ensure availability for beach users.
- Hours of operation: 6 AM – 10 AM, everyday
- Number of permits issued: 1 permit per employee, requiring proof of employment, photo ID, and vehicle registration information.
- Permit Cost: $50 per year, no proration
- Permit Revenue: Revenue would be used to cover cost of program administration
- Compliance with California Coastal Commission: While the Coastal Commission has largely focused on the creation of residential permit programs, it is possible that they may have similar issues with an employee permit program. The City should begin conversations with the Coastal Commission to determine if any regulatory issues need to be addressed.

RECOMMENDATION #5: IN THE SHORT-TERM, ELIMINATE MINIMUM PARKING REQUIREMENTS, REMOVE THE EXISTING PARKING IN-LIEU FEE OBLIGATION, AND DO NOT IMPLEMENT ANY ADDITIONAL IMPACT FEES. DEPENDING ON THE LEVEL OF DEVELOPMENT IN THE LONG-TERM, EVALUATE IMPLEMENTATION OF A "PARKING AND MULTIMODAL" IMPACT FEE.

This recommendation proposes potential options for how the City should address its minimum parking requirements and potential fees to mitigate transportation impacts.

Minimum Parking Requirements

Title 20, Part 3 of the Newport Beach Municipal Code describes the site planning and development standards for each land use type, including a chapter dedicated to off-street parking and loading standards. Of particular importance are the off-street parking requirements and the minimum number of parking spaces that each land use must provide.

Impact Fees

Local governments have been collecting impact fees for decades, with the power to exact impact fees arising from the city's police power to protect public health, safety, and welfare. Fees fund a variety of public facilities and services, including parks, schools, public art, and libraries. In recent years, many communities throughout California are increasingly relying on transportation-

specific impact fees to ensure that the costs of transportation infrastructure and services necessary to support new development are not borne disproportionately by existing residents, businesses, and/or property-owners.

The City of Newport Beach has already adopted a Fair Share Traffic Contribution Ordinance (see Chapter 15.38 of the Municipal Code), as a means to more fully mitigate traffic impacts from new development in Newport Beach and is based upon the unfunded cost to implement the Master Plan of Streets and Highways. The use of the funds generated is narrowly defined, as revenue can only be used for the purposes of planning, designing, and constructing roadway projects.

Parking In-lieu Fees

A voluntary in-lieu parking fee program allows proposed projects or uses to pay a designated fee rather than provide an on-site parking space. The City of Newport Beach has had a parking in-lieu fee for commercial uses since 1972, but was suspended in 1989. Those uses previously in the in-lieu parking program have continued to pay the fee on an annual basis. Revenue is approximately $69,000 per year and it goes into the City's General Fund. Within Balboa Village there are nine locations that participate in the existing in-lieu fee program, where a total of 93 spaces generate $13,950 in annual revenue for the City.

Short-term Recommendation: Eliminate minimum parking requirements for all non-residential uses. Do not implement an impact fee at this time. Eliminate existing obligations to the current parking in-lieu fee program.

Long-term Recommendation: Depending on the level of development in Balboa Village, evaluate implementation of a "Parking and Multimodal" impact fee.

RECOMMENDATION #6: FORMALLY ESTABLISH BALBOA VILLAGE AS A SHARED PARKING DISTRICT.

Shared parking is one of the most effective tools in parking management. Because many different land uses (a bank and a bar or restaurant, for example) have different periods of parking demand, they can easily share a common parking facility, thereby limiting the need to provide additional parking. Shared parking policies do not treat the parking supply as individual units specific to particular businesses or uses, but rather emphasize the efficient use of the parking supply by including as many spaces as possible in a common pool of shared, publicly available spaces.

Outlined below are specific policy recommendations designed to facilitate shared parking and the creation of a "park once" district in Balboa Village:

- Maximize use of the existing parking supply by improving wayfinding and parking information
- Work with existing property owners and businesses to ensure that private parking is made available to the public when not needed for its primary commercial use
- Work with property owners and businesses to develop mutually-agreeable operating and liability arrangements for public use of private parking facilities
- Require as a condition of approval that all newly constructed private parking in any non-residential Balboa Village development or adaptive reuse project be made available to the public
- Allow parking to be shared among different uses within a single mixed-use building by right

- If new public parking supply is needed, first purchase or lease existing private parking lots or structures from willing sellers, and add this parking to the shared public supply before building expensive, new lots/garages

RECOMMENDATION #7: DEVELOP A COORDINATED WAYFINDING PROGRAM FOR BALBOA VILLAGE.

Wayfinding signage helps orient visitors, shoppers, and residents alike, pointing them to area parking facilities, retail establishments, pedestrian and bicycle access routes, and other important destinations. Wayfinding informs people of the best way to access an area, depending on their mode of travel. Parking wayfinding signs can also display real-time availability data, pointing motorists to facilities with available spaces.

Wayfinding is most effective when it is consistent; all signage should be produced in a similar style, and organized by type (parking, bicycle/pedestrian, retail). Regardless of the particular signage installation utilized, good design that is consistent with and supports the character of the neighborhood is critical for all signage elements.

A wayfinding system in Balboa Village would be most effective if signs were located at the traditional entrances to the area, near major garages and attractions, and along major arterials. For example, signage pointing motorists to off-street parking lots with real-time availability data should be installed along Balboa Boulevard towards the entrance to Balboa Village, as well as near the Balboa Island Ferry for those motorists coming from Balboa Island. Additional signs should be installed at each large off-street facility, including the beach lot, the Newport Landing lot, and the public lots along Balboa Boulevard at Palm Street.

Bicycle and pedestrian wayfinding should be prioritized along and near the Newport Balboa Bike Trail, as well as the commercial blocks of Balboa Boulevard and Main Street. In partnership with local businesses, retail establishments could also be listed on wayfinding signs and materials, encouraging visitors to frequent Balboa Village businesses.

RECOMMENDATION #8: IN COORDINATION WITH THE CITY'S BICYCLE SAFETY COMMITTEE, IDENTIFY AND IMPLEMENT TARGETED IMPROVEMENTS TO BICYCLE AND PEDESTRIAN FACILITIES IN BALBOA VILLAGE.

Bicycle and pedestrian improvements include many different strategies that seek to encourage travel via non-motorized modes. The City of Newport Beach Bicycle Safety Committee is currently in the process of developing a plan and set of strategies to improve bicycle safety and conditions in Balboa Village. This recommendation should be implemented in collaboration with, or as part of, that planning process.

The Newport Balboa Bike Trail is the main bicycle and pedestrian access point to Balboa Village. As such, most bicycle amenities should be concentrated along that route, and along connection points between the trail and other important destinations. Improvements could also be made along Palm Street to encourage non-motorized travel from the Balboa Island ferry to Balboa Village and the Newport Balboa Bike Trail.

Improvements to the pedestrian realm should seek to encourage pedestrian traffic along the Balboa Avenue and Main Street retail corridors, and connect off-street parking facilities to important destinations. Spot improvements could include additional mid-block pedestrian crossings along long blocks and bulb-outs at busy signalized Balboa Boulevard intersections.

RECOMMENDATION #9: ESTABLISH AN ONGOING DATA COLLECTION, MONITORING, AND EVALUATION PROCESS.

In parking, you can only manage what you measure. Based on this maxim, this recommendation seeks to formalize the "measurement" process by proposing that the City implement an ongoing data collection and evaluation program for Balboa Village. More specifically, this Plan recommends that the City collect parking occupancy and turnover data for both on- and off-street parking facilities. This data is essential for evaluating whether the demand-based pricing policies recommended within this Plan are achieving their goals.

2 EXISTING CONDITIONS

OVERVIEW

Balboa Village is located within the City of Newport Beach along Balboa Boulevard on the eastern portion of Balboa Peninsula. Balboa Boulevard is the main vehicle access route to Balboa Village, though the Balboa Island Ferry also shuttles vehicles across Newport Bay from a terminal on the northern end of Palm Street, providing a second access point to the area for private vehicles. Bicyclists and pedestrians can access the area via the Newport Balboa Bike Trail Class I bikeway that connects Balboa Village to the rest of Newport Beach, along the Balboa Peninsula coastline.

The area is comprised mostly of single-family residential uses, though a limited amount of multifamily buildings exist near the Balboa Pier and along Cypress Street. Various retail, entertainment, and commercial uses are located along Balboa Boulevard, Main Street, and East Bay Avenue.

Balboa Village beaches and the coastline are a regional recreational destination. The area experiences a large seasonal influx of visitors, peaking during warm summer months, particularly on weekends. The Balboa Village Ferry Terminal, Catalina Flyer, Newport Harbor Nautical Museum, Balboa Pavilion, and the Balboa Pier are other major trip generators in the area that also exhibit seasonal peaks. As such, parking utilization rates and the number of retail and restaurant customers are quite high during the summer months and substantially lower during the rest of the year.

Effective management of Balboa Village's parking is integral to maintaining and enhancing livability in the area. By examining existing parking conditions, this chapter facilitates a better understanding of how people are utilizing Balboa Village's current parking facilities, highlights parking challenges and inefficiencies, and provides a framework for developing a targeted parking management plan.[1]

PARKING INVENTORY AND REGULATIONS

An inventory of parking facilities was undertaken by Walker Parking Consultants in 2008 as a part of the Balboa Village Parking Policy Plan. The general boundaries of this study were Coronado Street to the west, the Newport Bay to the north, B Street to the east, and the beach parking lots to the south. This section provides a brief summary of the parking inventory (type and number of spaces) and parking regulations (time limits and pricing) for each on-street block and off-street facility surveyed as part of the Walker study.

[1] It is important to note that no original parking data collection was performed as part of this study. All parking inventory and occupancy data was obtained from a parking study conducted by Walker Parking Consultants submitted to the City in 2009 (occupancy counts conducted in July 2008). Information from the Walker study serves as the primary data source for Nelson\Nygaard's analysis and recommendations, and we have summarized it as a part of this chapter to ensure that stakeholders fully understand the parking conditions and behaviors within the study area.

Methodology

Parking inventory and regulations were determined through field observations by Walker Parking Consultants. Walker Parking did not count private off-street facilities with fewer than 5 spaces and only off-street facilities that were accessible (i.e. not gated or closed for construction) were counted.

Findings

Parking Type and Pricing

Figure 2-1 provides a detailed breakdown of the type of parking in the study area for both on- and off- street facilities. A total of 1,636 parking spaces were counted in the study area, including 280 on-street spaces and 1,356 off-street spaces.

Figure 2-1 Study Area Parking Facilities, by Type

Location	Standard	Customers Only / Reserved	Metered / Paid	Loading (All)	Total	% of Parking
On-Street	212	0	53	15	280	17%
	76%	*0%*	*19%*	*5%*	*100%*	
Off-Street	0	198	1,158	0	1,356	83%
	0%	*15%*	*85%*	*0%*	*100%*	
Total	212	198	1,211	15	1,636	100%
	13%	*12%*	*74%*	*1%*	*100%*	

On-street parking exists along most streets in Balboa Village, representing roughly 17% of all parking in the area. The study area contains 280 total on-street spaces, the majority of which are unregulated (76%) except for weekly street sweeping. Approximately 19% of on-street spaces in the study area are metered. These spaces are located along Balboa Boulevard, Bay Avenue, and Palm Street and have time limits ranging from 30 minutes, one hour, and two hours. Meters in Balboa Village are priced at $1.50 per hour.

Off-street parking exists in both public and private facilities throughout Balboa Village. Approximately 1,356 off-street facilities account for 83% of parking spaces in the study area. The largest off-street lot is the Balboa Pier lot (711 spaces) located off of Balboa Boulevard at the end of Palm Street. Various public, “pay” lots are located at Balboa Boulevard and Palm Street, at East Bay Avenue and Washington Street, and on either side of Peninsula Park at the end of both A and B Streets.

Of the off-street spaces, approximately 85% are for pay, while the remaining 15% of spaces are reserved for customers or tenants only. The pricing structures of Balboa Village’s paid lots are as follows:

- Balboa Pier Main Lot
  - Autos: $1.50 per hour, $15 max for 24-hour period
  - RV's (No Camping): $1.50 per hour, $15 max for 24-hour period (Per Space Occupied)
  - Buses: $50 for 24 passengers or less; $100 for 25 passengers or more

  - Motorcycles: $0.75 per hour, $7.50 max for each 24-hour period
  - Peak Holidays (Memorial Day, July 4th, and Labor Day): $25 flat rate
- Newport Landing
  - Catalina Flyer
    - Monday - Thursday, $10 per day
    - Friday - Saturday, $12 per day
    - Sunday, $15 per day
  - Whale Watching boats - $6 with validation
  - Fishing boats - $8 with validation
- Public Lots
  - East Balboa Boulevard & Palm Street - $1.50 per hour (meter)
  - Peninsula Park Lots A & B - $1.50 per hour (meter)
  - Oceanfront lot - $1.50 per hour (meter)

Parking Revenue

Figure 2-2 provides a summary of the parking revenue generated in Balboa Village from both parking meters and public lots over the past four years. Since FY 07-08, revenue from Balboa Village parking facilities averaged about $1.27 million per year, of which approximately $320,000 comes from the on-street meters. Parking revenue in Balboa Village has increased 35% since 2007-08.

It is important to note that close to 90% of the parking revenue generated in Balboa Village is allocated to the City's Tidelands fund, which is used to finance a variety of projects to improve access and operations of the City's marine resources. In fact, all of the revenue from the public off-street facilities is allocated to the Tidelands fund. The remaining meter revenue, approximately $138,000, is allocated to the City's General Fund.

Figure 2-2 Balboa Village Parking Revenue

Fiscal Year	Meter Revenue		Lot Revenue		Total Revenue			% to Tidelands
	Total	To Tidelands	Total	To Tidelands	Total	To Tidelands	To General	
FY 07-08	$259,581	$141,938	$863,507	$863,507	$1,123,088	$1,005,444	$117,643	89.5%
FY 08-09	$268,573	$149,548	$862,628	$862,628	$1,131,201	$1,012,176	$119,025	89.5%
FY 09-10	$323,193	$200,039	$1,028,013	$1,028,013	$1,351,206	$1,228,052	$123,154	90.9%
FY 10-11	$427,615	$235,200	$1,083,898	$1,083,898	$1,511,513	$1,319,098	$192,415	87.3%
Average	$319,740	$181,681	$59,511	$959,511	$1,279,252	$1,141,193	$138,059	89.2%

Parking Permit Programs

The City of Newport Beach currently provides three parking permit programs: the Annual Parking Permit Program, the Master Parking Permit Program, and an Overnight Parking Permit Program.

An Annual Parking Permit allows a vehicle to occupy any "blue post" metered space free of charge. Blue parking meters exist in the Balboa Pier Main Lot, as well as the A Street and B Street Peninsula Park Lots. Permits are issued on a calendar year basis, with prorated rates. Pricing for the Annual Parking Permits are as follows:

- Purchased January 1 – September 30: $150
- Purchased October 1 – December 31: $37.50

Master Parking Permits allow vehicles to occupy *any* metered parking space within the City of Newport Beach (both off-street and on-street spaces) free of charge. Permits are issued on a calendar year basis, with prorated rates. Pricing for the Master Parking Permits are as follows:

- Purchased January 1 – September 30: $450
- Purchased October 1 – December 31: $112.50

The Overnight Parking Permit allows a motor vehicle of 20 feet or less in length to occupy a single parking space in the Balboa Municipal Parking Lot, day and/or overnight, without paying a parking fee. Overnight parking is defined as between 3-6 AM and vehicles may remain up to seven consecutive days. Permits are issued on a calendar year basis, with prorated rates. Pricing for the Overnight Permit are as follows:

- Purchased January 1 – September 30: $225
- Purchased October 1 – December 31: $56.25

PARKING UTILIZATION AND TURNOVER

This section provides an overview of the results from the original parking utilization and turnover data collection effort conducted by Walker Parking Consultants. It includes a summary of the count methodology, as well as the key findings.

Methodology

Walker Parking conducted utilization and turnover counts of on- and off-street spaces in the study area. The utilization count days and times included:

- Thursday, July 24th, 2008 at 10 AM, 1 PM, and 7 PM
- Saturday, July 26th, 2008 at 10 AM, 1 PM, and 7 PM

Utilization data was collected at three times during the day to observe parking behavior and demand throughout the day. Utilization rates were collected for all on-street spaces in the study area and all public and private off-street facilities containing more than 5 spaces.

Walker Parking also collected turnover data for on-street spaces along East Balboa Boulevard and East Bay Avenue between Cypress Street and Main Street. Staff members collected license plate numbers every hour during a weekday, tracking vehicle length of stay.

Findings

Utilization

Figure 2-3 and Figure 2-4 highlight summer parking demand for the study area as a whole. As expected, utilization was higher at all times and in all facility types on Saturday, when Balboa Village typically experiences a very large influx of beachgoers and visitors. On both Thursday and Saturday, combined on- and off-street utilization peaked at 1 PM (67% and 96%, respectively). On Thursday, utilization was lowest at 10 AM (52%), while on Saturday, utilization was lowest at 7 PM (84%).

Figure 2-3 Summer Utilization Rates by Day/Facility Type

	10 AM	1 PM	7 PM
Thursday			
On-Street	78%	89%	95%
Off-Street	47%	62%	51%
All	52%	67%	58%
Saturday			
On-Street	90%	96%	97%
Off-Street	86%	97%	82%
All	86%	96%	84%

Figure 2-4 Utilization Rates, Overall Study Area

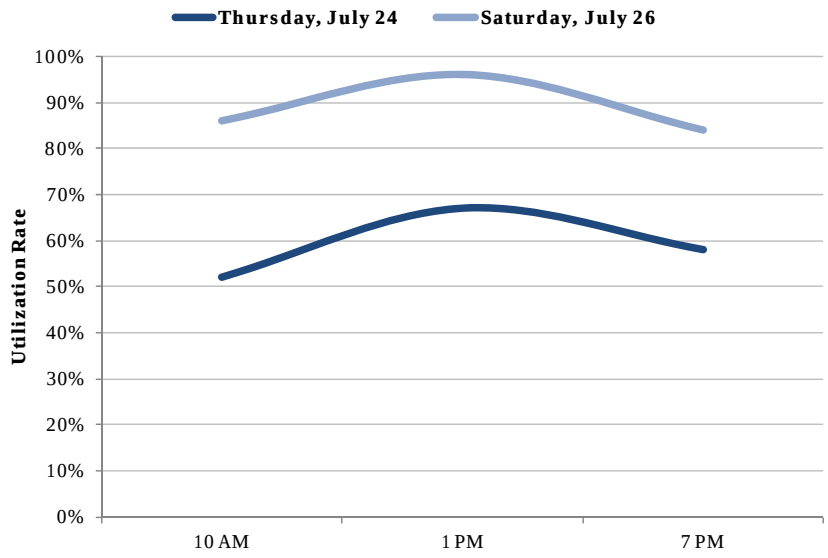


Figure 2-5 and Figure 2-6 show utilization rates for Thursday and Saturday by facility type. On Thursday, on-street facilities experienced significantly higher utilization rates than off-street facilities during all three count periods. On-street utilization peaked at 95% at 7 PM, while off-street utilization peaked at 1 PM (62%). This indicates that on-street spaces remain popular into the evening, likely serving individuals who are frequenting the area for dinner.

Saturday experienced much higher off-street utilization rates, and slightly higher on-street utilization rates. On-street and off-street utilization both peaked at 97%, though at different times: the on-street peak occurred at 7 PM, while the off-street peak occurred at 1 PM. Unlike Thursday's utilization patterns, parking demand on Saturday was spread more evenly throughout the area's on-street and off-street facilities.

