CITY OF NEWPORT BEACH
PLANNING COMMISSION AGENDA

CITY COUNCIL CHAMBERS - 3300 NEWPORT BOULEVARD
THURSDAY, December 6, 2012
REGULAR MEETING – 5:00 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, DECEMBER 6, 2012
REGULAR MEETING – 5:00 p.m.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

IV. 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.

V. REQUEST FOR CONTINUANCES

VI. CONSENT ITEMS

ITEM NO. 1 MINUTES OF NOVEMBER 8, 2012

Recommended Action: Approve and file

VII. 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. 2 Goldenrod Variance (PA2012-126)
Site Location: 211 Goldenrod Avenue

Summary:
A variance application for a new single-unit dwelling to encroach 5 feet into the required 10-foot rear yard setback, to exceed the maximum floor area limit by approximately 450 square feet, and to allow the third floor to be located closer than 15 feet to the front setback line.

CEQA Compliance:
The project is categorically exempt under Section 15303, of the California Environmental Quality Act (CEQA) Guidelines - Class 3 (New Construction or Conversion of Small Structures).

Recommended Action:

1. Conduct public hearing; and

2. Adopt Resolution No. ____ approving Variance No. VA2012-006.

ITEM NO. 3 Plaza Corona del Mar (PA2010-061)
Site Location: 3900 and 3928 East Coast Highway

Summary:
The applicant requests approval of a horizontal mixed-use development with six detached dwelling units above a common subterranean parking structure, a 2,160-square-foot office addition above an existing 535-square-foot delicatessen (Gallo's Deli), and a 10-space shared surface parking lot. The following approvals are requested or required in order to implement the project as proposed:

1. A site development review to ensure compatibility with the site and surrounding land uses;

2. A conditional use permit to allow parking for nonresidential uses in a residential zoning district and to allow off-site parking;

3. A modification permit to allow a retaining wall up to 17 feet 2 inches in height, where the Zoning Code limits the height to 8 feet;

4. A variance for the residential structures to establish a 15-foot front setback and corresponding buildable area where a 20-foot setback is currently required; and

5. A tentative tract map for residential condominium purposes and to consolidate five lots and portions of a vacated alley into two lots.

CEQA Compliance:
The project is categorically exempt under Section 15332, of the California Environmental Quality Act (CEQA) Guidelines - Class 32 (In-Fill Development).

Recommended Action:

1. Conduct public hearing; and

2. Adopt Resolution No. ____ approving Conditional Use Permit No. UP2012-011, Modification Permit No. MD2012-011, Site Development Review No. SD2012-001, Tentative Tract Map No. NT2012-001, and Variance No. VA2012-007.

ITEM NO. 4 Port Theater Alcohol Service (PA2012-070)
Site Location: 2905 E. Coast Highway

Summary:
A minor use permit for the Port Theater to allow the addition of a Type 47 (On-Sale General) Alcoholic Beverage Control License in conjunction with food service at a landmark theater. The requested hours of operation for alcohol service are from 8:00 a.m. to 11:00 p.m., daily. The existing theater operates from 8:00 a.m. to 2:00 a.m., daily. Alcohol service during shows would be provided on the second floor mezzanine and access to this area would be limited to patrons 21 years of age and older. Alcohol service is also proposed throughout the theater (both the first and second level) during shows that are limited to patrons over the age of 21. This application has been referred to the Planning Commission by the Zoning Administrator for consideration and action.

CEQA Compliance:
The project is categorically exempt under Section 15301, of the California Environmental Quality Act (CEQA) Guidelines - Class 1 (Existing Facilities).

Recommended Action:

1. Conduct public hearing; and

2. Adopt Resolution No. ____ approving Minor Use Permit No. UP2012-009

ITEM NO. 5 Uptown Newport (PA2011-134)
Site Location: 4311-4321 Jamboree Road, North side of Jamboree Road. between Birch Street. and Fairchild Road

Summary:
The redevelopment of a 25-acre office and industrial site with a mixed-use community consisting of up to 1,244 residential units, 11,500 square feet of neighborhood-serving retail space, and two 1-acre public parks. Residential product types would be for sale and rental with a mix of townhomes, and mid- and high-rise apartments and condominiums. Between 102 and 369 units would be made available as affordable housing depending upon the target income category (i.e. very-low, low or moderate income households). Most buildings would range between 30 and 75 feet in height with several residential towers up to 150 feet in height. Project approval requires a Planned Community Development Plan amendment and adoption, Tentative Tract Map, Traffic Study, Affordable Housing Implementation Plan, and Development Agreement.