Figure 2-5 Utilization Rates by Facility Type, Thursday

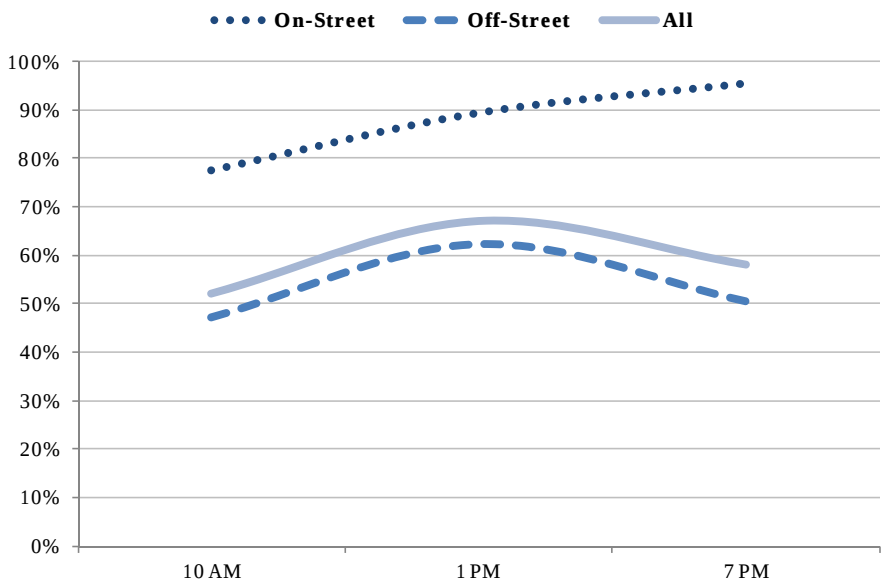
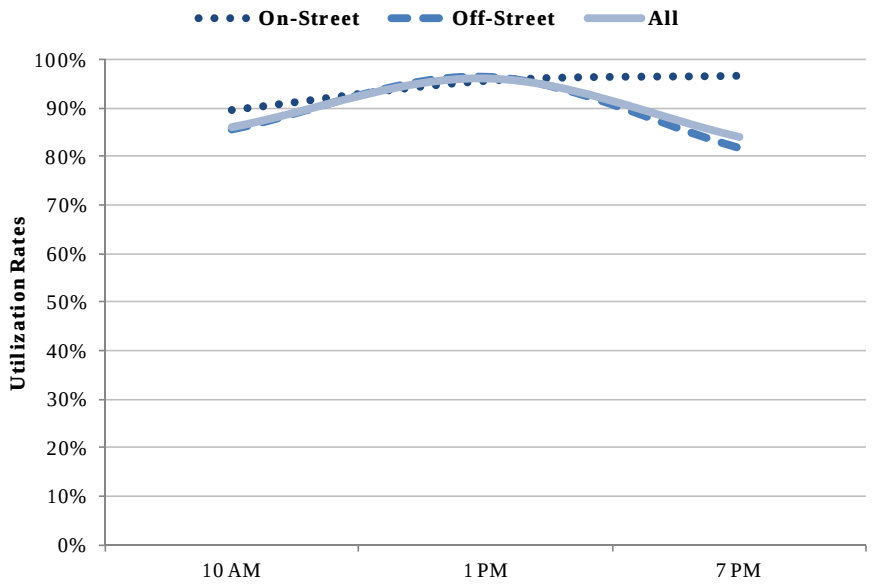


Figure 2-6 Utilization Rates by Facility Type, Saturday



Target occupancy rates of 85% and 90% are effective industry standards for on- and off-street spaces, respectively. In other words, maintaining 15% and 10% vacancy rates for corresponding on- and off-street stalls will help ensure an "effective parking supply." It is at these occupancy levels that roughly one space per block is available, making searching or "cruising" for parking unnecessary and allowing off-street lots to maintain adequate maneuverability. Utilization rates below these targets indicate a diminished economic return on investments in parking facilities. Figure 2-7 and Figure 2-8 show utilization rates in Balboa Village as compared to these target rates (depicted in a solid grey line).

Figure 2-7 On-street Utilization by Day

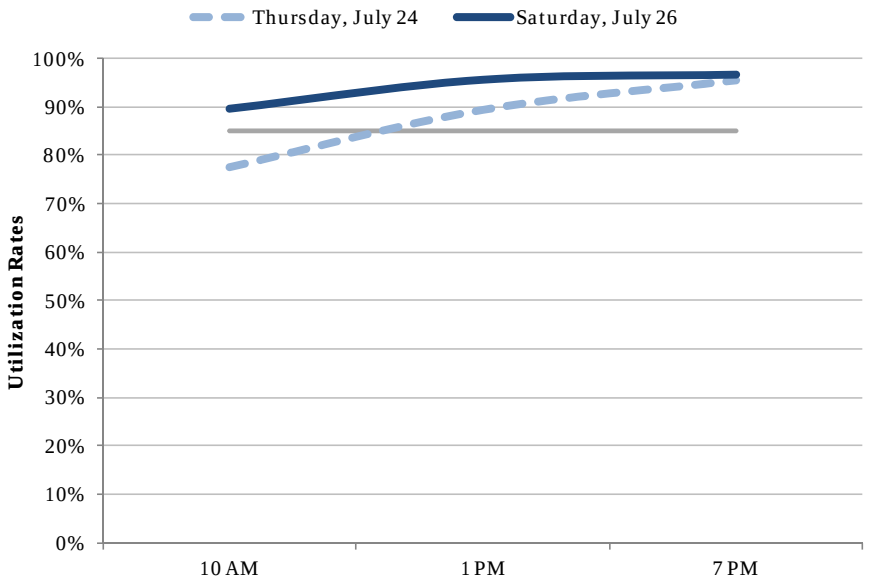
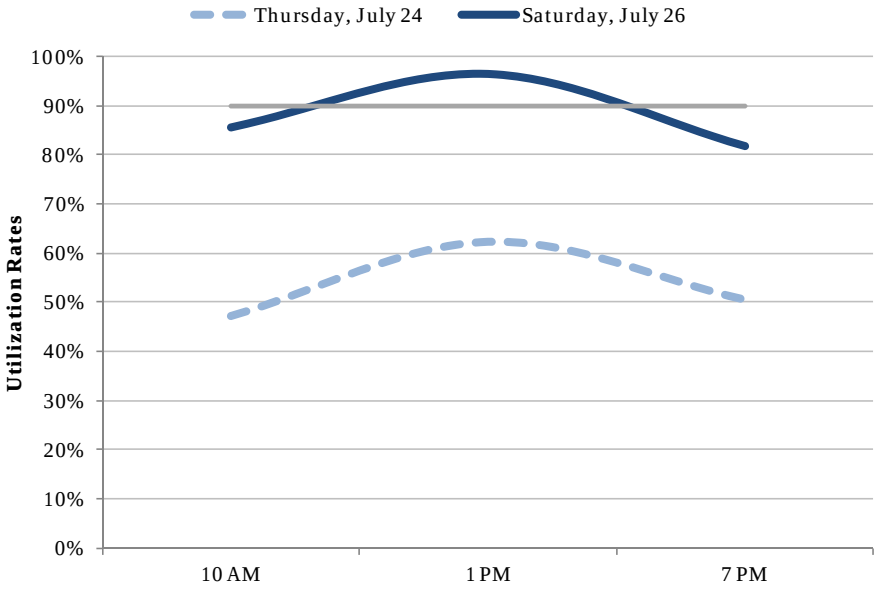


Figure 2-8 Off-street Utilization by Day



On Thursday, while on-street utilization approached 95% at 7 PM, the combined on- and off-street utilization rate never surpassed 67%. These results indicate that in general there is an ample supply of parking in the study area during weekdays, and that challenges associated with parking are likely due to inefficient management of existing supply. For example, off-street facilities were consistently underutilized during all count times. While the area saw spikes of high on-street utilization, total off-street utilization was only 62%. As most on-street spaces are unregulated, motorists will typically "cruise" for an on-street space before entering a pay lot. During peak demand on Thursday (1 PM, 67% combined occupancy), there were only 30 on-street spaces available, yet 510 available off-street spaces.

On Saturday, on-street utilization rates were above the 85% target during all three count periods, while off-street utilization exceeded the 90% target only at 1 PM. During the overall peak demand period (1 PM, 96% combined occupancy), only 12 on-street and 47 off-street spaces were available throughout the study area.

Figure 2-9 and Figure 2-10 map utilization by on-street block face and off-street block total during peak utilization on Thursday (1 PM) and Saturday (1 PM), respectively. During Thursday's peak period, over half of the area's block faces exhibited utilization rates at or above 85% target rates, the majority of which offer free, unregulated parking. Some blocks along Balboa Boulevard, Bay Avenue, and Coronado Street were utilized at lower rates, though in general "front-door" facilities closest to Balboa Village attraction exhibited high utilization rates.

Off-street utilization was significantly lower than on-street utilization, as only block ID #9 (the block bordered by East Balboa Boulevard, A Street, B Street, plus the two Peninsula off-street lots) exhibited utilization rates above the 90% off-street standard. As noted above, significant supply existed in the various public and private off-street facilities throughout the study area.

During Saturday's peak period, the majority of on-street block faces exhibited utilization rates above the 85% target rate for on-street spaces. Two blocks along Bay Avenue (metered), one along Adams Street (loading only), and one block along Balboa Boulevard exhibited utilization rates below 85%. Off-street utilization was also very high. At this peak hour, the Balboa Pier lot, Peninsula Park lots, and Newport Landing garage were 100% utilized.

Figure 2-9 Peak Hour Utilization, Thursday 1 PM

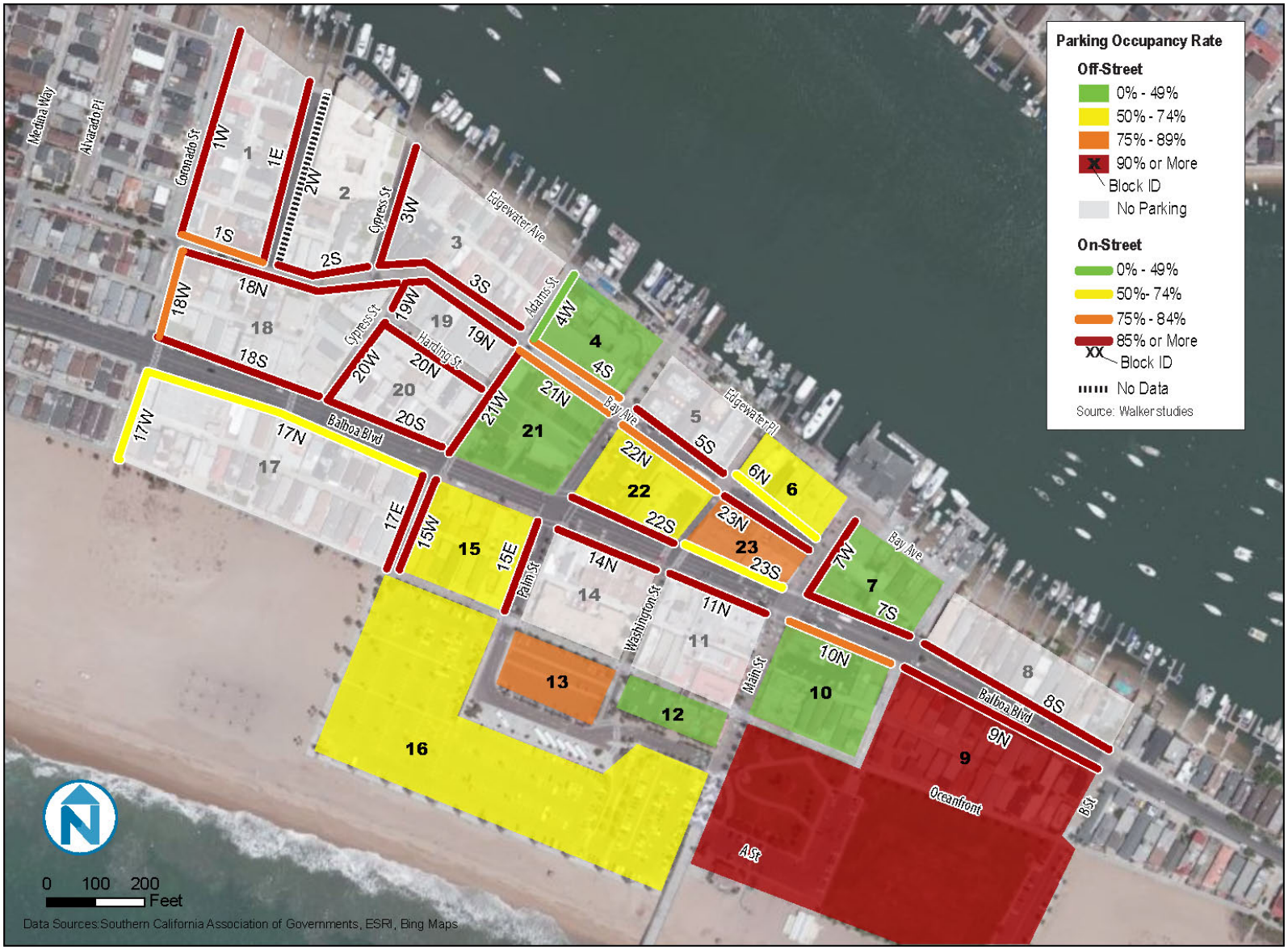
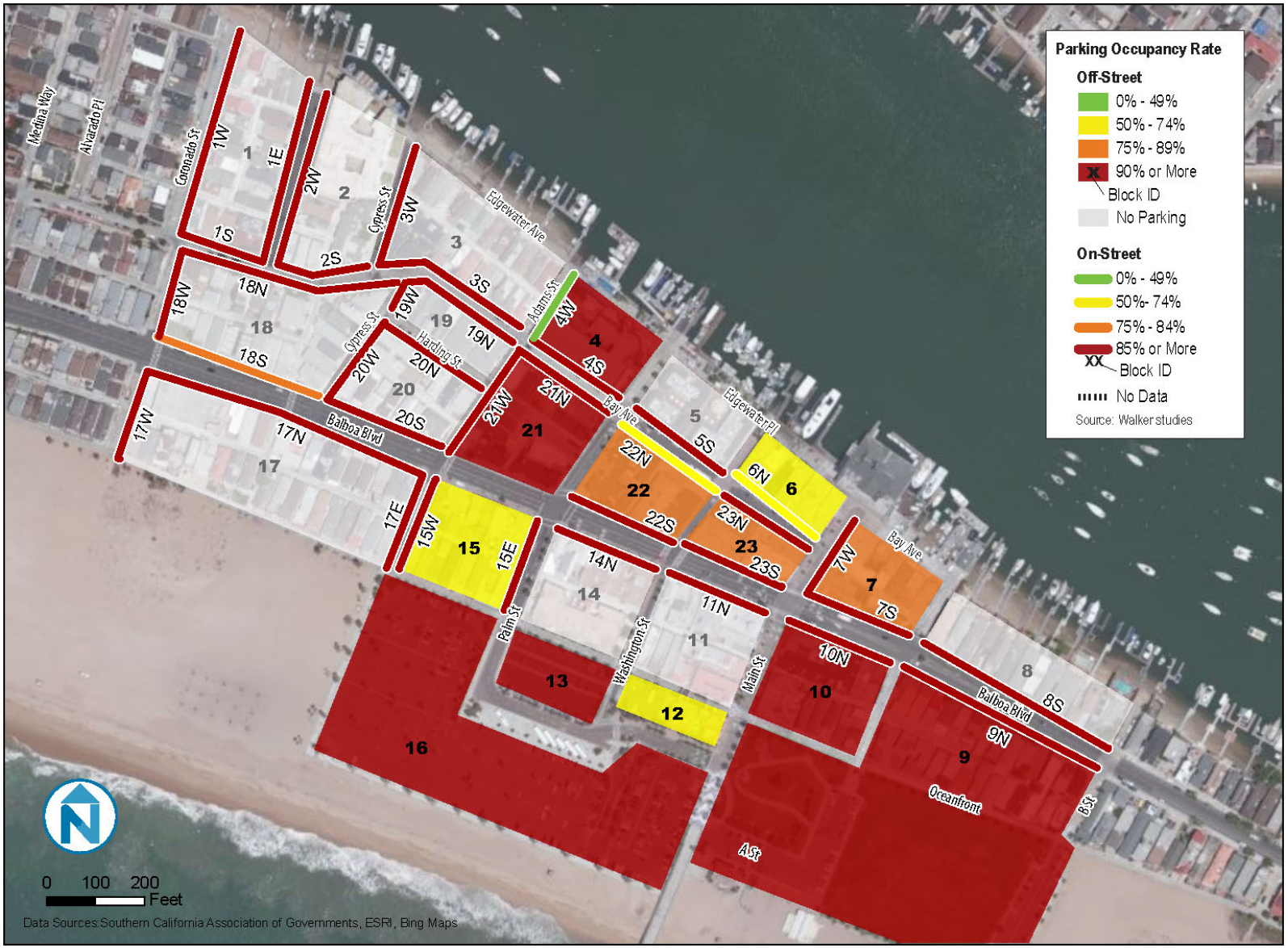


Figure 2-10 Peak Hour Utilization, Saturday 1 PM



Based on the Walker Parking utilization data for the study area, a number of observations can be made. First, it is clear that for the vast majority of the year, existing parking supplies are more than adequate to meet demand. While some "pockets" of high demand exist, particularly in prime on-street facilities, on a whole both peak and off-peak weekday utilization rates are below target utilization. This means that typically, a significant amount of parking is available in Balboa Village, and associated perceptions of parking difficulty are due to the lack of a coordinated parking management plan as opposed to the lack of sufficient supply.

However, the data also makes clear that during the area's periods of peak parking demand (summer weekends) utilization rates in the majority of the area's on- and off-street facilities exceed target utilization rates. As a result, spillover parking likely does occur into the surrounding neighborhoods, as beachgoers either seek free parking, or must look to on-street spaces because the beach lots are at or near capacity. A successful parking management plan will respond to both this extreme seasonality of demand and address spillover issues tied to parking regulation and pricing schemes.

Turnover

Walker Parking Consultants also conducted turnover data collection, noting vehicle license plates during a weekday every hour. The analysis was conducted on various block faces along Bay Avenue and Balboa Boulevard between Cypress and Main Streets.

Results from the Walker Parking license plate inventory indicate that a large percentage of vehicles are parked in on-street spaces for long periods of time. During the count day, approximately 52% of spaces in the count area were occupied by vehicles parked for five hours or more. The overall turnover ratio was 1.84 vehicles per space over the 11-hour study period.

It is possible that the majority of long-term, on-street parkers are employees parking in spaces that are intended to serve more short-term visitors, such as shoppers. The Walker Parking study correctly notes that this practice exacerbates congestion and helps to create a perception that a visit to Balboa Village is not worth the hassle of parking. Greater turnover of on-street spaces would help dispel this perception, and would free up prime "front-door" metered spaces for customers and short-term visitors.

As a part of this study, Nelson\Nygaard also conducted extensive resident and business owner stakeholder interviews to get a better sense of "on the ground" parking conditions. Many business owners noted that they encourage their employees, sometimes with free or discounted passes, to park in off-street facilities, mostly the Balboa Pier Lot and the Newport Landing structure. However, other merchants cannot afford to provide such an incentive, meaning employees are left to find parking on their own, likely seeking out free on-street spaces.

Synthesis of Parking Findings

As chronicled above, Nelson\Nygaard's analysis of previously collected parking utilization and turnover data yielded various key findings related to parking conditions in Balboa Village. In sum, during the off-peak, ample parking supply exists to meet current demand. Finding on-street parking along a few "front door" block faces, however, can be difficult during all times of the year, especially during summer months. Pockets of high demand and the perceived difficulty of parking during these times are likely due to the lack of a coordinated parking management plan, not the need for significant additional parking supply. However, during summer weekends, on- and off-street parking supplies are significantly constrained. The specific findings of the parking analysis are summarized below:

Key Finding #1: Balboa Village has a large supply of parking, the majority of which is located in off-street facilities.

A total of 1,636 parking spaces exist in Balboa Village, 1,356 of which (83%) are located in various public and private off-street facilities. Of these off-street spaces, 1,158 are in paid lots open to the public. Only 280 on-street facilities exist in Balboa Village, 212 (76%) of which are unregulated and free of charge. The remaining on-street spaces are either metered (53 total spaces) or reserved for loading purposes (15 total spaces).

Key Finding #2: Balboa Village's parking supply is underutilized for all but the busiest summer weekends.

It should be emphasized that the parking counts reflect summer demand and that the Balboa Village area only experiences "peak" parking demand on roughly 30-35 days per year. Balboa Village has more than enough supply to meet current levels of demand during the vast majority of the year. During summer weekday counts (a figure that should be comparable and possibly higher than non-summer weekday and weekend counts), combined utilization rates never exceeded 67%, meaning that at any given time, 540 spaces *or more* are available in Balboa Village.

Key Finding #3: While the parking supply is underutilized, various "hot-spots" of demand exist, even during non-peak months.

Various "pockets" of high demand exist in Balboa Village, even during non-peak times and months. Prime metered on-street spaces, unregulated and free on-street spaces, and off-street facilities closest to the beach and Balboa Island Ferry Terminal experienced the highest utilization rates. While these areas were highly utilized, large amounts of available parking existed within a 5-10 minute walk. As noted above, this is likely due to the following reasons:

- Most on-street spaces are free, while all publicly accessible off-street spaces are paid. As a result, motorists are incentivized to seek out and "circle" for available on-street spaces before deciding to enter a paid off-street lot.
- Many of Balboa Village's largest attractions are concentrated along the beachfront and ferry terminal area.
- Wayfinding signage does not exist to point visitors to off-street facilities with significant availability. Consequently, many motorists are unaware of the proximity and availability of additional parking facilities.

Key Finding #4: Balboa Village exhibits a drastic seasonal peaking of parking demand with capacity highly constrained on summer weekends.

Parking demand is highest in Balboa Village during summer weekends. During these times, on-street and off-street utilization peak at rates higher than target rates, meaning many motorists are stuck searching or "cruising" for parking. The difficulty in finding parking during the summer may also dissuade many from frequenting Balboa Village, thereby hindering economic activity. During Saturday's peak period, only 4% of on-street spaces and 3% of off-street spaces were available throughout the study area.

Key Finding #5: Current pricing schemes discourage the use of off-street facilities, encourage excessive "cruising" for available on-street spaces, and cause parking spillover into surrounding residential streets. During peak summer months, these trends are exacerbated.

As noted above, currently the only free, unregulated, publicly available parking in Balboa Village is located on-street, mostly along the area's residential roadways. The remaining parking supply, whether on- or off-street, is either paid parking or limited to customer or tenants only. As such, recreational visitors to the area typically seek out free on-street spaces before entering a paid lot. This causes excessive "cruising" for available spaces and creates parking spillover into Balboa Village's residential areas.

Key Finding #6: Parking turnover is relatively low, as most vehicles stay parked in off street spaces for long periods of time.

Turnover data suggests that approximately 52% of spaces in the count area were occupied by vehicles parked for five hours or more. The overall turnover ratio was 1.84 vehicles per space over the 11-hour study period. The lack of on-street turnover represents an inefficient use of curb space. Long term parking for employees or long term visitors should be moved to off-street facilities, freeing up prime "front-door" spaces for shorter term visits made by shoppers and visitors, and limiting the impacts of parking spillover.

3 CURRENT AND FUTURE PARKING DEMAND

This chapter provides an additional analysis of existing parking conditions in the study area based upon data collected as part of the Walker study. More specifically, it analyzes existing parking demand in relation to target occupancies and quantifies how much the study area is "over" or "under" supplied. In addition, this chapter analyzes parking demand in relation to existing land use and development patterns. This analysis will enable the City to demonstrate the effects of development on parking and determine whether the study area currently has more or less parking supply than existing demand requires.

INVENTORY, OCCUPANCY, AND LEVEL OF SUPPLY

As discussed in Chapter 2, the peak hour of parking demand was at 1 PM for both Thursday and Saturday. For the study area as a whole, peak occupancies were 67% on Thursday and 96% on Saturday. The figures below also show the parking data explicitly for the "commercial core," which is the area from Adam Street to A Street and does not include the beach or peninsula off-street lots. Looking at the commercial core by itself, the peak on Thursday was at 7 PM and the peak on Saturday was at 1 PM.

On Thursday, as shown in Figure 3-1, the occupancies for the study area as a whole and the commercial core are well below target levels of demand and result in an "oversupply" of parking. For example, at peak occupancy on Thursday 1,087 parking spaces in the study area were occupied. If one were to assume that this was meeting the target occupancy rate, then the study area would only require 1,224 spaces. Current supply in the study area, however, is 1,636 spaces, which translates into a 34% "oversupply" of parking based on current demand. However, the high demand for on-street spaces on Thursday result in an "undersupply" of on-street parking, especially for the commercial core. In other words, on-street spaces are in high demand, while off-street facilities have ample availability.

On Saturday, parking is much more constrained. As shown in Figure 3-2, parking is undersupplied for the study area as a whole during the peak (-8%), but is actually oversupplied for the commercial core (11%). This indicates that parking demand on weekends is heavily concentrated at the beach.

In all, this analysis reinforces several key findings. First, there is ample available supply in the off-peak, while parking is highly constrained in the peak. Second, on-street parking is highly sought after, while off-street parking is only efficiently utilized at peak periods.

Figure 3-1 Occupancy, Inventory, and Level of Supply – Thursday

On-street Parking						
Peak Period	Area	Occupancy	Necessary Supply	Existing Supply	Over / Under Supply	% Over / Under Supply
		(a)	*(b) = (a / .90)*	*(c)*	*(d) = (c-b)*	*(e) = (d / b)*
1 PM	Study Area	241	284	280	-4	-1%
7 PM	Commercial Core, no beach lots	74	87	81	-6	-7%
Off-street Parking						
Peak Period	Area	Occupancy	Necessary Supply	Existing Supply	Over / Under Supply	% Over / Under Supply
		(a)	(b) = (a / .90)	(c)	(d) = (c-b)	(e) = (d / b)
1 PM	Study Area	846	940	1,356	416	44%
7 PM	Commercial Core, no beach lots	181	201	505	304	151%
Total						
Peak Period	Area	Occupancy	Necessary Supply	Existing Supply	Over / Under Supply	% Over / Under Supply
		(a)	(b) = (a / .90)	(c)	(d) = (c-b)	(e) = (d / b)
1 PM	Study Area	1,087	1,224	1,636	412	34%
7 PM	Commercial Core, no beach lots	255	288	586	298	103%

Figure 3-2 Occupancy, Inventory, and Level of Supply – Saturday

On-street Parking						
Peak Period	Area	Occupancy	Necessary Supply	Existing Supply	Over / Under Supply	% Over / Under Supply
		(a)	*(b) = (a / .90)*	*(c)*	*(d) = (c-b)*	*(e) = (d / b)*
1 PM	Study Area	268	315	280	-35	-11%
1 PM	Commercial Core, no beach lots	72	85	81	-4	-4%
Off-street Parking						
Peak Period	Area	Occupancy	Necessary Supply	Existing Supply	Over / Under Supply	% Over / Under Supply
		(a)	*(b) = (a / .90)*	*(c)*	*(d) = (c-b)*	*(e) = (d / b)*
1 PM	Study Area	1,309	1,454	1,356	-98	-7%
1 PM	Commercial Core, no beach lots	400	444	505	61	14%
Total						
Peak Period	Area	Occupancy	Necessary Supply	Existing Supply	Over / Under Supply	% Over / Under Supply
		(a)	*(b) = (a / .90)*	*(c)*	*(d) = (c-b)*	*(e) = (d / b)*
1 PM	Study Area	1,577	1,770	1,636	-134	-8%
1 PM	Commercial Core, no beach lots	472	529	586	57	11%

PEAK DEMAND

The peak occupancy for the entire study area and for the commercial core occurred on Saturday at 1 PM. Parking demand ratio calculations reveal two different, but equally useful correlations:

- *Built Stalls to Built Land Use Ratio*. This represents the total number of existing parking stalls correlated to total existing land use square footage (occupied or vacant) within the study area. According to data provided by the City, there is approximately 286,926 gross square feet (GSF) of land uses. At this time, about **1.84 parking stalls per 1,000 GSF** of built land use have been developed/provided within the commercial core (combining the on-and off-street parking supplies).
- *Combined Peak Demand to Occupied Land Use Ratio*. This represents peak hour occupancy within the commercial core combining the on and off-street supply. As such, actual parked vehicles were correlated with actual occupied building area (approximately 265,342 GSF). From this perspective, current peak hour demand stands at a ratio of approximately **1.78 occupied parking stalls per 1,000 GSF** of built land use.

Figure 3-3 summarizes the analysis used to determine the built *ratio* of parking to built land use (i.e., Column D), which is based on the correlation between total built land use of 286,926 GSF (Column A – Built) and 528 stalls of "built" parking supply (i.e., Column C). As such, the *built ratio of parking* is 1.84 stalls per 1,000 GSF of commercial/retail building area.

Figure 3-3 also demonstrates that the *actual demand* for parking is approximately 1.78 occupied stalls per 1,000 GSF (Column F). This number is derived by correlating actual occupied building area of 265,342 GSF (Column B) to the 472 vehicles actually parked in the peak hour (Column E). Figure 3-3 also breaks out this data by the other count periods.

Figure 3-3 Parking Demand in Commercial Core – Mixed Land Use to Built Supply

Time Period	A	B	C	D	E	F
	GSF (Built)	GSF (Occupied)	Total Supply Inventoried in Study Area	Built Ratio of Parking (per 1,000 GSF)	Total Occupied Spaces	Actual Ratio of Parking Demand (per 1,000 GSF)
Thursday, 10 AM	286,926	265,342	528	1.84	156	0.59
Thursday, 1 PM					220	0.83
Thursday, 7 PM					255	0.96
Saturday, 7 PM					309	1.16
Saturday, 10 AM					326	1.23
Saturday, 1 PM					472	1.78

To date, parking has been *built* at an average rate of 1.84 stalls per 1,000 GSF of development in Balboa Village's commercial core. This rate appears to have provided close to the right amount of parking, with commercial land uses in the study area generating parking *demand* ratios of 1.78 vehicles per 1,000 GSF. It is important to note that corresponds to the peak period of the summer months, and parking demand during the rest of the year is far below 1.78. For example, the Thursday peak demand for the commercial core (a more accurate representation of typical demand throughout the majority of the year) was at .96 vehicles per 1,000 GSF.

Figure 3-4 provides a summary of built supply to actual demand for other cities that the consultant team has worked with. The Balboa Village commercial core is at the top of selected cities in relation to actual amount of parking built to land use. At its peak, Balboa Village has a similar demand ratio, resulting in a small gap between what the level of parking supplied and what is actually needed.

Figure 3-4 Built Parking Supply and Actual Peak Demand, Selected Cities

City	Minimum Requirement / 1,000 SF or Actual Built Supply	Actual Demand / 1,000 SF	Gap b/t parking built and actual parking demand (for every 1,000 GSF)
Hood River, OR	1.54	1.23	0.31
Oxnard, CA	1.70	0.98	0.72
Newport Beach, CA (Balboa Village)[2]	1.84	1.78	0.06
Corvallis, OR	2.00	1.50	0.50
Monterey, CA	2.14	1.20	0.94
Sacramento, CA	2.19	1.18	1.01
Seattle, WA (SLU)	2.50	1.75	0.75
Kirkland, WA	2.50	1.98	0.52
Palo Alto, CA	2.50	1.90	0.60
Santa Monica, CA	2.80	1.80	1.00
Ventura, CA (Westside)	2.87	1.26	1.61
Chico, CA	3.00	1.70	1.30
Hillsboro, OR	3.00	1.64	1.36
Bend, OR	3.00	1.80	1.20
Salem, OR	3.15	2.04	1.11
Lancaster, CA	3.67	1.37	2.30
Redmond, WA	4.10	2.71	1.39
Mill Valley, CA	4.13	3.08	1.05
Beaverton, OR	4.15	1.85	2.30
Soledad, CA	4.21	1.21	3.00

[2] Reflects peak parking demand during the summer months, which is achieved on approximately 30-35 days per year.

FUTURE DEMAND

Based on information provided by the City of Newport Beach, the only large-scale, commercial development that is proposed for Balboa Village is the expansion and redevelopment of the ExplorOcean Newport Harbor Nautical Museum located at 600 East Bay Avenue. The existing museum would be expanded to three levels consisting of 38,685 SF. Based on the net square footage[3] and existing demand in Balboa Village for commercial uses (see Figure 3-4), it is estimated that the new museum would generate parking demand of roughly 27 net new parking spaces[4] at peak demand.

Given the high level of demand during summer peak periods, it is likely that parking will be in high demand for parking facilities in proximity to the new museum. However, Nelson\Nygaard believes that this level of net new parking can be accommodated within the existing parking supply through more effective parking management strategies (as described in Chapter 5), and that the available development scenarios do not necessitate new parking supply. Because peak parking demand only occurs on approximately 20-30 days per year and additional parking management techniques can be utilized, expensive capital outlays for new parking facilities are not warranted in the immediate future.

In addition, any new development would be subject to the requirements of the proposed "Parking & Multimodal" impact fee (Recommendation #5), which would fund additional projects and programs to mitigate traffic and parking impacts from future projects.

[3] Net SF = 38,685 SF – 23,400 SF (estimated existing site SF) = 15,285 SF

[4] (15,285 SF / 1,000 SF) x 1.78 parking demand per 1,000 SF = 27 parking spaces

4 CALIFORNIA COASTAL COMMISSION AND PARKING MANAGEMENT

OVERVIEW

The California Coastal Commission (Commission) was established by voter initiative in 1972. The mission of the Coastal Commission is to: "Protect, conserve, restore, and enhance environmental and human-based resources of the California coast and ocean for environmentally sustainable and prudent use by current and future generations."[5] The statutory authority of the Commission comes from the California Coastal Act, which details the specific policies that govern numerous issues related to management of California's coastal resources. In practice, the Coastal Act is implemented by the Commission in partnership with all of the cities and counties (via local coastal programs, LCPs) that are located within the Coastal Zone.

Because Balboa Village is located within the Coastal Zone, the Commission will play an integral role in shaping the final recommendations of this parking management plan. More specifically, one of the key recommendations of this plan is a residential parking permit program for the Balboa Village area. As outlined below, the Coastal Commission takes a particularly keen interest in all residential permits within the Coastal Zone, as they have the potential to limit coastal and beach access for the general public. This chapter outlines the Commission's statutory authority to regulate residential parking permits and highlights the key issues that the City of Newport Beach should consider when designing its residential permit program.

COASTAL ACT AND PARKING MANAGEMENT

One of the most common issues related to parking management is "spillover" parking – when non-residents use on-street parking in residential areas to park their vehicles. Local residents often argue that this practice limits their ability to park near their homes. Spillover parking is a common challenge in residential areas that are located in close proximity to a major trip generator, such as a major employer or popular tourist attraction. As a response, many local jurisdictions have utilized residential parking permits (RPPs), which restrict the time and/or duration a non-resident can park in an on-street space.

Over the years, numerous coastal jurisdictions have submitted permit applications to the Commission asking for approval of an RPP as a means to manage parking spillover issues in residential areas near popular beach or coastal areas. Because each RPP has the potential to reduce public access opportunities to coastal resources, the Commission evaluates each application on an individual basis, ultimately seeking to meet its mission of providing, maintaining, and ensuring public access to coastal resources while taking into account the needs

[5] http://www.coastal.ca.gov/whoweare.html

of local residents. Some of the most relevant Coastal Act provisions that give the Commission purview over coastal access and parking policies within the coastal zone are outlined below:[6]

- **Section 30600:** Requires local governments to obtain permits to undertake "development" in the coastal zone.
- **Section 30106:** Development is defined as: "...change in the density or intensity of use of land...change in the intensity of use of water, or of access thereto..." Therefore, by converting on-street public parking spaces to private residential uses, a city wishing to implement an RPP is undertaking "development," and must apply for the required permit.
- **Section 30210:** "Maximum access...and recreational opportunities...shall be provided for all the people..."
- **Section 30211:** "Development shall not interfere with the public's right of access to the sea..."
- **Section 30212.5:** "Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social or otherwise, of overcrowding or overuse by the public of any single area."
- **Section 30213:** "Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided."
- **Section 30214:** "(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

  (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.

  (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

  (b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access...

  (c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques...
- **Section 30252:** "The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation..."

[6] California Coastal Act: http://www.coastal.ca.gov/coastact.pdf

SUMMARY OF SELECTED RPP APPLICATIONS TO COASTAL COMMISSION

Outlined below are brief summaries of selected Commission rulings on previous RPP permit applications. The primary source materials for this section are Commission Staff reports related to RPP applications.

City of Santa Cruz (1979)

- Live Oak residential area
- Hours: Summer weekends, 11 AM – 5 PM
- Commission approved the program with the following mitigation measures:
  - Availability of day use permits to general public
  - Provision of remote lots
  - Free shuttle system

City of Hermosa Beach (1982)

- Downtown commercial district and residential district 1,000 feet inland
- Original application included restricted parking near the beach and a free remote parking system to replace restricted on-street parking
- Commission approved a revised program that included availability of day use permits for the general public and a shuttle system to remote lots
- Commission later approved City request to eliminate the shuttle system based on evidence that it was lightly used, the remote parking areas were within walking distance, beach access would not be limited with loss of the shuttle, and the City could no longer afford to operate the shuttle

City of Santa Cruz (1983)

- Beach Flats area
- Commission approved RPP based on findings that the original residential area did not provide enough off-street parking for residents (based on conversion of rental cottages to permanent residential units), that residents were competing with visitors for on-street parking, and that adequate public parking was available in nearby public lots and non-metered on-street spaces.
- 150 permits were issued to residents

City of Capitola (1987)

- 2 RPP areas: “Village” and “Neighborhood” areas
- Original application – Village RPP: Resident permits that were exempted from 2-hour restriction and meters; Neighborhood RPP: Resident only parking
- Commission: “Village RPP did not exclude public parking, but Neighborhood RPP did.”
- Commission approved revised application, which included special conditions:
  - Limited number of permits in Village RPP
  - Limited areas of parking restrictions
  - Required access signage program

  - Operation of public shuttle system
  - Required ongoing monitoring program, with 1-year time limit requiring reauthorization
- Current restriction is primarily 11 AM – 5 PM in residential areas

City of Santa Monica (1996)

- Adelaide Drive and 4th Street
- Commission rejected 24-hour restriction on grounds that it was too restrictive and would significantly impact access and coastal recreation.
- Commission approved a revised permit that restricted parking between 6 PM and 8 AM, with special conditions:
  - 2-year program limit requiring reauthorization pending program evaluation

City of Santa Monica (2002)

- Area bounded by Montana Avenue, 4th Street, Wilshire Boulevard, and Ocean Avenue
- Proposed RPP Parameters
  - Hours: 6 PM – 8 AM
  - Resident permit cost: $15
  - No parking or stopping for those without permits
  - Number of permits limited to number of vehicles registered at residence – more than 3 permits requires demonstration that there is not sufficient off-street parking
- City studies showed that: 1) people parking were predominantly residents and visitors to Third Street; 2) there was ample supply in off-street lots and numerous other parking options exist; and 3) proposed restrictions are at a time when beach and recreational use is low, demand is minimized and can be met by nearby parking options.
- Commission concurred that "Because of the location of the proposed zone, hours of the parking restriction, and the availability of additional parking in the surrounding area, the impact to public access for the beach and recreational use will not be significant..."
- The RPP was approved pending the following revisions to the permit application:
  - The permit zone shall exclude all portions of Ocean Avenue because of its proximity and visibility for beach users.
  - The permit program expires after 5 years, at which time the City may apply for a reauthorization. Reauthorization shall include a new parking study (conducted on at least 3 non-consecutive summer weekends between Memorial Day and Labor Day) documenting utilization rates. Study must also include survey of trip purpose, length of stay, destination, and frequency of visit.
  - Any changes to program will require an amendment to the Commission permit.

City of Los Angeles (2009)

- Venice Beach area
- Proposed RPP from 2 AM to 6 PM, No Parking
- Implemented subject to 2/3 resident approval
- The Commission denied the permit application on the following grounds:

- The proposed permit parking program would give the residents with permits preferential access to public parking spaces on public streets in comparison to non-residents without establishing adequate safeguards for visitor parking.
- The City cannot guarantee that the proposed supply of metered on-street spaces will be available to beachgoers because these spaces may become parking areas for existing residents who do not purchase a permit once the RPP goes into effect.
- The City's proposal to allow for 4-hour parking in off-street lots was deemed to be inadequate because these lots are currently used by residents to store vehicles. Furthermore, many residents objected to the 4-hour restriction.
- The local residents' complaints about nuisance problems are a local law enforcement issue and should not be resolved by parking policy.

City of Los Angeles (2010)

- Playa del Rey area
- Proposed RPP from 10 PM – 5 AM, No Parking
- Implemented subject to 2/3 resident approval
- The Commission denied the permit application on the following grounds:
  - The proposed overnight restriction is exclusionary and would not allow non-residents access to on-street spaces.
  - The limited access points to the area meant that a loss of parking in the proposed RPP zone would severely restrict access and force people to park much farther south.
  - The proposed parking restrictions do not contain adequate safeguards for visitor parking.
  - The City's proposal to preserve 20 parking spaces for public parking by metering them was deemed inadequate – these spaces are too far south to serve the public.
  - City parking lots are only open from dawn to dusk. As a result, the only available parking supply during those hours is on-street parking.
  - The local residents' complaints about nuisance problems are a local law enforcement issue and should not be resolved by parking policy.

SUMMARY OF KEY RPP ISSUES

Based on a review of previous staff reports, it was evident that a number of key issues and concerns were consistently identified by the Commission. In other words, if a City could not demonstrate that its RPP would address these issues and concerns, then it was likely the RPP permit would be denied. The following list provides an overview of the key issues and concerns that the Commission repeatedly emphasized while evaluating previous RPP permit applications. Recommendation #3 in Chapter 5 provides additional detail for how the proposed Balboa Village RPP would seek to address the Commission's concerns.

1. **Preservation of public access is the Commission's primary concern.** Commission staff have repeatedly emphasized that one of the primary intents of the Coastal Act is to ensure equal access to the coast and that no policy should provide preference to one user group over the other. Sections 30210 and 30211 of the Coastal Act underscore this policy objective. In practice, this means that RPPs should not provide "exclusive" rights to on-street spaces to residents.

2. **Public access is a "24-hour" objective.** In other words, the Commission does not take into account what time of day or night the proposed parking restriction is for because the public should always have equal access to the coast. For example, even if it is 3 AM, and it is unlikely that many people will be seeking to access the beach or coast, public access should still be preserved.

3. **The Commission strives to achieve regulatory "balance," but errs on the side of public access.** Section 30214 articulates that Coastal Act policy should support the rights of property owners, and in many Commission rulings, staff recognize the need to strike a balance between public access and the ability of the public to park near their residence. For example, "...if proposed parking prohibition measures can be balanced with coastal access opportunities, where impacts to public access is minimized, the Commission may find such proposals consistent with the public access policies of the Coastal Act."[7]

   In practice, however, it appears that Commission is very "conservative" in its rulings and will most likely rule against an RPP if it believes that impacts to public access have not been minimized to the greatest degree possible.

4. **Local jurisdictions can use policy to regulate parking, but cannot give exclusive access to residents.** The Commission understands the value of RPPs, and has approved numerous such programs. However, it has consistently denied applications that provide "exclusive" access to residents.

5. **In order to prevent exclusive residential access, local jurisdictions must "replace" public on-street parking that is "lost" to an RPP.** The Commission has approved many RPPs over the years, but it has often stipulated that "replacement" parking must be provided if certain on-street spaces are restricted via an RPP. In other words, local jurisdictions must provide additional accessible parking options to the public. This replacement parking has taken many forms, such as:

   - Proximate and easily accessible on- or off-street parking facilities
   - Remote parking facilities served by public shuttles
   - Enhanced access to existing and nearby parking facilities through improved wayfinding
   - The option to purchase "day use" permits for non-residents

6. **The Commission typically views RPPs as "pilot" efforts to be reevaluated in the future.** In recent years, the Commission has set an expiration date on RPP permits and requires an evaluation of the RPP's effectiveness to date. For example, an RPP in the City of Santa Monica was approved for a period of 5 years, at which time the permit required the City to conduct a parking utilization study and motorist survey to evaluate the RPP and parking behavior in the zone.

7. **Nuisance issues fall under the purview of local law enforcement and are not to be regulated by residential permits.** The Commission has repeatedly rejected any arguments that RPPs should be used to regulate local nuisance issues, such as noise, vandalism, or loitering. The Commission has emphatically stated that these issues should be addressed through local law enforcement or other local policies.

---

[7] California Coastal Commission, Application No. 5-02-380, 2002.

5 PARKING MANAGEMENT PLAN

The Walker parking study and analysis of parking demand provide a wealth of information about parking conditions and behavior within Balboa Village. This data will serve as the guiding framework for the City of Newport Beach as it moves forward with reshaping Balboa Village and reforming its parking policies and management systems. The Parking Management Plan was also developed with input from City staff, the Balboa Village Citizen Advisory Panel (CAP), the Newport Beach City Council, and other local stakeholders.

The recommendations included below are designed to work together to meet the City's parking management goals. While these recommendations could theoretically be implemented piece by piece, they are most effective if implemented together. It is important that to the greatest extent possible the recommendations be implemented as a cohesive "package" of reforms.

Finally, it is important to emphasize that the recommendations outlined below are specific to Balboa Village and *would not necessarily apply* to other neighborhoods within the City of Newport Beach.

PRINCIPLES FOR EFFECTIVE PARKING MANAGEMENT

Historically, a city wishing to "solve its parking problem" has almost always meant an increase in supply. Unfortunately, simply increasing parking supply often encourages more auto use, as people are incentivized to drive to places that offer plenty of "free parking." Furthermore, simply increasing supply does not address the core problem of concentrated demand, in which popular on-street spaces are consistently oversubscribed while nearby off-street spaces remain underutilized. The goal of parking demand management is to "manage" curb spaces to ensure availability while also optimizing utilization of existing off-street supply to meet a variety of parking needs.

Managing parking has been shown to be one of the single most effective tools for alleviating congestion and improving operation of the street network, even when densities are relatively low and major investments in other modes have not been made. Parking management can also have a significant impact on mode choice, which translates directly to reductions in auto congestion and improved livability of commercial districts and adjacent neighborhoods. Finally, effective parking management can result in positive economic impacts for local businesses, as employees, residents, and visitors can all better utilize the parking supply to shop, dine, or recreate.

As Balboa Village continues to grow and evolve its parking needs will change as well. This plan recommends techniques to both address current challenges and also allow the City to be nimble in reacting to future parking challenges. Above all else, this plan proposes a parking management approach that utilizes policies and programs that will enable more efficient utilization of existing supply, while alleviating parking congestion in certain areas.

In recognition of these considerations, the following goals and objectives informed the development of parking management recommendations for Balboa Village:

- The parking supply should be a public resource that is convenient and easily accessible for all user groups.

- The parking supply (public and private) should be managed as part of an integrated, district-wide system.
- Parking facilities should be managed with a focus on making the most efficient use of all public and private parking facilities before increasing supply.
- Parking regulations should not prevent visitors and residents from coming to (or staying in) Balboa Village.
- Parking policies should support the ability of local employees to get to work, but also discourage employees from parking in "prime" on-street spaces all day long.
- Commercial parking practices should not negatively impact nearby residences and proper protection should be in place to help prevent "spillover" parking.
- Evaluate pricing as a tool to manage parking supply and demand, and use any potential parking revenue to fund transportation programs that maintain adequate parking supply and enhance mobility in the Downtown area.
- Embrace new parking technologies to maximize customer satisfaction, as well as foster enhanced parking data management and analysis.
- Provide flexibility to local decision makers and City staff to adapt to seasonal and long-term changes in parking demand and travel patterns, as well as make adjustments to parking policies to improve system performance.
- Balance the need to revise parking to better serve local businesses and residents with an understanding that Balboa Village falls within the Coastal Zone and that public access to the beach and coast is a regional priority.

RECOMMENDATION #1: MAXIMIZE USE OF "SMART" METER TECHNOLOGY FOR ALL COMMERCIAL CURB SPACES IN THE BUSINESS CORE AND REMOVE TIME LIMITS FOR ALL METERED SPACES. IMPLEMENT DEMAND-BASED PRICING FOR ON- AND OFF-STREET PARKING FACILITIES.

Description

This recommendation proposes the elimination of all existing time limits for metered spaces. Instead, it is recommended that the City explore upgrading its existing "smart" parking meters for all curb spaces along the primary commercial corridors in Balboa Village. On- and off-street parking should use variable pricing as a means to meet target occupancy levels and generate an appropriate level of turnover.

As described in more detail below, motorists would be allowed to park in a parking space for as long as they like, as long as they pay for it. Prices would be based on length of stay and also adjusted to respond to seasonal fluctuations in demand so that when parking demand is higher or lower, prices would increase or decrease accordingly.

Why implement it?

Like many other jurisdictions, Balboa Village has sought to regulate its curb spaces through time restrictions and parking fines. These traditional techniques are reasonably effective in generating turnover and increasing municipal revenues, but in most cities, are rarely linked to any larger transportation or quality of life goals. In fact, traditional parking policies have often resulted in increased congestion as motorists "circle" for on-street spaces, reduced functionality of streets for transit users, pedestrians, or bicyclists, and frustrated businesses that bemoan the lack of available parking.

Time limits, in particular, can present several disadvantages, as is experienced in Balboa Village today. First, enforcement of time limits is labor-intensive, requiring parking control officers to "chalk" tires and return in two hours. Second, long-term parkers or employees, who quickly become familiar with enforcement patterns, often become adept at the "parking shuffle," moving their vehicles regularly or swapping spaces with a co-worker several times during the workday. Even with strictly enforced time limits, if there is no price incentive to persuade long-term parkers to seek out less convenient, bargain-priced spots, these motorists will probably still park in prime spaces. Finally, for customers and visitors, strict enforcement can bring "ticket anxiety," the fear of getting a ticket if one lingers a minute too long (for example, in order to have dessert after dinner).

By contrast, one of the best ways to balance parking supply and demand and generate turnover is not through time limits, but with pricing structures that take into account *actual demand* for a parking space. By treating parking like any other scarce commodity, and requiring motorists to directly pay for use of a space, a jurisdiction can establish the "market value" for each parking space and adjust those prices depending on the level of demand. Just as hotel room rates increase or decrease based on availability, demand-based pricing for parking seeks to increase prices when and where demand is highest and reduce prices when and where demand is lowest. New advances in parking meter technology, such as wireless "smart" meters, make demand-based pricing a feasible option and can dramatically increase motorist convenience through new payment technologies.

In summary, the primary goal of demand-based pricing is to make it as easy and convenient as possible to find and pay for a parking space. By setting specific availability targets and adjusting

pricing, demand can be effectively managed so that when a motorist chooses to park, they can do so without circling the block or searching aimlessly. Demand-based pricing can result in the following benefits:

- Consistent availability and ease in finding a parking space, especially near local businesses and ground floor retail uses
- Flexible time limits, thereby eliminating the need to move a vehicle to avoid time restrictions
- Convenient payment methods that eliminate the need to "plug the meter" and make it easier to pay for parking and avoid parking tickets (see sidebar on meters)
- Incentivizes long-term parkers and daily commuters to park in off-street lots
- Reduces search time for parking, resulting in less local congestion and vehicle emissions
- Reduces illegal parking and improves safety and street operations
- Provides a more equitable and efficient way to account for the real costs to a city for providing parking
- Offers a potential revenue stream for the City that should be reinvested in local transportation and mobility improvements (see Recommendation #2)

Potential Tradeoffs

While demand-based pricing and the removal of time limits have proven effective, there are some potential tradeoffs that the City may wish to consider when evaluating this recommendation. These include:

- **Resistance to change:** Demand-based pricing will represent a change in how parking is currently being managed and may generate local opposition. Business owners, residents and regular visitors may resist such changes, often arguing that parking should be "free" and new or expanded meters will "hurt local businesses." Such arguments ignore the status quo, which has resulted in tangible parking, circulation, and quality of life challenges for Balboa Village. Furthermore, numerous examples exist that demonstrate that demand-based pricing can improve the local economy and that most people are willing to pay for parking if it makes the experience more convenient.

  Overcoming resistance to change may be the City's biggest obstacle to reforming its parking policies and programs. The City should be aware of potential local opposition and take steps to proactively educate and inform local residents and businesses.

- **Implementation and management costs:** The City will have to make an investment to implement and manage a demand-based pricing program. In addition to the capital infrastructure required, it is likely that the City will need to allocate additional staffing resources, at least in the initial stages of implementation, to manage the program. While these costs are real, other jurisdictions have shown that such financial outlays are well worth the investment, resulting in dramatic improvements to the areas in which they have been applied. Furthermore, revenue generated from a demand-based pricing program can potentially be used to finance its start-up and ongoing costs, thereby minimizing the costs to the City.
- **Success can take time:** Demand-based pricing may take time to fully realize its positive effects, as it is unlikely that the initial meter rates will be the exact prices need to meet the target occupancy rates. It may take a few additional price adjustments (based on additional occupancy analyses) to find the right prices for the different levels of demand throughout the year. The City should be prepared for ongoing monitoring and adjustments, and establish specific processes by which those adjustments are made to ensure consistency and transparency.

How Will It Work?

If prices are used to create vacancies and turnover in the prime parking spots, then what is the right price? A well-established, industry standard target occupancy rate for on- and off-street spaces is approximately 85% and 90%, respectively. At this level of occupancy, at even the busiest hour about one out of every seven spaces will be available, or approximately one empty space on each block face. This provides enough vacancies so that visitors can easily find a spot near their destination when they first arrive.

For each block and each parking lot in Balboa Village, the right price is the price that will achieve these target rates. This means that pricing need not be uniform: the most desirable spaces may need higher prices, while less convenient lots are less expensive. Pricing can also be based on length of stay with a higher rate charged the longer one stays. In other words, the goal is not to ticket someone for wanting to stay longer than two hours, but allow them to stay as long as they are willing to pay for the space being used. Prices can also vary by season or day of the week.

It is important to understand that demand-based pricing does not need to change the parking behaviors of *every* motorist. Motorists can be thought of as falling into two primary categories: bargain hunters and convenience seekers. Convenience seekers (shoppers, diners, or tourists) are more willing to pay for an available front door spot, and are typically less sensitive to parking charges because they stay for relatively short periods of time. By contrast, many long-term parkers, such as employees, find it worthwhile to walk a few blocks to save on eight hours worth of parking charges. With proper pricing, the bargain hunters will choose currently underutilized lots, leaving the prime spots free for those convenience seekers who are willing to spend a bit more. The ultimate goal, therefore, is to shift the parking behaviors of not all, but *just enough* motorists to reach target occupancy levels.

Draft Demand-based Parking Approach for Balboa Village

On-street Meter Location

Existing on-street meters should be upgraded to dynamically regulate all existing on-street spaces along Balboa Village's primary commercial and retail corridors, including: East Balboa Boulevard and East Bay Avenue between Adams Street and A Street, as well as Palm Avenue. No additional on-street meters are recommended to be installed at this time, but in the future the City may wish to expand the coverage of meters based on growth or changes in demand.

On-street Meter Type

The City recently installed roughly 1,600 new single and multi-space "smart" meters citywide, including on streets in Balboa Village. These new meters accept credit card payments. The City should continue to ensure that Balboa Village parking meters facilitate easy payment and improve motorist convenience by allowing multiple forms of payment. All meters should also enable the City to easily revise meters prices in response to changes in demand.

Moving forward, the City should also explore implementation of wireless meters, which would allow motorists to pay-by-phone, while improving revenue collection, enforcement, and parking data management for the City. Wireless meters can also allow the City to provide a free, publicly accessible wireless network in Balboa Village.

Overview of Meter Technologies

Various new meter technologies exist beyond the conventional coin meters used for the better part of the 20th century. These include smart meters, multi-space meters, in-car meters, and wireless / pay-by-phone technology.

Single-space Meters

Conventional Coin Meters

These meters have been used by municipalities since the 1930s. They only accept change, and do not exhibit illumined displays.

Smart Meters

Smart meters are very similar to conventional coin meters; however, they allow motorists to pay for parking via credit or debit card. They also have illuminated displays that allow viewing of parking rates, hours, time limits, and other important information. The ease of payment with smart meters tends to reduce parking and ticketing anxiety.

Furthermore, when combined with embedded roadway sensors, smart meters allow for demand based pricing schemes, as they can send and receive data regarding parking pricing and availability. Some are also pay-by-phone enabled (see section below). A single smart meter can cost around $200.

Coin Meter in Sausalito, CA

Source: Flickr user wuestenigel

Smart Meters in San Francisco, CA

Source: SFPark

Multi-space Meters

Pay-and-display Meters

Pay-and-display meters can be placed on existing light or utility poles and serve roughly 10 to 30 parking spaces each. People must park, walk to the meter where they receive a receipt and return to their vehicle to display the receipt on their dashboard. Pay-and-display meters cost approximately $10,000 to $12,000. These meters have minimal maintenance costs; operating costs vary depending on the type of power system used. Some pay-by-space meters can use solar-power, keeping operational costs very low and requiring no utility work for installation (battery powered meters are also available).

Pay-and-display Meter in Portland, OR
Source: Flickr user Ian Broyles

Pay-and-walk Meters

Multi-space pay-and-walk meters require on-street parking stalls be numbered. They are more convenient to parkers because they are not required to return to their cars, but they have an aesthetic disadvantage in that they require numbers to be painted in every parking space. Pay-and-walk meters cost between $7,000 and $10,000.

In-car Meters

In-car meters are small mirror-hanging units that can be purchased from cities and that can store prepaid parking time. Users can turn the meters on when they leave their vehicle and turn it off when they return. In-car meters are popular because they work in real time and people can avoid over or underpaying. Some of these meters operate using cellular technology, allowing people to pay-by-phone with a credit card. Time is then credited to a central database and the in-car meter "calls" the central computer when the meter is in operation.

Wireless / Pay-by-phone

Pay-by Phone technology allows a driver to pay a parking fare via cell phone, mobile phone application, or computer. Motorists can receive a reminder text when their time is almost up, and can add time without returning to their vehicle or parking meter. Receipts are available via email. Typically these programs require pre-registration. Pay-phone technology reduces maintenance and operational costs associated with meters, fare collection, and ticketing.

These meters typically require wireless technology, which can increase setup and maintenance costs, but also offer the potential benefit of creating a free, publicly available wireless network for the area in which the meters are installed.

Target Occupancy Rates

Target occupancy rates for on-street spaces should be 85% and 90% for off-street spaces, which would translate into approximately one space per block and several spaces per lot being available at all times of the day.

Initial Hours & Pricing Structure

Current meter rates are $1.50 per hour. Outlined below is the proposed hours and pricing structure for Balboa Village:

On-street

- Peak period (Summer)
  - 8 AM – 6 PM, 7 days
  - $2.00 per hour (0-2 hours)
  - $2.50 per hour (2+ hours)
- Off-peak period (non-Summer)
  - 8 AM – 6 PM, 7 days
  - $1.00 per hour (0-2 hours)
  - $1.50 per hour (2+ hours)

Off-street

- Peak period (Summer)
  - $1.50 per hour (no max)
- Off-peak period (non-Summer)
  - $.50 per hour (no max)

Legal Basis for Setting Meter Rates

The California Vehicle Code (CVC Sec. 200258) allows local jurisdictions to set parking meter prices at fair market rates necessary to achieve 85% occupancy. California case law authorizes local jurisdictions to enact parking meter ordinances with fair market rates that "may…justify a fee system intended and calculated to hasten the departure of parked vehicles in congested areas, as well as to defray the cost of installation and supervision."[8] California case law has also recognized that parking meter fees are for the purpose of regulating and mitigating traffic and parking congestion in public streets, *and are not a tax for revenue purposes.*[9]

[8] DeAryan v. City of San Diego, 75 CA2d pp 292, 296, 1946.

[9] Ibid.

Meter Pricing Adjustments

It is possible that the initial pricing structure proposed above will not achieve the target occupancy rate. Therefore, meter prices should not be static, but periodically adjusted to respond to changes in demand. Rates need not change constantly or abruptly. When revising meter hours or rates, it is safest to increase or decrease rates slowly, with occupancy checks before and after each rate adjustment.

More specifically, this Plan recommends that City Staff be authorized to increase parking prices up or down in $0.25 increments, with an upper price limit of $3 per hour, on a quarterly basis to achieve target occupancy levels. Prices could be adjusted no more than four times per year. If and when Staff deems that it is necessary to increase the hourly price further (i.e. higher that $3 per hour) on certain blocks or in certain parking facilities in order to manage higher parking demand in those locations, Staff should return to City Council to request authorization to do so, at which time a new price threshold (upper limit) on parking prices can be also be established.

On-street Pricing in Other Cities

Sausalito:
$1 per hour; 3 hour time limit; 8:30 AM – 6 PM, 7 days

Laguna Beach:
$1-2 per hour; 8 AM – 7 PM, 7 days

Long Beach:
$2 per hour, 9 AM – 9 PM, 7 days

Huntington Beach:
$1-3 per hour, depending on location

Manhattan Beach:
$1.25 per hour, 8 AM – 9 PM, 7 days

San Francisco:
Depends on location and time of day (www.sfpark.org)

Parking Validation

The issue of incorporating a parking validation program for local businesses was also evaluated, but is not recommended as part of this Parking Management Plan. The primary reason is that any validation system would substantially undermine the ability of pricing to effectively manage supply and demand. A validation system would allow customers to park for free in highly desirable spaces, thereby eliminating crucial pricing signals to motorists. Without a pricing structure that is applied to all motorists, it will be very difficult for Balboa Village to meet its target occupancies and ensure that parking is convenient. It is also worth noting that with a validation program, the City would be subsidizing parking for motorists and losing parking revenue that would fund various transportation improvements (see Recommendation #2).

RECOMMENDATION #2: ESTABLISH A COMMERCIAL PARKING BENEFIT DISTRICT IN BALBOA VILLAGE.

Description

Parking benefits districts (PBDs) are defined geographic areas, typically in downtowns or along commercial corridors, in which any revenue generated from on-street and off-street parking facilities within the district is returned to the district to finance neighborhood improvements.

Why Implement It?

Paying for parking can be unpopular for a number of reasons. One of the primary reasons is that when motorists feed the meter, their money seems to "disappear" and they feel they derive little benefit from the transaction. This is largely because most cities have traditionally sent their parking revenue into the general fund, and not necessarily to improving parking or enhancing the transportation system. In recent years, some cities have sought to reverse this dynamic by implementing PBDs.

The primary goal of a PBD is to effectively manage an area's parking supply and demand, so that parking is, above all, convenient and easy for motorists. PBDs typically employ a number of parking management techniques to manage parking supply and demand, including demand-based pricing and removal of time limits. However, experience has shown that in order to secure community and business support for new pricing of parking, the revenue needs to be reinvested back into the community. Drivers will always likely prefer not to pay for parking, but a PBD can create a new local constituency for pricing.

PBDs require local parking revenue to stay local, while financing neighborhood improvements. PBDs allow local merchants and property owners to clearly see that the monies collected are being spent for the benefit of their district, on projects that they have chosen. In turn, they become willing to support, and often advocate on behalf of, demand-based pricing.

Tradeoffs to Consider

- Additional administrative and management costs for the City
- It should be noted that in the City of Newport Beach, parking revenue used to be invested locally, but is now currently pooled into the City's General Fund. In Balboa Village, this revenue was used to purchase the land for the public lot at East Balboa Boulevard and Palm Street. Therefore, the City should carefully evaluate how revising this practice would impact City spending on other priorities and in other neighborhoods.
- Revenue can fluctuate from year to year depending on seasonal demand or overall health of local economy

How Will It Work?

In practice, a successful PBD in Balboa Village would be implemented in the following fashion and incorporate a number of key elements.

1. Adoption of city ordinance creating a Balboa Village PBD, stipulating that all parking revenue generated within the PBD be used to fund designated neighborhood improvements.
2. Establishment of an appropriate governing body to develop a program of expenditures and ensure proper oversight of PBD revenue. Any governing body should establish well-defined

procedures for soliciting and incorporating resident input. This body and its structure will be determined pending additional study.

3. Implementation of parking meters and pricing structures that facilitate demand-based pricing (see Recommendation #1).
4. Adoption of a defined list of PBD revenue expenditures, which can include the following:
   - Purchase and installation costs of meters (e.g., through revenue bonds or a "build-operate-transfer" financing agreement with a vendor)
   - Shuttle services to remote park-and-ride facilities during peak periods
   - Valet parking services during peak periods
   - Leasing of private spaces
   - Construction of additional parking, if deemed to be necessary
   - "Mobility Ambassadors" to provide assistance to visitors as well as additional security
   - Landscaping and streetscape greening
   - Street cleaning, power-washing of sidewalks, and graffiti removal
   - Transit, pedestrian, and bicycle infrastructure and amenities
   - Additional parking enforcement
   - Marketing and promotion of PBD and local businesses
   - Management activities for the oversight entity
5. Development of a coordinated public relations plan, which would use wayfinding, signage, and public outreach to explain the role of demand-based pricing and articulate how parking revenue is being utilized to benefit Balboa Village.
6. Ongoing evaluation and management of PBD policies and expenditures.

Successful PBD Examples

Old Pasadena, CA: In the early 1990s, the city's efforts to revive Old Pasadena were being hindered by a lack of convenient and available parking spots for customers. At that time, Old Pasadena had no parking meters, and proposals to install them were opposed by local merchants, who feared charges would drive customers away. In 1993, the Old Pasadena Parking Meter Zone was created and meters were installed. Borrowing against future meter revenues, the City was able to fund substantial streetscape, parking, maintenance, beautification, and safety projects. These investments reversed the decline in the district and an increase in sales tax revenue has created a cycle of reinvestment, making Old Pasadena a popular destination. Today, the district is managed by the Old Pasadena Management District (OPMD), a non-profit management entity.

Redwood City, CA: Redwood City is perhaps the foremost example of a city that has implemented the concept of using demand-based pricing to manage on-street demand and maintain availability across the on-street inventory. It created an ordinance that grants its parking management director authority to adjust meter rates based on documented utilization patterns and an explicit availability target of 15%. In addition, Redwood City took the parking meter revenue gained from this pricing strategy to build a new public parking facility and finance other district improvements.

Proposed PBD Boundaries

All commercial streets with meters and public parking lots from Adams Street to A Street.

Projected PBD Revenue

As shown in Figure 2-2, parking revenue in Balboa Village in FY 2010-11 was approximately $1.5 million. However, roughly 87% of this revenue went into the Tidelands trust fund, with the remaining $192,415 going to the City's General Fund. Given the City's ongoing obligation to the Tidelands fund, it is expected that the majority of revenue generated in Balboa Village will not be available for use by the PBD. Nevertheless, it is reasonable to expect that annual parking revenue for a Balboa Village PBD would be between $150,000 to $200,000.

"Your Meter Money Makes a Difference" - Old Pasadena, CA

Source: Flickr user mlinksva

RECOMMENDATION #3: ESTABLISH A RESIDENTIAL PARKING PERMIT PROGRAM.

Description

A residential permit program (RPP) operates by exempting permitted vehicles from the parking restrictions and time limits for non-metered, on-street parking spaces within a geographic area.

A conventional RPP is one that allows those without a permit to park for generally two to four hours during a specified time frame, such as 8 AM to 6 PM, Monday to Friday. Permit holders are exempt from these regulations and able to essentially store their vehicle on-street. Ownership of a permit, however, does not guarantee the availability of a parking space.

The proposed parameters for a RPP in Balboa Village have been informed by feedback from key stakeholders, particularly the Balboa Village CAP.

Why Implement It?

The primary goal of an RPP is to manage parking "spillover" into residential neighborhoods. RPPs work best in neighborhoods that are impacted by high parking demand from other uses, such as:

- Large employers
- Universities, colleges, neighborhood schools, or hospitals
- Transit stations
- Popular commercial, retail, entertainment, tourist, or recreational destinations

By managing spillover, RPPs can ensure that residential neighborhoods are not overwhelmed by commuters, employees, or visitors, thereby enabling local residents to park their vehicles on-street. RPPs are especially important in neighborhoods where residents have limited off-street parking.

Tradeoffs to Consider

- Potential additional administrative, management, and enforcement costs for the City if the program is not priced appropriately
- Permits do not guarantee parking availability for residents, which may become a problem if too many permits are made available and sold
- Negotiation process with the Coastal Commission over the program parameters and guidelines may be time consuming and resource intensive

How Will It Work?

Outlined below are the recommended program parameters for a potential RPP specific to the Balboa area.

RPP District Boundaries

Parking restrictions would apply to all residential streets between 7th Street and Adams Street. The metered spaces in the median on West Balboa Boulevard would remain metered and RPP permits would not be valid at these spaces.

There is potential that the RPP could create additional spillover into areas just outside of the boundaries of the proposed district. Boundaries may need to be adjusted in the future to respond

to changes in demand. In general, however, it is believed that the proposed district will largely capture the parking demand for the area and spillover will be limited.

Program Eligibility

All residences within the proposed zone and Bay Island are eligible to purchase permits. Rental home owners may purchase permits for use by tenants.

To purchase a permit the following is required:

- Completed application form and payment
- Proof of residence is required (no P.O. boxes), which can include one of the following: Pre-printed check; Driver's license; Current utility bill; Vehicle registration; or Current rental/lease agreement
- Permits can be purchased online, by mail, or in-person at City Hall

Hours of Operation

No Parking: 4 PM – 9 AM, 7 days, excluding holidays. Permit holders exempt. In addition, RPP permits would not be allowed for use in existing "green" short-term parking spaces during the hours of operation of abutting land uses.

Number of Permits

A maximum of four permits per household. The issue of guest permits is still being studied. Moving forward, any guest permit option should limit the number of guest permits per household, price the permits accordingly, limit the permit's time length (i.e. applies during the same overnight period as the standard RPP permit) and clearly distinguish the guest permit to ensure that they are not utilized as standard permits. Guest permits should also be eligible for purchase on-line.

Legal Standing for RPPs

The California Vehicle Code (CVC) authorizes local jurisdictions to limit or prohibit parking on local streets and roads. The CVC also allows the creation of a preferential parking program for residents and merchants to exempt them from such regulations (CVC Section 22507).[10] Section 22507 states:

(a) The ordinance or resolution may include a designation of certain streets upon which preferential parking privileges are given to residents and merchants adjacent to the streets for their use and the use of their guests, under which the residents and merchants may be issued a permit or permits that exempt them from the prohibition or restriction of the ordinance or resolution. With the exception of alleys, the ordinance or resolution shall not apply until signs or markings giving adequate notice thereof have been placed. A local ordinance or resolution adopted pursuant to this section may contain provisions that are reasonable and necessary to ensure the effectiveness of a preferential parking program.

Section 22507.2 also states that "The local authority may charge a nonrefundable fee to defray the costs of issuing and administering the permits."

Permit Type

Permits shall be a "hangtag" designed to be hung from a vehicle's rearview mirror. Permits will be a solid color (to change annually) and clearly indicate the year of permit issued.

If included as part of the RPP, it is recommended that guest permits also be a hangtag with the date of use and license plate of guest vehicle clearly indicated and visible.

[10] For more information, see the CVC at http://www.dmv.ca.gov/pubs/vctop/vc/tocd11c9.htm or Appendix B.

Permit Costs

Per the California Vehicle Code, jurisdictions are allowed to price permits to cover their administrative costs. Given the high demand for parking and limited supply of on-street spaces in Balboa Village, it is recommended that permits be priced at an escalating rate to encourage residents to make full use of their garages and purchase only the number of permits they actually need. Initial prices for the RPP are proposed below, which are comparative to RPPs in similar jurisdictions. The City may need to adjust (up or down) the pricing structure in future years to respond to evolving demand for permits.

- Permits are valid from January 1st to December 31st
- 1st permit: $20 per year
- 2nd permit: $20 per year
- 3rd permit: $60 per year
- 4th permit: $100 per year
- Lost or replacement permit: $100 without proration
- Guest permits: To be determined

Revenue projection

Figure 5-1 below provides the projected revenue for the proposed residential permit program at a given number of permits purchased. The revenue projections were determined using U.S. Census data for the number of households within the proposed permit zone (890 households) and the average number of vehicles per household in Newport Beach (1.9 vehicles per household).[11] The projections also include an estimate of revenue from replacement permits[12] and citation revenue[13].

Given the average number of vehicles per household in Newport Beach it is reasonable to assume that the average household will purchase between two and three permits, likely closer to two permits. As a result, a rough estimate is that the permit program would generate slightly more than $106,000 in revenue per year. This revenue would be utilized to pay for administrative, management, and enforcement of the program.

[11] The projections assume that 5% of the 890 households within the study area will not purchase any permits, resulting in 846 households purchasing at least one permit.

[12] Assumes the following: 2% of permits issued each year will be lost and repurchased at $100 each.

[13] Assumes the following: 1) Approximately 664 non-metered, on-street spaces in proposed district; 2) .05% of parking spaces will be issued a citation per day (about 3 citations per day in the district); 3) Regulations are enforced 350 days per year; and 4) All citations are paid on time at $58 per citation.

Figure 5-1 Projected Range of Revenue for Permit Program

Permit #	Max # of permits	Permit Price	Revenue	0.05% Citations Annually	Revenue	2% Lost Permits Annually	Revenue	Total Annual Revenue
1	846	$20	$17,800	1162	$67,423	17	$1,691	$86,914
2	1691	$20	$35,600	1162	$67,423	34	$3,382	$106,405
3	2537	$60	$89,000	1162	$67,423	51	$5,073	$161,496
4	3382	$100	$178,000	1162	$67,423	68	$6,764	$252,187

It is important to note that the revenue projections provided here are initial estimates. The City is still evaluating its potential administrative costs for the RPP program. Once implemented, the finances of the RPP could be substantially different. Once again, per what the law allows, and reflective of RPP best practices, the City may wish to price permits to cover the full costs of program administration.

Enforcement

RPP restrictions would be primarily enforced by the City of Newport Beach Police Department, with parking control officers supporting enforcement activities.

Compliance with California Coastal Commission

As discussed in Chapter 4, the Coastal Commission will need to approve any RPP proposed by the City of Newport Beach for the 7th to Adams District. The Commission has reviewed a number of RPP applications from other coastal jurisdictions in recent years and has consistently identified a number of key issues which must be addressed by the RPP in order to secure final approval. With those issues in mind, it is recommended that the City of Newport Beach permit application for the RPP emphasize the following program elements.

- **The permit program is just one piece of a larger "package" of parking reforms designed to strike a regulatory balance that makes it easier for both residents and visitors to park in the 7th to Adams District**. The Coastal Commission is primarily concerned with ensuring public access to coastal resources and preventing "exclusive" access by permit holders. To address this concern, the City should emphasize that the proposed RPP will complement the other recommendations included in this study, all of which are designed to improve overall parking management. These include:
    a. Demand-based pricing to improve availability of both on- and off-street parking facilities.
    b. The creation of a formal shared parking district, in which as many private off-street spaces as possible would be made public, thereby creating additional supply.
    c. A real-time wayfinding program directing visitors to immediately available public parking.
    d. Potential implementation of a valet parking program and/or shuttle services to remote lots during peak periods as a means to increase parking supply and efficiency.

e. The establishment of a PBD and the use of parking revenue to fund transit, bicycle, and pedestrian infrastructure.

- **The hours of operation for the RPP are designed to conflict as little as possible with beach visitors.** The proposed 4 PM – 9 AM hours of operation are designed to allow residents easy access to parking when they return home from work, while giving visitors the opportunity to park on-street for the period of the day associated with peak visitor demand. In addition, the proposed RPP would not be in effect on holidays, typically the busiest periods of demand.
- **There is a large amount of available public parking nearby.** The Walker study demonstrates that there are close to 1,200 off-street parking spaces from Coronado Street to B Street, all of which are within a 5-10 minute walk from the primary beach and commercial area in Balboa Village. Furthermore, the occupancy data from the Walker study shows that during the hours of operation of the proposed RPP these off-street spaces are 51% occupied on Thursday (7 PM) and 82% occupied on Saturday (7 PM). As a result, there should still be ample available off-street parking for visitors.

  It is also important to note that the Walker parking study took place at one of the busiest times of the year, and it is likely that parking occupancies in the various parking lots will be far lower for the vast majority of the year.
- **Residents within the proposed RPP district rely on on-street parking for their vehicles.** Many of the residences within the district do not have off-street parking or represent non-conforming uses (i.e. single car garages or garages too small), which forces residents to primarily use on-street parking for storage of their vehicles.
- **The City will monitor the program and make program revisions as needed.** As described in Recommendation #9, the City should establish an ongoing monitoring and evaluation program for parking in Balboa Village. This effort would be used to revise the RPP to ensure that it effectively serves both residents and visitors.

RECOMMENDATION #4: ESTABLISH AN EMPLOYEE PARKING PERMIT PROGRAM FOR BALBOA VILLAGE.

Description

An employee parking permit program offers employers or employees the option to purchase a permit that provides priority parking in a designated area. Designated parking areas for employees can be located at on-street curb spaces or in off-street facilities, with employees eligible to park in those spaces during a specific time period. Ownership of a permit, however, does not guarantee the availability of a parking space.

Employee permit programs are often established adjacent to major job centers or near commercial, retail, and entertainment districts.

Why Implement It?

Employee parking permit programs offer a number of key benefits to local businesses and employees, while helping to ensure that an area's parking supply is efficiently managed. These benefits include:

- Permits provide a consistent parking option for employees, reducing the need for an employee to "hunt" for a parking space or move their vehicle to avoid parking restrictions.
- Experience with other cities has shown that most employees will choose to pay for a permit that offers a reliable parking option over searching for free on-street parking and having to move their vehicle throughout the day.
- A convenient parking option makes it easier for employers to attract and retain employees.
- When employees park in popular on- or off-street spaces those spaces are no longer available for customers and visitors. Employee permits encourage participants to park in select areas while enhancing customer parking turnover at prime locations.

Tradeoffs to Consider

- Additional cost for employers that wish to provide them to their employees
- For those employers that cannot afford to subsidize parking for their employees, costs for permits would fall to employees[14]
- The proposed program would have more limited benefit to employees who only work at night or on the weekends
- While the Coastal Commission has largely focused on the creation of residential permit programs, it is possible that they may have similar issues with an employee permit program. The City should begin conversations with the Coastal Commission to determine if any regulatory issues need to be addressed.

[14] However, based on the proposed costs and given that there are an estimated 250 workdays per year, the cost to park per day would be approximately $.20 per day.

How Will It Work?

Eligibility

A future employee parking permit program would be available to all employers and employees within Balboa Village.

Designated Employee Parking Zone

During non-peak periods, approximately 100 spaces in the north western portion of the Balboa Village Municipal Beach parking lot. During summer weekends, the number of spaces available to employees should be reduced to 50 to ensure adequate parking for beach visitors.

Hours of Operation

Employee permit parking only: 6 AM – 10 AM, everyday. Employees with permits arriving between these hours would be entitled to park all day.

Examples from Other Cities

West Hollywood: $105 or $120 per quarter, depending on zone

Santa Cruz: $60 per quarter

Mill Valley: $60 per year

Danville: $25 or $50 per year, depending on zone

Eugene, OR: $20-57 per month, depending on location; 50% discount for rideshare and free for carpools

The proposed permit hours are limited to mornings largely to ensure that there is adequate beach parking during periods of peak demand. Given the demand patterns for beach parking, it is anticipated that there will be readily available off-street parking for employees in the evening and nighttime hours.

Number of Permits Issued

One permit per employee, requiring proof of employment, photo ID, and vehicle registration information.

Permit Cost

- $50 per year, no proration
- Permits renewed annually
- Permits may be purchased online or in-person

Permit Revenue

Revenue from an employee permit program would be used to cover cost of program administration.

Enforcement

The employee permit program would be primarily enforced by the City of Newport Beach Police Department, with parking control officers supporting enforcement activities.

RECOMMENDATION #5: IN THE SHORT-TERM, ELIMINATE MINIMUM PARKING REQUIREMENTS, REMOVE THE EXISTING PARKING IN-LIEU FEE OBLIGATION, AND DO NOT IMPLEMENT ANY ADDITIONAL IMPACT FEES. DEPENDING ON THE LEVEL OF DEVELOPMENT IN THE LONG-TERM, EVALUATE IMPLEMENTATION OF A "PARKING AND MULTIMODAL" IMPACT FEE.

Description

Minimum Parking Requirements

Title 20, Part 3 of the Newport Beach Municipal Code describes the site planning and development standards for each land use type, including a chapter dedicated to off-street parking and loading standards. Of particular importance are the off-street parking requirements and the minimum number of parking spaces that each land use must provide. For non-residential uses, minimum parking requirements are predominantly based on building square footage (e.g. four spaces per 1,000 gross square feet). Many of these existing parking requirements, however, do not necessarily support the existing character of Balboa Village or future plans to enhance the safety, accessibility, and walkability of this community. One potential solution is to eliminate minimum parking requirements for all non-residential land uses in Balboa Village.

Impact Fees

Local governments have been collecting impact fees for decades, with the power to exact impact fees arising from the city's police power to protect public health, safety, and welfare. Fees fund a variety of public facilities and services, including parks, schools, public art, and libraries.

In recent years, many communities throughout California are increasingly relying on transportation-specific impact fees to ensure that the costs of transportation infrastructure and services necessary to support new development are not borne disproportionately by existing residents, businesses, and/or property-owners.

Impact fees directly related to transportation are typically calculated on the projected number of PM peak-hour vehicle trips that a new development would generate and implemented as a dollar amount per square foot (non-residential) or per dwelling unit (residential).

Parking In-lieu Fees

A voluntary in-lieu parking fee program allows proposed projects or uses to pay a designated fee rather than provide an on-site parking space. The City of Newport Beach has had a parking in-lieu fee for commercial uses since 1972. The fee was initially set at $250 per space per year, but was subsequently reduced to $150 per space per year. In response to concerns about the in-lieu fee program and its ability to fund new parking facilities, the City Council imposed a moratorium on the use of parking in-lieu fees and no new uses have been allowed to take advantage of the program since 1989. Those uses previously in the in-lieu parking program have continued to pay the fee on an annual basis. Revenue is approximately $69,000 per year and it goes into the City's General Fund. Within Balboa Village there are nine locations that participate in the existing in-lieu fee program, where a total of 93 spaces generate $13,950 in annual revenue for the City.

Why Implement It?

Minimum Parking Requirements

Cities have been using minimum parking requirements for decades as a means to account for a given land use's parking demand to ensure that an adequate parking supply is available. Minimum parking requirements, however, have emerged as one of the biggest obstacles to many cities' efforts to encourage new residential and commercial development in downtown areas, and ultimately undermine many cities' efforts to create attractive, vibrant, and walkable communities. More specifically, minimum parking requirements have been shown to:

- Create an "oversupply" of parking in almost all communities in all but the highest periods of parking demand
- Devalue the true "costs" of parking to drivers, thereby creating an incentive to drive, which results in more local congestion and vehicle emissions
- Require tremendous amounts of land, thereby degrading the physical environment and impacting a community's urban form, design, and aesthetics
- Limit the ability to do urban "infill" projects or adaptively reuse historic structures
- Make projects more expensive and reduce overall profitability

Therefore, the ultimate goal of eliminating minimum parking requirements is to remove barriers to new development and renovation of existing buildings, while create a healthy market for parking where parking spaces are bought, sold, rented and leased like any normal commodity.

Impact Fees

Development impact fees are a widely used, well-accepted practice in California. They offer an efficient way to pay for new infrastructure, can help sustain job growth in local economies, and contribute to economic prosperity. Above all, impact fees are one of the most efficient and effective ways to create a link between new development and the impacts it will have on the community.

Furthermore, transportation impact fees offer cities a revenue stream that can be used to fund a variety of transportation improvements which can help to mitigate or "offset" transportation impacts. By law, these fees cannot simply go to a city's general fund, but must be specifically allocated to transportation projects. California cities have used revenue from impact fees to finance:

- Roadway and intersection improvements
- New or enhanced transit services
- Additional parking or parking management programs
- New bicycle and pedestrian infrastructure
- Transportation demand management (TDM) programs

It is important to note that the City of Newport Beach has already adopted a Fair Share Traffic Contribution Ordinance (see Chapter 15.38 of the Municipal Code). This ordinance was adopted as a means to more fully mitigate traffic impacts from new development in Newport Beach and is based upon the unfunded cost to implement the Master Plan of Streets and Highways. The ordinance sets forth procedures for calculating the fair-share amounts for residential projects, hotel/motels, and office/retail/commercial uses based on trip generation rates and size of the development. The use of the funds generated is narrowly defined, as revenue can only be used for the purposes of planning, designing, and constructing roadway projects.

How Will It Work?

Short-term Recommendation: Eliminate minimum parking requirements for all non-residential uses. Do not implement an additional impact fee at this time. Eliminate existing obligation to the current parking in-lieu fee program.

Chapter 20.40.040 of the Newport Beach Municipal Code provides minimum parking requirements for dozens of residential and non-residential land uses types. For example, in Newport Beach, retail uses require four spaces per 1,000 gross square feet (GSF), office uses require five spaces per 1,000 GSF, and food services require 20 spaces per 1,000 GSF.

As part of this short-term recommendation, all non-residential land uses would no longer be subject to any minimum parking requirements within Balboa Village, while residential uses would still be required to meet the parking standards set forth in Chapter 20.40.040.

Off-street parking could still be built, but it would be determined by a developer's own analysis of what is financially feasible for their project and what they believe the "market" would support. Given market demand, it is very possible that a developer in Balboa Village will build a project with on-site parking. Any parking built would still be subject to the parking design standards outlined in Chapter 20.40 and subject to City approval. However, as described further in Recommendation #6, it is also recommended that any newly constructed parking be made publicly available.

Furthermore, under this option no additional transportation impact fee for Balboa Village would be implemented and, without minimum parking requirements, a parking in-lieu fee is unnecessary. It is also recommended that the nine properties within Balboa Village that currently pay into the existing in-lieu fee be freed from this obligation moving forward. Removal of the in-lieu fee payments for these nine properties would result in a loss of $13,950 in annual revenue.

Successful Examples

Numerous cities throughout the country have partially (in particular neighborhoods and districts) or entirely eliminated minimum parking requirements. These include:

Boulder, CO: Within Boulder's downtown special district – the Central Area General Improvement District (CAGID) – the City has eliminated minimum parking requirements for non-residential uses. Developers are allowed to build as much or as little parking as they choose, subject to design standards in the zoning code, and to manage it as they see fit. If they choose to build little or no parking on-site, they can purchase permits for public lots and garages for resale to their employees.

Petaluma, CA: In 2003, Petaluma adopted the Central Petaluma Specific Plan, which reduced parking minimums, but also included a sunset clause – the specific date on which the required parking minimums would expire. According to Code section 6.10.070, "Effective January 1, 2008, there shall be no minimum parking requirements for any use."

Portland, OR: For Portland's primary mixed-use district (Mixed Commercial/Residential), there are no parking minimums. There are also no parking minimums for a number of other land use categories, such as Central Residential districts.

Tradeoffs to Consider

By eliminating minimum parking requirements, the City of Newport Beach can:

- Facilitate a "free market" for parking that is more realistically determined by actual parking demand, as opposed to arbitrary parking standards
- Reduce development costs and provide additional flexibility to developers, especially on smaller lots or with historic structures

- Help to ensure that existing parking supply is efficiently utilized before building additional parking supply
- It is important to note that the creation of a Commercial Parking Benefit District (Recommendation #2) would enable the City to potentially fund many of the same projects and programs as an impact fee.

Potential drawbacks include:

- Eliminating requirements could result in potential spillover problems if other recommendations are not implemented, depending on the amount and type of development in Balboa Village in future years.

Long-term Recommendation: Depending on the level of development in Balboa Village, evaluate implementation of a "Parking and Multimodal" impact fee.

In addition to eliminating minimum parking requirements as described in the first option, this option would include the potential implementation of a "Parking and Multimodal" impact fee. Such a fee would be applied to: 1) all new non-residential development within Balboa Village; and 2) any change of use resulting in a more intensive land use, subject to the discretion of City staff. Implementation of such a fee would depend largely on the amount of development that occurs in future years in Balboa Village. Currently, the amount of projected development in Balboa Village does not justify such a fee. If development increases, however, such a fee would be used to adequately mitigate the impacts of such development on the transportation system.

The proposed fee would be a per square foot fee based on land use type. Funds generated by the fee would be placed into a "Mobility Fund" and may be used to finance the planning, design, construction, and implementation of needed transportation related facilities, improvements, and programs. More specifically, unlike the existing traffic fee in Newport Beach, this fee would allow for a wide range of potential expenditures, and would permit the City to fund demand management programs, as well as improvements to parking, bicycle, pedestrian, and transit facilities.

It is important to note that the California Mitigation Fee Act[15] requires cities to make certain findings and conduct a "nexus" study in order to establish an impact fee. These findings must:

- Identify the purpose of the fee
- Identify the use to which the fee is to be put and the facilities (if any) to be financed
- Determine how there is a reasonable relationship (nexus) between the fee's use and the type of development project on which the fee is imposed
- Determine how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed

The required nexus study is typically the venue by which the exact fee amount is determined. The methodology for determining the impact fee can vary from city to city, but generally involves a growth projection based on various land use scenarios, a synthesis of costs for potential capital projects and transportation programs to be funded by the fee, a traffic analysis to determine peak-hour vehicle trips and trip generation rates, and a final determination of fees by land use.

Until such a nexus study is conducted, it is difficult to determine the level of the new transportation impact fee. However, Figure 5-2 provides a summary of impact fees in California, and can provide an initial guide for what a fee might look like in Balboa Village.

[15] Government Code Section 66000 et seq.

Figure 5-2 Summary of New Development Impact Fees, Selected CA Cities[16]

Land Use	Average	Median	Min	Max
Retail (per sq. ft.)	$10.35	$8.80	$0.39	$46.68
Office (per sq. ft.)	$6.48	$4.54	$0.15	$22.19
Industrial (per sq. ft.)	$3.59	$2.76	$0.10	$12.61
Single-family (per unit)	$6,197	$4,612	$105	$26,014
Multi-family (per unit)	$4,059	$2,934	$63	$16,934

Tradeoffs to Consider

By instituting an impact fee, the City of Newport Beach can:

- Provide a valuable revenue source to mitigate potential transportation impacts in Balboa Village by financing not just roadway improvements, but also new or upgraded transit services, parking management measures, bicycle/pedestrian infrastructure, and other TDM programs.

Potential drawbacks include:

- This fee would fall under the purview of the California Mitigation Fee Act and would require an additional nexus study, which can be time and resource intensive.
- The development community will likely resist an additional impact fee, as it would increase development costs.
- Given the size of the proposed district and the projected development scenarios, revenue from such a fee would likely be limited.
- The City of Newport Beach currently has a traffic fee. The City would need to further evaluate the relationship of that fee to a separate fee in Balboa Village, especially in regards to any potential legal issues of two fees.

[16] The primary source of this information is the 2009 National Impact Fee study done by Duncan Associates, www.impactfees.com/publications%20pdf/2009_survey.pdf

RECOMMENDATION #6: FORMALLY ESTABLISH BALBOA VILLAGE AS A SHARED PARKING DISTRICT.

Description

Shared parking is one of the most effective tools in parking management. Because many different land uses (a bank and a bar or restaurant, for example) have different periods of parking demand, they can easily share a common parking facility, thereby limiting the need to provide additional parking.

Shared parking policies do not treat the parking supply as individual units specific to particular businesses or uses, but rather emphasize the efficient use of the parking supply by including as many spaces as possible in a common pool of shared, publicly available spaces.

It is important to note that Chapter 20.40.110 of the City of Newport Beach Municipal Code includes strict provisions for joint use or shared parking. Furthermore, shared parking, to a certain extent, does exist in Balboa Village, as much of the existing parking supply is publicly available. However, there are close to 200 off-street spaces that are specifically dedicated to tenant or customer parking within the study area. This recommendation seeks to formalize a flexible shared parking policy that, to the greatest extent feasible, ensures that existing parking supply is made public. Furthermore, this recommendation is also specifically aimed at any future development in Balboa Village and guaranteeing that future parking supply is publicly available.

Why Implement It?

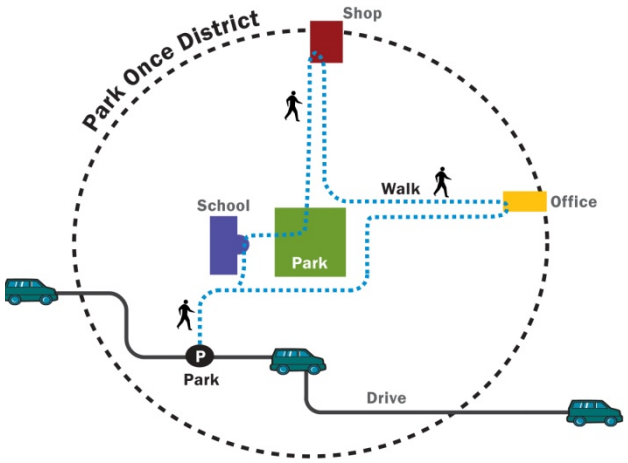
The typical suburban pattern of isolated, single use buildings, each surrounded by parking lots, requires two vehicular movements and a parking space to be dedicated for each visit to a shop, office, or civic institution. Similarly, to accomplish three errands in this type of environment requires six movements in three parking spaces for three tasks.

By contrast, shared parking policies facilitate "park once" districts, in which motorists can park just once and complete multiple daily tasks on foot before returning to their vehicle.

Overall, the benefits of fully implementing a "park once" strategy include:

- Reduces vehicle trips and required parking spaces because existing spaces (approximately 198 spaces or 15% of supply in Balboa Village) can be efficiently shared between uses with differing peak hours, peak days, and peak seasons of parking demand
- Creates a more welcoming environment for customers and visitors because they do not have to worry about getting towed for parking at one business while visiting another

Figure 5-3 Park-Once District



Based on an original illustration by Walter Kulash.

- Allows for fewer, but more strategically placed lots and structures, resulting in better urban design and greater redevelopment opportunities
- By transforming motorists into pedestrians, who walk instead of drive to different destinations, shared parking can immediately activate public life on the streets and generate additional patrons of street-friendly retail businesses.

Potential Tradeoffs

- Resistance from private property owners or local businesses that have their "own" parking
- Limited initial impact for increasing parking availability, as much of the existing supply is already public available

How Will It Work?

Outlined below are specific policy recommendations designed to facilitate shared parking and the creation of a "park once" district in Balboa Village. Some of these provisions would need to be reconciled with Chapter 20.40.110 of the existing zoning code.

- Maximize use of the existing parking supply by improving wayfinding and parking information
- Work with existing property owners and businesses to ensure that private parking is made available to the public when not needed for its primary commercial use
- Work with property owners and businesses to develop mutually-agreeable operating and liability arrangements
- Require as a condition of approval that all newly constructed private parking in any non-residential Balboa Village development or adaptive reuse project be made available to the public[17]
- Allow parking to be shared among different uses within a single mixed-use building by right
- If new public parking supply is needed, first purchase or lease existing private parking lots or structures from willing sellers, and add this parking to the shared public supply before building expensive, new lots/garages. Costs for purchase and leasing of spaces can vary dramatically, but would likely be in the range of $50-500 per month per space.

Successful Examples of Shared Parking

Santa Monica: Santa Monica recently updated the Land Use and Circulation Element (LUCE) of its General Plan, which articulates several specific goals related to shared parking in its Downtown core. These include:

- Goal D11: Address parking needs comprehensively, identifying shared parking opportunities.
- Policy D11.4: Pursue opportunities for shared use agreements with private parking facilities.

These policies seek to reinforce and support an existing shared parking district in Downtown Santa Monica. Within the Downtown District, there are more than ten public parking garages that serve as the parking supply for the vast majority of the retail and commercial businesses along the popular Third Street Promenade and surrounding retail streets. As a result of its shared parking pool, many new businesses or infill projects have been able to limit their parking obligations.

Downtown Ventura: Shared on-site parking between land uses with different periods of peak parking demand is allowed for all uses. Shared on-site parking is allowed to satisfy 100 percent of the minimum parking requirement for each use.

[17] The City may wish to further evaluate certain non-residential uses (i.e. hotel) and potentially allow for limited exemptions to this provision.

RECOMMENDATION #7: DEVELOP A COORDINATED WAYFINDING PROGRAM FOR BALBOA VILLAGE.

Description

Wayfinding signage helps orient visitors, shoppers, and residents alike, pointing them to area parking facilities, retail establishments, pedestrian and bicycle access routes, and other important destinations. A wayfinding program can be tailored to specific groups depending on contextual factors and desired outcomes; however, these tools are most relevant and important for those unfamiliar with an area. Wayfinding informs people of the best way to access an area, depending on their mode of travel. Parking wayfinding signs can also display real-time availability data, pointing motorists to facilities with available spaces.

Why Implement It?

Wayfinding strategies seek to efficiently coordinate movement within a neighborhood, pointing users of all modes of travel to the best access routes for their destination. It represents an important part of a comprehensive circulation and parking management strategy, improving the customer-friendliness of a neighborhood or district.

Parking signs can direct motorists to underutilized off-street facilities, freeing up the most convenient "front-door" curbside spaces, and maximizing the efficiency of a parking system. Improved wayfinding in the form of new signs helps maximize the use of off-street parking facilities, representing another way to help eliminate traffic caused by cars "cruising" for on-street parking. Wayfinding helps dispel perceived (but not actual) shortages in parking.

Signs for pedestrians and bicyclists can direct those on foot or on bike to the safest bicycle and pedestrian routes, as well as the location of bicycle parking spaces, showers, changing facilities, and other bicycle and pedestrian amenities. Such signs improve conditions for alternative modes, supporting various Transportation Demand Management (TDM) objectives, reducing vehicle trips to a specific area, and reducing the need for vehicle parking.

Tradeoffs to Consider

- Implementation and operations costs, including design and installation. For example, real-time parking availability systems and signage can cost $25,000 to $50,000 per unit, plus $500 in annual operating costs per unit.
- New wayfinding signs would need to replace those recently installed by the City that some stakeholders have found inadequate.

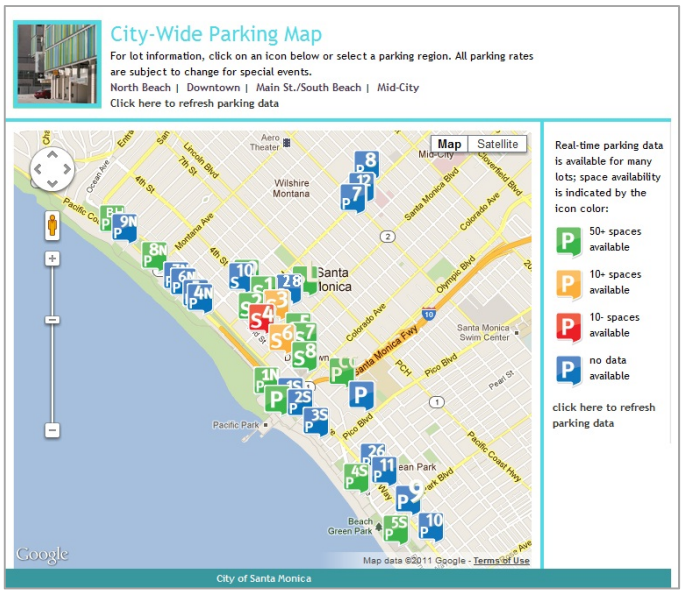
How Will It Work?

Wayfinding is most effective when it is consistent; all signage should be produced in a similar style, and organized by type (parking, bicycle/pedestrian, retail). Regardless of the particular signage installation utilized, good design that is consistent with and supports the character of the neighborhood is critical for all signage elements.

Real-time availability technology already exists in public and private parking lots and garages nationwide. Such a system is easy and relatively inexpensive to install, and also allows for the display of availability data on city or independent websites. Motorists should be encouraged to check availability online before traveling to Balboa Village, but real-time availability displays will direct vehicles to those off-street lots with the most availability. Pricing information can also easily be displayed on parking wayfinding signage.

Mission-
Bartlett
Garage
SFpark

DOWNTOWN PARKING
119 Convention Center
340 4th / San Fernando
SPACES OPEN


City-Wide Parking Map
For lot information, click on an icon below or select a parking region. All parking rates are subject to change for special events.
North Beach | Downtown | Main St./South Beach | Mid-City
Click here to refresh parking data
Map
Satellite
Real-time parking data is available for many lots; space availability is indicated by the icon color:
50+ spaces available
10+ spaces available
10- spaces available
no data available
click here to refresh parking data
Google
Map data ©2011 Google - Terms of Use
City of Santa Monica

Priority Locations

A wayfinding system in Balboa Village would be most effective if signs were located at the traditional entrances to the area, near major garages and attractions, and along major arterials. For example, signage pointing motorists to off-street parking lots with real-time availability data should be installed along Balboa Boulevard towards the entrance to Balboa Village, as well as near the Balboa Island Ferry for those motorists coming from Balboa Island. Additional signs should be installed at each large off-street facility, including the beach lot, the Newport Landing lot, and the public lots along Balboa Boulevard at Palm Street.

Bicycle and pedestrian wayfinding should be prioritized along and near the Newport Balboa Bike Trail, as well as the commercial blocks of Balboa Boulevard and Main Street. In partnership with local businesses, retail establishments could also be listed on wayfinding signs and materials, encouraging visitors to frequent Balboa Village businesses.

Successful Examples

SFpark, San Francisco: The SFpark Program is a coordinated citywide parking management and wayfinding program to direct motorists in San Francisco to both on-street and off-street facilities with available spaces. Various wayfinding signs throughout the city's pilot areas direct motorists to parking facilities, and contain real-time availability information. The program has a significant online presence as well, enabling motorists to find garages and blocks with available spaces before circling multiple blocks in search of parking. The site and smart phone application also reports the most recent pricing information, as rates are adjusted based upon demand.

Santa Monica: The City of Santa Monica created an integrated wayfinding and real-time data program for its downtown district. Wayfinding signage was installed throughout the downtown, directing visitors and residents to various amenities, and motorists to various parking garages. Each garage now has real-time availability posted both online and on signs throughout the downtown district. The program included a beautification effort which gave each off-street facility a distinct, attractive character, adding to neighborhood vitality.

RECOMMENDATION #8 IN COORDINATION WITH THE CITY'S BICYCLE SAFETY COMMITTEE, IDENTIFY AND IMPLEMENT TARGETED IMPROVEMENTS TO BICYCLE AND PEDESTRIAN FACILITIES IN BALBOA VILLAGE.

Description

Bicycle and pedestrian improvements include many different strategies that seek to encourage travel via non-motorized modes. Possible improvements include, but are not limited to, the following:

- Improving or installing sidewalks, crosswalks, paths, and bike lanes
- "Spot improvements" to remove specific roadway hazards
- Street furniture (benches) and other streetscape enhancements (lighting, street trees, etc.)
- Traffic calming measures such as bulbouts, raised intersections, or speed humps
- Bicycle parking facilities (corrals, lockers, covered, or rack) or programs (valet)
- Shower and changing facilities
- Bicycle sharing programs
- General programming including publicity campaigns, bike to school/bike to work programs, and educational/safety efforts

The City of Newport Beach Bicycle Safety Committee is currently in the process of developing a plan and set of strategies to improve bicycle safety and conditions in Balboa Village. This recommendation should be implemented in collaboration with, or as part of, that planning process.

Why Implement It?

Increasing the rate of biking and walking to and in Balboa Village will increase the area's livability, decrease localized pollution, and alleviate pressure on existing on- and off-street parking facilities, particularly during peak summer months. Numerous studies suggest that bicycle and pedestrian friendly neighborhoods experience lower drive-alone rates, as well as higher rates of walking and biking. Furthermore, many communities have significant latent demand for non-motorized travel, meaning many people would walk or bike if the facilities existed to enable them to do so safely and conveniently.

Tradeoffs to Consider

- Implementation costs, including design and installation
- Depending on the improvement selected and its design, it is possible that some on- and off-street parking may be lost

How Will It Work?

The Newport Balboa Bike Trail is the main bicycle and pedestrian access point to Balboa Village. As such, most bicycle amenities should be concentrated along that route, and along connection points between the trail and other important destinations. Bicycle parking could be installed near the trail, specifically in the form of corrals in one or two parking spaces within the large public beach lot. Improvements could also be made along Palm Street to encourage non-motorized travel from the Balboa Island ferry to Balboa Village and the Newport Balboa Bike Trail. A few on-street parking spaces could also be converted to bicycle parking corrals.

Improvements to the pedestrian realm should seek to encourage pedestrian traffic along the Balboa Avenue and Main Street retail corridors, and connect off-street parking facilities to important destinations. Spot improvements could include additional mid-block pedestrian crossings along long blocks and bulb-outs at busy signalized Balboa Boulevard intersections.

Source: Flickr_La Citta Vita

Source: Flickr_Earthworm

RECOMMENDATION #9: ESTABLISH AN ONGOING DATA COLLECTION, MONITORING, AND EVALUATION PROCESS.

Description

In parking, you can only manage what you measure. Based on this maxim, this recommendation seeks to formalize the "measurement" process by proposing that the City implement an ongoing data collection and evaluation program for Balboa Village. More specifically, this Plan recommends that the City collect parking occupancy and turnover data for both on- and off-street parking facilities. This data is essential for evaluating whether the demand-based pricing policies recommended within this Plan are achieving their goals.

Why Implement It?

Demand-based pricing policies are based on the goal of meeting target occupancy levels to ensure that there are always an adequate number of parking spaces available, that "cruising" for a parking space is limited to greatest degree possible, and that parking demand is evenly distributed. As part of Recommendation #1, this Plan recommends an initial pricing structure to help the City achieve 85% and 90% target occupancy levels for on-street and off-street spaces, respectively.

As mentioned earlier, it is possible that these pricing levels will be higher or lower than needed and will have to be adjusted accordingly. Without adequate occupancy data, however, it will very difficult to determine whether the pricing and regulatory structures are having their desired effect. By developing a formal data collection process, the City will be able to better understand its parking supply and quickly make adjustments to its pricing and regulatory structure to respond to changes in parking demand. Furthermore, ongoing data collection can improve transparency in decision-making and public understanding of parking behavior.

Tradeoffs to Consider

- Requires additional City resources and staffing

How Will It Work?

Outlined below are the recommended parameters for an ongoing data collection and monitoring program for Balboa Village.

Data to be Collected

The City should collect occupancy data for on- and off-street parking facilities. In addition, parking turnover data should be collected for on-street spaces. Above all, consistency is the most important part of any data collection effort as it allows for easy longitudinal comparisons. The baseline data collected as part of this study should serve as a foundation for future data collection efforts.

How to Collect Data

There are a number of potential methods by which the City could collect the necessary data, including:

- Manual counts conducted by trained surveyors.

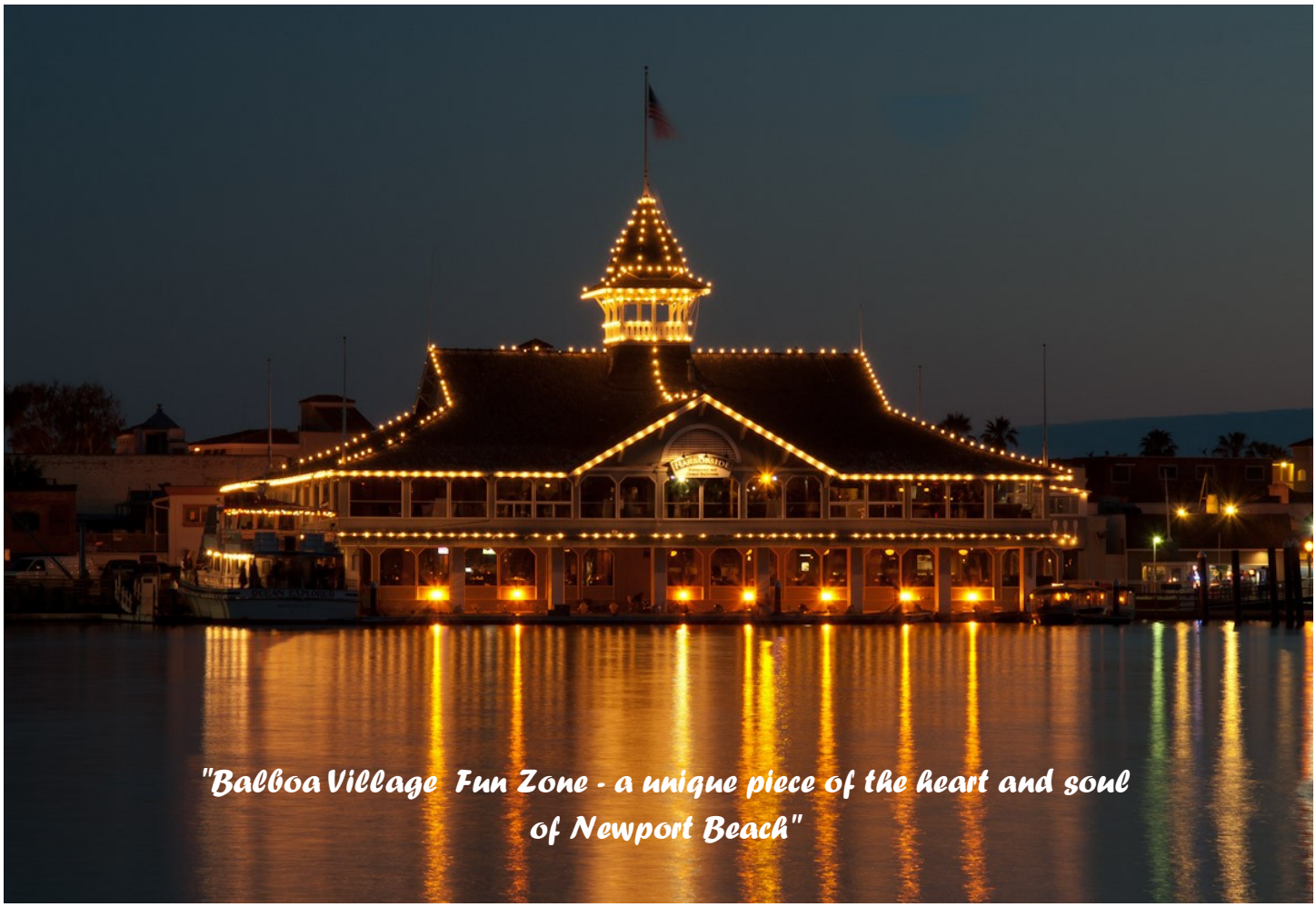
- Automatic data provided by parking meters. Automatic collection of such data would depend on the type of meter ultimately installed for both on- and off-street facilities.

Frequency of Data Collection

At a minimum, data should be collected and analyzed on an annual basis. For example, if manual counts are utilized, they should be done during the peak period of demand. It is recommended that both an hourly Thursday and Saturday count be conducted during a non-holiday week between Memorial Day and Labor Day.

If feasible, another count during the off-peak period should also be conducted to evaluate off-peak pricing and regulatory structures. Once again, consistency is most important and subsequent counts should take place at the same time each year.

Depending on the parking meters selected, however, it is also possible that occupancy data could be collected and analyzed much more frequently.



BALBOA VILLAGE IMPLEMENTATION PLAN

Exhibit 4
Implementation Matrix

May 2012

Balboa Village - Implementation Plan

Recommended Strategy	Year 1	Year 2	Year 3-5	Estimated Cost (1)	Ease of Implementation	Level of Effectiveness	Priority
Economic Development							
1. Develop and implement Commercial Facade Improvement Program. Develop program criteria and application; identify funding sources; obtain City Council approval; outreach to property owners; administer program	Define program parameters; obtain City Council approval & funding; begin Model Block marketing	Continue implementation	Continue Implementation	$150,000/year 3 buildings; if limit to painting/signage/canopies costs would be significantly lower	Easy to develop and implement provided funding is identified	Highly effective in creating immediate aesthetic improvements to the area	High
2. Develop and implement Targeted Tenant Attraction Program. Identify key tenants; develop incentive program tailored for those tenants; obtain City Council approval of program and funding; outreach to owners and brokers to secure tenants.		Define program parameters; obtain City Council approval & funding; begin implementation	Continue Implementation	TBD	Moderate based on financial resources required to create incentives. Difficult to identify and outreach to potential tenants	Highly effective in encouraging new tenants to the area	Low
3. Support new cultural facilities (ExplorOcean/Balboa Theater). Ongoing, regular communication with entities to identify needs and opportunities; offer assistance in completing planning development application(s).	Prioritize project review; identify additional assistance as needed	Continue support	Continue support	TBD	Easy to continue communications and offer support	Low effectiveness related to specific action	High
4. Develop special events initiative. In conjunction with Parks and Recreation Department, refine project scope and select consultant/promoter to prepare program and identify funding opportunities.	Contract with promoter to develop program and identify funding sources	Implement recommendations	Continue implementation	$15,000 for initial contract	Easy to explore special events for the area	Highly effective in bringing new visitors and residents to the area	High
5. Develop operating budget and implementation strategy for RV parking during non-peak season. Program to include public outreach and explore requirements from Coastal Commission.	Develop program; obtain Council approval; identify funding sources	Install utility improvements	Manage leasing	$800,000 initial cost	Difficult based on uncertainty related to acceptance by community and Coastal Commission	Highly effective in bringing new visitors and additional revenue to the area	High
6. Consider development of Palm Street parking lot for mixed-used project. As appropriate, obtain City Council approval to proceed with solicitation of a developer for the property.	Review ExplorOcean plans prior to determination to market site		Market site for development	None	Difficult due to entitlement process	Highly effective in creating a catalyst project for revitalization	Low
7. Allocate additional funding to Balboa Village BID. Develop marketing strategies with input from BID and visit Newport Beach; and monitor implementation.	Approve with annual renewal				Medium based on need to reallocate funding from other sources	Highly effective in bringing additional funding to the area which could be used for marketing and street	High
8. Modify boundaries of Balboa Village BID to delete area from Adams to Coronado Streets. Requires ordinance to be approved by City Council.	Approve with annual renewal			None	Easy to implement	Low effectiveness in creating revitalization of the area	Low

(1) Does not include staff costs

Balboa Village - Implementation Plan

Recommended Strategy	Year 1	Year 2	Year 3-5	Estimated Cost (1)	Ease of Implementation	Level of Effectiveness	Priority
Parking							
1. Remove time limits for all metered spaces; implement demand based pricing for all public parking. Determine appropriate pricing limits for Ordinance adoption by City Council required. Amendment of existing contract with CPS (meter enforcement) required. Ongoing monitoring required to ensure rates are appropriate.	CPS to implement once ordinance and contract amendment are completed			TBD if install wireless meters	Easy to implement once City Council direction provided	Highly effective in encouraging long term visitors to park in beach parking lot	High
2. Establish a commercial parking benefits district to create permanent, ongoing revenue source.	Establish legal means to create; determine Council policy on revenue source	Set aside revenues for eligible activities.		TBD	Moderate based on the need to reallocate funds	High - Additional funds could be used for revitalization projects	High
3. Establish a residential parking permit program. Program development will require public participation and adoption of an ordinance by City Council. Additional surveys may be required by Coastal Commission to justify need and verify the program would not impact Coastal access. A Coastal Development Permit will also be required.	Develop program, conduct public outreach, prepare Coastal Commission application, and conduct additional surveys if required by Coastal Commission	Implement program		TBD	Difficult based on potential concerns from affected residents and the need to obtain approval from the Coastal Commission	Highly effective in encouraging visitors to utilize available public parking lots, rather than impact residential streets	High
4. Establish employee parking permit program. Survey all businesses, develop program, program approval requires City Council approval of a Resolution.	Develop program	Implement upon City Council approval		None	Medium based on uncertainty of Coastal Commission	Moderately effective - Permits will encourage employees to park in	High
5. Develop coordinated wayfinding sign program. Retain designer, prepare sign program, obtain City Council approval of conceptual plan.	Incorporate with streetscape plan			$15-20,000 initial contract	Medium based on need to coordinate existing signs	Medium effectiveness - Signage directing visitors to parking areas already exists	Medium
6. Identify and implement targeted improvements to bicycle and pedestrian facilities. Retain designer, prepare plans for identified improvements, perform outreach to community, obtain City Council approval of plans, obtain CDP.	Identify in streetscape plan	Process entitlements	Implement as funds permit	TBD	Difficult because of the type of improvements which would encourage additional walking and biking has not been	Low - The area already provides opportunities for biking and walking	Low
Planning/Zoning							
1. Eliminate parking requirements for new commercial development and intensification of use applications. Incorporate within Local Coastal Plan.					Medium based on uncertainty of acceptance by the	Highly effective to encourage revitalization; provides flexibility for new	High

(1) Does not include staff costs

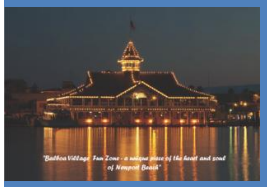
Balboa Village - Implementation Plan

Recommended Strategy	Year 1	Year 2	Year 3-5	Estimated Cost (1)	Ease of Implementation	Level of Effectiveness	Priority
2. Eliminate in-lieu parking fee permanently, including current payees. City Council adoption of ordinance is required. Should be implemented with other parking management strategies.	Action taken by City Council			Loss of $13,500/year if only Balboa Village	Easy to implement on the basis that the program is outdated and does not generate significant funding	Low - As a stand alone program elimination of the fee would have no affect on managing parking	High
3. Evaluate changes to determine impact on new investment in Balboa Village. Determine and measure applicable benchmarks prior to actions. Measure and compare benchmarks on a periodic basis.	Identify and measure appropriate benchmarks	Measure and compare benchmarks	Review program changes	None	Easy to implement. Significant benchmarks will be obvious, new uses, redevelopment, façade improvements	Low - Monitoring alone will not directly result in revitalization of the area	Low
4. Pursue adoption of Local Coastal Plan. Prepare draft Implementation Plan (IP), public outreach, Planning Commission review, City Council adoption of IP by Ordinance, Certification by Coastal Commission required, City Council considers and potentially adopts Coastal Commission suggested modifications (if any).		Draft LCP for public review	Adopted LCP by Council/Coastal	$150,000 for consultant services to prepare LCP	Difficult - Acquiring a certified LCP will be a challenging and lengthy process	Highly effective in shortening the entitlement process	High
5. Continue focused code enforcement efforts.	Ongoing	Ongoing	Ongoing		Medium	High	High
Public Streetscape							
1. Develop conceptual streetscape and public signage plan. Staff to evaluate areas for improvement prior to directing preparation of plans for signage or street scape improvements. Consider consistency with existing wayfinding program. Include Boardwalk in plan.	Hire architect to prepare plan	Implement plan as funds are available		$15-20,000 initial contract	Medium based on need to create plan	Highly effective in creating new aesthetic improvements to the area	High
2. Assume maintenance of boardwalk area. Gain acceptance from property owners. Maintenance would include steamcleaning sidewalk installation of new furniture upon completion of streetscape plan.	Begin regular cleaning	Ongoing	Ongoing	$15,000/year	Easy to implement	Highly effective in immediate improvement of the area	High
Administrative Recommendation							
1. Create a governance structure to ensure implementation plan recommendations are executed in a timely fashion	Determine governance structure and establish work plan.	Ongoing review	Ongoing review		Easy once policy direction provided	Highly effective to ensure progress	High

(1) Does not include staff costs

ADDITIONAL MATERIALS RECEIVED

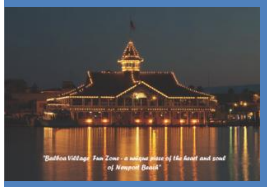
STAFF PRESENTATION



Balboa Village Implementation Plan

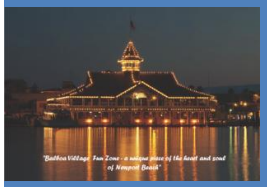
- City Council Revitalization Priority in 2011
- City Council Ad-Hoc Committee oversight

  Neighborhood Revitalization Committee (NRC)
- Citizen Advisory Panel (CAP) created by the NRC in June 2011 – 10 public meetings
- Purpose to identify a new vision and develop an implementation strategy to revitalize Balboa Village

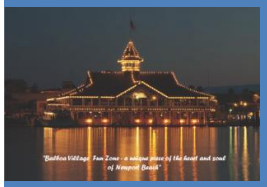


Key Issues/Opportunities

- Vision/branding
- Parking
- Planning & Zoning
- Appearance and Sense of Place

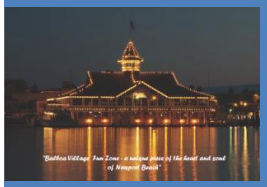


Balboa Village Revitalization Area



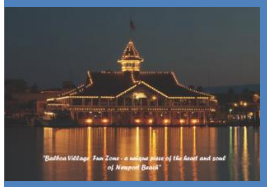
Market Analysis

- Keyser Marston and Associates prepared a market assessment.
  - *Constraints:* Population, geography, Intervening commercial opportunities, parking, entitlement process.
  - *Opportunities:* market support for small hotel and residential uses, residential use supports mixed use development, cultural catalysts needed, City owned property at Palm Street could be a catalyst development



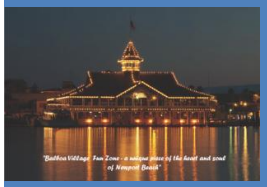
Brand Vision & Promise

- Gary Sherwin of Visit Newport Beach conducted Vision/Brand identification and analysis – surveys were performed
- “Balboa Village Fun Zone” identified as a strong candidate name
- 2020 Brand Vision statement developed
- 2012 Brand Promise statement identified



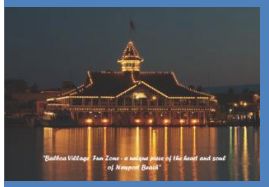
Expand the Fun Zone

- Expansion of the Fun Zone boundaries will have an impact on way finding and monument signage



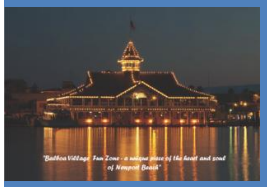
Economic Development Recommendations

- Develop and implement Commercial Façade Improvement Program
- Develop a Targeted Tenant Attraction Program
- Support new cultural amenities such as ExplorOcean and Balboa Theater
- Develop off-peak special events initiative for Balboa Village
- Create an off-peak season recreational vehicle use program in Balboa Parking Lot



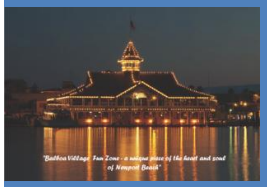
Economic Development Recommendations

- Allocate additional funding to BV B.I.D.
- Modify the boundaries of the BID to delete area between Adams and Coronado Streets.
- Consider future development on City-owned Palm Street parking lot - 3 options discussed
  - parking structure
  - small hotel over public parking
  - mixed-use



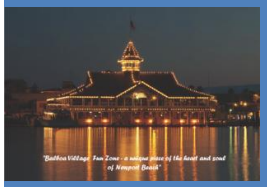
Parking

- Village has large supply of parking, mostly off-street public spaces
- Supply is underutilized except for peak summer season
- Current parking pricing discourages use of off-street facilities
- Parking turnover is low
- Adequate parking exists for existing and future commercial uses if properly managed



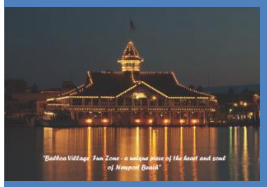
Parking Management

- Remove time limits for metered spaces and implement demand based pricing
- Establish a commercial parking benefit district
- Establish an Employee Parking Permit Program
- Establish a Residential Parking Permit Program (RPPP) to manage parking "spillover"



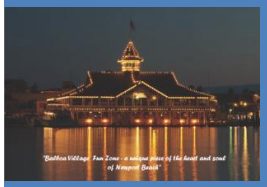
Parking Management

- Designate Balboa Village as a shared parking district
  - Require new private parking be made available to public
  - Develop agreeable operating agreements for public use of private parking
  - Manage existing parking resources before building more parking
- Develop a coordinated way finding sign program
- Identify and implement improvements for bicycles



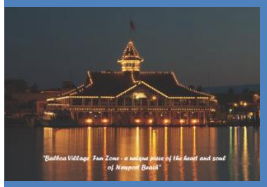
Planning/Zoning Recommendations

- Zoning
  - Eliminate commercial parking requirements for new or intensified development
  - Eliminate in-lieu parking fee for Balboa Village and terminate current payee obligations.
  - Encourage mixed-use development
  - Continue code enforcement efforts
- Pursue Local Coastal Program



Public Infrastructure & Administration

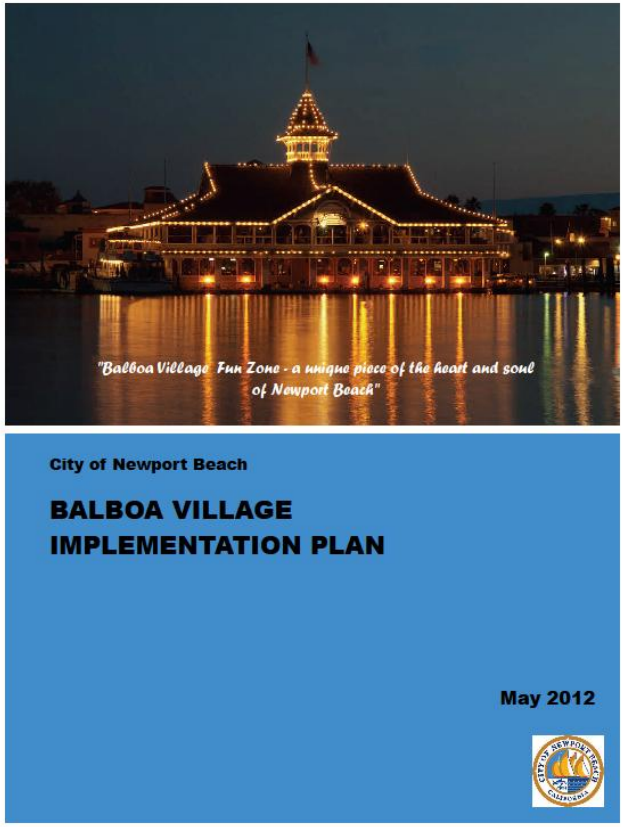
- Identify strategic improvements to enhance streetscape and way finding signs.
- Increase maintenance cleaning of streets, sidewalks and other public fixtures.
  - Assume more regular maintenance of Fun Zone Boardwalk
- Create a governance structure to oversee execution of recommendations.

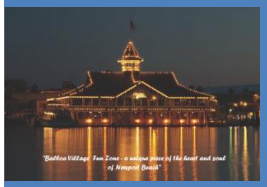


Next Steps

- CAP approved – Completed
- NRC approved – Completed
- Harbor Commission Review – Completed
- Review by Planning Commission – July 19
- City Council Adoption – August 14

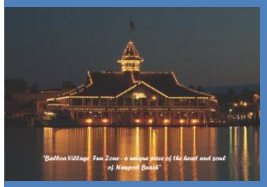
Thank You!


"Balboa Village Fun Zone - a unique piece of the heart and soul of Newport Beach"
City of Newport Beach
BALBOA VILLAGE
IMPLEMENTATION PLAN
May 2012



RPPP Parameters

- Eligibility: all residences, including rental property owners, and Bay Island residents
- City residents living on boats not eligible
- 4 permits per household; $20 for first 2 permits; $60 for 3rd; $100 for 4th permit; Guest pass pricing TBD
- No parking 4pm – 9am, 7 days per week, excluding holidays – PERMIT HOLDERS EXEMPT
- Permits would not apply to West Balboa Boulevard
- Compliance with California Coastal Commission



Parking Management

- Establish an Employee Parking Permit Program
  - Approximately 100 spaces in municipal beach lot
  - Hours of operation: 6am – 10am, week days
  - 1 permit per employee @ $50/year
  - Compliance with California Coastal Commission

Campbell, James

From: Marianne Zippi [inbalboabay@aim.com]
Sent: Monday, July 16, 2012 4:19 PM
To: Kiff, Dave; pier2pier@yahoo.com; Campbell, James
Subject: Balboa Village Implementation Plan meeting 7/19/2012

July 16, 2012

Wayne and Marianne Zippi
420 E. Bay Avenue
Balboa, CA 92661

Dave Kiff
City Manager
Newport Beach

Re: Balboa Village Implementation plan.

Dear Dave,

We understand that there is a public meeting on Thursday, July 19 at 6:30pm during which the Balboa Village Implementation plan will be discussed.

We will be out of the state and will not be able to attend. However, according to the notice we received, issues we raise in written correspondence delivered to the City allows us the same privileges as if we had attended the meeting. We are directing our correspondence regarding the Balboa plan to you as the primary representative of the city. We are also copying James Campbell since his name appears on the notice.

Our main concern with regard to the Balboa Village Implementation plan is the overnight residential parking permit program. We are opposed to any program where we have to pay to park in front of our home. Other neighborhoods in Newport Beach do not have to pay to park. We do not feel that they should have benefits that are not accorded to all the residents in Newport Beach.

Sincerely,

Wayne and Marianne Zippi

cc. James Campbell
cc. Louise Fundenberg

AREAS OF CONCERN RE: THE BALBOA VILLAGE CITIZENS ADVISORY PANEL RECOMMENDATIONS

I have two major areas of concern regarding these recommendations. My first concern lies with the proposed Resident Parking Permit Plan. This plan was formed to address the effect of people trying to avoid paying meters and parking in residential areas instead. The Walker Study permit plan proposed to cover the area from Adams to Coronado St. for this purpose. The new proposal suggests new boundaries, stretching that original 3 block area to now cover 10 blocks, from Adams to 7th St.

The historic area of East Newport is NOT affected by people sailing on the Catalina Flyer, going fishing, or joining the bar crowd. It makes NO sense to include us in this parking permit plan. Even the Central Newport Beach Community Assn. also withdrew their support of this plan because of the unreasonable boundary extension.

As an alternative, I would suggest drawing the parking permit boundary 5 blocks away from Adams St. to Medina Way. This would then include the residential areas actually affected by the parking problems previously mentioned.

In addition, I would purpose allowing 2 hour free parking in the BID area, as Balboa Island successfully does, especially during the winter months. That would encourage locals to patronize our own businesses, thereby strengthening them.

My second concern in these panel recommendations is the so-called branding process of Balboa. An online poll was designed to get ideas from the public to make us more "marketable." The poll, however, was not well publicized. No one in my neighborhood had heard anything about it.

If you did learn of the poll, it was extremely hard to access. If you persisted, once on the survey site, there was a section of questions regarding the re-naming of Balboa. Balboa alone was NOT a choice, indicating that the survey creators themselves did not value this historic name. The only way to make Balboa a choice was to list it as a write-in.

Connecting "Fun Zone" to Balboa Village as proposed for our name, is awkward and silly sounding. Coming at a time when the Fun Zone itself is being down-sized even makes it out of touch with reality. Do you really think people are going to say they live in "Balboa Village Fun Zone"?

In the end, fewer people from Balboa responded to the survey, than did people from outside of Balboa. If this silly name is adopted, we will be re-named by people not even residing in Balboa, and with a name that reduces us to just a fun zone area, with no recognition of us as an important historical community.

Submitted by Howard and Kathleen Hall, property owners and residents 7/19/12

CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT
July 19, 2012 Meeting
Agenda Item 7

SUBJECT: Review of Rules of Procedures of the Planning Commission
PA2012-065

PLANNER: Brenda Wisneski, AICP, Deputy Community Development Director
(949) 644-3297; bwisneski@newportbeachca.gov

PROJECT SUMMARY

Amend certain sections of the RULES OF PROCEDURES OF THE PLANNING COMMISSION (Procedures).

RECOMMENDED ACTION

In accordance with Section XV of the Procedures, approve the amendments to the Rules of Procedures of the Planning Commission (PC1 Attachment).

DISCUSSION

On May 3, 2012 the Planning Commission directed staff to draft amendments to certain sections of the RULES OF PROCEDURES OF THE PLANNING COMMISSION (Procedures). The Commission's reviewed the draft changes on July 5, 2012 and requested that the amended Procedures be presented for final approval at a future meeting date.

ENVIRONMENTAL REVIEW

Revising the Planning Commission Rules of Procedures is not considered a "project" as defined by the California Environmental Quality Act (CEQA) in that this action has no potential to result in direct or indirect physical change to the environment.

PUBLIC NOTICE

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the Planning Commission considers this item); the item was shown on the agenda for this meeting, which was posted at City Hall and on the City website.

Submitted by:

Brenda Wisneski, AICP, Deputy Director

ATTACHMENTS

PC 1 Rules of Procedures of the Planning Commission (as amended)

RULES OF PROCEDURES OF THE PLANNING COMMISSION

CITY OF NEWPORT BEACH, CALIFORNIA

I. TITLE

The official title of this Commission shall be "Planning Commission of the City of Newport Beach, California."

II. MEMBERSHIP AND TERM

Pursuant to Section 702 of the City Charter, the Planning Commission shall consist of seven members appointed and approved by the City Council. Each member shall serve a term of four years, such terms to be on a staggered basis. Pursuant to the City Council Policy A-2, Commission appointments can be extended beyond one term when in the judgment of the Council, a reappointment would recognize and extend an unusual contribution by the incumbent. In no event will individual appointments to the Commission exceed two consecutive full terms, exclusive of appointments to fill unexpired terms. The Community Development Director, the City Engineer, and the City Attorney, or their representatives, are advisors to the Commission and do not have a vote.

III. OFFICERS

A. The offices of the Commission shall be:

1. Chair, whose duties shall be to preside at all meetings, and to call all special meetings, appoint committees, and perform all other proper duties of a presiding officer.

2. Vice Chair, who in the absence of the Chair, or his/her inability to act, shall preside at all meetings and perform all other duties of the Chair.

3. Secretary, who in the absence of the Chair and Vice Chair, or their inability to act, shall preside at all meetings and perform all other duties of the Chair. The Secretary shall also keep a written record of all business transacted by the Commission, prepare the agenda of regular and special meetings arrange proper and legal notice of hearings, attend to correspondence of the Commission, and such other duties as are normally carried out by a Secretary. In his/her absence, the Secretary may delegate his/her duties to the Community Development Director, and the Community Development Director shall be known as the Ex-Officio Secretary of the Planning Commission. The Community Development

Director shall designate a City employee to serve as the Recording Secretary.

B. The Chair, Vice Chair, and Secretary shall be elected at the annual meeting of the Commission or an adjournment of that meeting, and shall hold office for a period of one year or until their successors are elected. In the event an office becomes vacant, a successor shall be elected to fill the remainder of the unexpired term.

IV. ADVISORS

The Chair may, with consent of the Planning Commission, request the attendance at Planning Commission meetings of any officer or employee of the City to assist the Commission in its deliberations in an advisory capacity.

V. LOCATION OF MEETINGS

The Planning Commission shall hold all of its meetings, whether the same shall be a regular or special meeting or study session, in the council chambers of the City Council, or in any such other place after notice duly given, within the corporate limits of the City.

VI. TIME OF MEETINGS

A. The annual meeting of the Commission shall be the first regular meeting in July of each year.

B. Regular meetings of the Commission shall be held on the Thursdays preceding the second and fourth Tuesday of each month. These meetings shall commence at the hour of 6:30 p.m. except that the Chair may call for said meetings to commence at an earlier hour when it is determined that the Commission's workload warrants such earlier starting time. When this schedule conflicts with holidays or the mandates of priority projects, the Commission may alter this schedule as set forth in sections E and F below. Proper notice of such meeting shall be given according to the requirements of applicable law.

C. In addition to regular meetings, the Planning Commission may convene a study session to hear reports from the staff and review, discuss, and debate general planning and zoning matters of interest to the City preceding any regularly scheduled meeting when the Planning Commission Chair makes the determination that a study session is warranted. No official action will be taken at a study session.

During a study session, the Planning Commission may also become informed about a major project proposal within the City or its sphere of influence, or any other matter within the jurisdiction of the Planning Commission**.** No approval of any type may be given at a study session and none may be inferred. No question,

comment, or suggestion by any member of the Planning Commission, positive or negative, will be deemed to create any indication the Planning Commission will approve or disapprove a project.

D. No agenda item shall be introduced after the hour of 10:30 p.m. Furthermore, any item introduced and being discussed by 11:00 p.m. and not concluded by 11:30 p.m. shall be continued by the Planning Commission to another date. The intent and purpose of this policy is to facilitate maximum public participation and to encourage a reasonable hour in which the Planning Commission business is discussed and to protect against fatigue in discussing and deciding important City issues. The above time periods may be extended by motion approved by majority vote of the Commissioners present.

E. Any meeting may be adjourned from time to time by the majority vote of the members present.

F. Special meetings may be held as deemed necessary at the request of the majority of the members of the Commission or by call of the Chair, Vice Chair, or Secretary; notice of such special meetings shall be posted and served upon all members at least 24 hours before the special meeting, and to each local newspaper of general circulation, radio, and television station requesting notice in writing. The notice shall specify the time, place, and matters to be considered at the special meeting, and only the matters specified may be considered.

VII. AGENDAS

A. As provided herein, an agenda containing a brief description of each item of business to be transacted or discussed shall be posted at a location freely accessible to the public at least 72 hours before each regular meeting. Study session agendas shall be distributed to the public on the same basis as regular agendas.

B. Any regular, adjourned, and/or special meeting, or study session of the Planning Commission shall be open to the public and to the maximum extent possible afford the public an opportunity to comment on all matters before the Planning Commission. Every agenda shall provide an opportunity for members of the public to speak on any off-agenda item of interest to the public.

C. No action may be taken on an off-agenda item unless (a) a majority of those Commissioner present determine that an emergency situation exists; or (b) two-thirds of the Commissioners, or all of the Commissioners if less than two-thirds are present, determine there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the posting of the agenda; or (c) the item was included in a properly posted agenda for a prior meeting occurring not more than five days prior to the meeting at which the action

is taken and the matter was continued to the meeting at which action is taken. It is inevitable that subjects will arise, either during the course of consideration of agenda items or during public comment, on which no action can be taken because the circumstances outlined in (a) through (c) above do not exist. In such event, the Chair shall have the power to refer the matter to staff, or to place the item on the agenda of a future meeting, or both.

VIII. VOTING PROCEDURE

A. At any meeting of the Planning Commission four members of said Commission shall constitute a quorum for the transaction of business. Every Commissioner should vote unless disqualified by reason of a conflict of interest. A Commissioner who abstains from voting is counted as being present and in effect consents that a majority of those present and voting shall decide the question voted upon.

B. Any vote of the Commission, including a roll call vote, may be registered by the members by answering "YES" for an affirmative vote, or "NO" for a negative vote upon the member's name being called by the Recording Secretary, or by pressing a switch to cause a green light to show for an affirmative vote, or a red-light to show for a negative vote upon a vote being called for by the Chair. The result of any vote registered by means of a lighting system shall be audibly announced by the Recording Secretary and recorded in the minutes as the vote. If a member is present and does not cast a vote as described above, that member shall be considered as abstaining. In case of emergency or problems with the vote registering lighting system, the Chair may determine any other reasonable manner to vote and register votes on any matters on any agenda.

C. Any Commissioner who is disqualified from voting on a particular matter by reason of a conflict of interest shall publicly state or have the Chair state this determination and the nature of such disqualification in open meeting. Where no clearly disqualifying conflict of interest appears, the matter of disqualification may, at the request of the Commissioner affected, be decided by the other members of the Commission. A Commissioner who is disqualified by reason of a conflict of interest in any matter shall not remain in the council chambers during the debate and vote on such matter, and shall request permission of the Chair to depart until the item is closed. A Commissioner stating such disqualification shall not be counted as a part of the quorum and shall be considered absent for the purpose of determining the outcome of any vote on such matter.

D. Any tie vote shall constitute a lost motion and may be reconsidered at the same meeting at which the action was taken, by a motion offered by any Planning Commissioner who voted on the matter. If there is no action by an affirmative vote, the result is denial.

E. Except for a tie vote, a motion to reconsider any action taken by the Planning Commission must be made at the same meeting at which the action was taken and may only be made by one of the Planning Commission members who voted with the prevailing side.

IX. ORDER OF BUSINESS

A. The order of business for regular, adjourned, or special meetings shall be:

1. Call to order by the Chair.
2. Pledge of Allegiance
3. Roll Call
4. Public comments.
5. Request for Continuances
6. Consent Items, including but not limited to approval of minutes of preceding meeting.
7. Consideration of matters on the agenda which may include public hearings and new business.
8. Staff and Commissioner Items, including:
   a. Motion for Reconsideration
   b. Community Development Director's Report of Council actions on Planning-related matters and other matters of interest to the Planning Commission.
   c. Committee Reports, when applicable.
   d. Matters which a member may wish to place on a future agenda.
9. Any other business which may properly come before the Commission.
10. Request for excused absences.
11. Adjournment.

X. CONDUCT OF MEETINGS

A. All meetings shall be conducted under the order of parliamentary procedure as specified in the last revised edition of Robert's Rules of Order to the extent that such rules are not in conflict with these Rules of Procedure.

B. All Commissioners shall address all questions and comments through the Chair.

C. All persons attending meetings of the Commission will be asked to identify themselves, sign the sheet at the podium, and address Commissioners or other persons present through the Chair.

D. Exhibits: All maps, letters, and documents considered by the Commission at any hearing shall become a part of the records of the Commission.

E. Motions: Any motion may be made by any member of the Commission, including the presiding officer. All motions require a second in order to be considered by the Commission.

F. Substitute Motions: A substitute motion may be made by any member of the Commission, including the presiding officer, after a motion is on the floor. The substitute motion will suggest a different course of action or the opposite action of the main motion. No more than two substitute motions can be placed on the table for consideration at the same time. If the substitute motion fails, the main motion remains on the floor. If the substitute motion passes, it will cancel out the main motion

G. If an applicant submits additional written or printed material for the Planning Commission's consideration less than seven (7) working days prior to the date of the hearing on the matter, the Planning Commission may continue the matter and the applicant shall be deemed to have consented to such a continuance.

H. E-mails: E-mails from Planning Commissioners requesting minor clarification of factual information provided to Planning Commissioners by staff for any Planning Commission agenda item may be answered by the Community Development Director or his/her designee prior to the Planning Commission meeting at which such agenda item is to be considered. E-mails raising new issues or expanding upon issues addressed in the staff report for an agenda item that, as determined by the Community Development Director, are more appropriately considered by the Planning Commission at a public meeting will be printed for distribution to Planning Commissioners at the respective meeting.

E-mails sent directly to Planning Commissioners after agenda packets have been distributed and before the respective Planning Commission meeting shall be forwarded to the Planning Division for printing and/or copying for distribution to

Planning Commissioners at the respective Planning Commission meeting. Information contained in any such e-mails from a project applicant which the Planning Commission determines, in a public meeting, may have significant bearing on the agenda item under consideration may be cause for the Planning Commission to continue such agenda item to allow sufficient time for review and analysis of such information and the applicant shall be deemed to have consented to such a continuance.

I. Public Comments: Public comments on any agenda item shall be limited to three minutes per speaker, unless a request for a time extension is granted by the Chair.

J. Use of Electronic Devices: The use of any type of electronic device by a Commissioner during any meeting of the Planning Commission is intended to solely support the business of the Commission, and shall not distract a Commissioner from the meeting. Use of any type of electronic device during any meeting must adhere to the requirements of the Brown Act.

XI. COMMITTEES

The Chair may appoint such committees as may be deemed necessary to carry out the function of the Planning Commission. Members shall serve at the pleasure of the Chair.

XII. CORRESPONDENCE AND COMMUNICATIONS

It shall be the duty of the Ex-Officio Secretary to draft and sign all correspondence necessary for the execution of the duties and functions of the Planning Commission as hereinbefore stated in the rules of the Newport Beach Planning Commission.

XIII. ATTENDANCE

A. Regular attendance at meetings of the Planning Commission is required of all members to enable the Commission to discharge the duties imposed upon it by law.

B. A Commissioner absent from three consecutive regular meetings without securing the consent of the Commission, entered upon the minutes, shall be deemed to have resigned.

C. The Ex-Officio Secretary shall notify the City Council of such resignation and request, in the name of the Commission, appointment of a new member to fill the unexpired term of the member resigning.

XIV. POLICY

All matters of policy not covered by law may be adopted as a "Resolution of Policy" and when so adopted shall be considered as the official policy of the Commission.

XV. AMENDMENT OF RULES

A. These rules may be proposed to be amended or added to by four affirmative votes of the Planning Commission at a regular meeting pursuant to the procedures in Section XVB.

B. No amendment of or addition to these rules shall be made unless notice in writing of the proposed amendment or addition shall be filed with the Ex-Officio Secretary at the regular meeting next preceding the meeting at which the motion to change is made.

XVI. MINUTES

A. The Recording Secretary shall prepare draft minutes for regular, adjourned, and/or special meetings and submit the minutes to the Planning Commission for review and approval. The minutes shall record all actions of the Planning Commission and provide a summary record of any Planning Commission, staff, and/or public questions and comments made during the meeting.

B. Once approved by the Planning Commission, the Chair and Secretary shall sign the final minutes.

Adopted	December 16, 1976
Amended	August 3, 1978
Amended	September 7, 1978
Amended	November 8, 1979
Amended	January 25, 1980
Amended	February 5, 1981
Amended	March 18, 1982
Amended	February 5, 1987
Amended	October 6, 1988
Amended	July 7, 1994
Amended	August 8, 1996
Amended	May 6, 1999
Amended	December 7, 2000
Amended	November 2006
Amended	February 2007
Amended	May 2008
Amended	July 2012