CEQA Compliance:
Pursuant to the California Environmental Quality Act the City of Newport Beach has prepared Environmental Impact Report SCH No. 2010051094 to evaluate the environmental impacts resulting from the proposed project.

Recommended Action:

1. Conduct public hearing; and

2. Adopt Resolution No. ____ recommending the City Council take the following actions:

   a. Certification of Environmental Impact Report No. ER2012-001 (SCH#2010051094); and
   b. Approval of Planned Community Development Plan Amendment No. PD2011-003, Planned Community Development Plan Adoption No. PC2012-001, Traffic Study No. TS2012-005, Tentative Tract Map No. NT2012-002, Affordable Housing Implementation Plan No. AH2012-001, and Development Agreement No. DA2012-003.

VIII. STAFF AND COMMISSIONER ITEMS

ITEM NO. 6 MOTION FOR RECONSIDERATION

ITEM NO. 7 COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

ITEM NO. 8 ANNOUNCEMENTS ON MATTERS THAT THE PLANNING COMMISSION MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR REPORT.

ITEM NO. 9 REQUESTS FOR EXCUSED ABSENCES

IX. ADJOURNMENT

NEWPORT BEACH PLANNING COMMISSION MINUTES
Council Chambers – 3300 Newport Boulevard
Thursday, November 8, 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 – Commissioner Ameri

III. ROLL CALL

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

Staff Present: Kimberly Brandt, Community Development Director; Brenda Wisneski, Community Development Deputy Director; Leonie Mulvihill, Assistant City Attorney; Tony Brine, City Traffic Engineer; Fern Nueno, Associate Planner; Kay Sims, Assistant Planner; Javier S. Garcia, Senior Planner

IV. PUBLIC COMMENTS

Chair Toerge invited those interested in addressing the Commission on items not on the agenda, to do so at this time.

Jim Mosher commented on the Commission's power to do the people's work given to the Commission by the City Charter. He noted a recent approval of the City Charter and highlighted changes made. He noted that the Commission will no longer be required to make recommendations regarding Public Works projects for rebuilding of blighted areas in the City, to meet once per month or select a new Chair every year. He also addressed changes to the duties of the City Manager affecting the Commission.

There were no others wishing to address the Commission and Chair Toerge closed the Public Comments portion of the meeting.

V. REQUEST FOR CONTINUANCES - None

VI. CONSENT ITEMS

ITEM NO. 1 MINUTES OF OCTOBER 4, 2012

Recommended Action: Approve and file

Chair Toerge noted corrections to the minutes.

Interested parties were invited to address the Commission on this item. There was no response and public comments were closed.

Motion made by Vice Chair Hillgren and seconded by Commissioner Ameri, and carried 7 – 0, to approve the minutes of the Planning Commission meeting of October 4, 2012, Regular meeting, as amended.

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

VII. PUBLIC HEARING ITEMS

ITEM NO. 2 Lugonia Setback Determination (PA2012-119)
Site Location: 431 Lugonia Street

Associate Planner Fern Nueno presented details of the report addressing location, zoning, details of the proposal, required setbacks, compatibility and consistency of setbacks with other lots in the vicinity including FAR, Floor Area limits, and setbacks areas. She noted that the proposed setbacks would make the site consistent with other lots in the area and neighboring properties. Ms. Nueno presented recommendations and options available to the Commission.

In response to an inquiry from Vice Chair Hillgren, Ms. Nueno explained the concept of "open volume" noting that it is based on 15% of the buildable area.

Commissioner Tucker inquired about the staff recommendation of four-foot side and rear setbacks and Ms. Nueno noted the intent of being consistent with the Code requirements. She explained that the width of the lot determines the side setbacks, but that three feet would be consistent with the required side setbacks on the adjacent lots. Ms. Nueno reported that no one contacted her in support or opposition of the item.

Discussion followed regarding other lots eligible for a setback determination, setting precedents, and what they might mean to the community.

Community Development Director Brandt added that each application is evaluated on its own merit and recognized that end lots are highly unusual.

The applicant was invited to address the Commission.

Eric Aust, Project Architect, asked that the Commission review a letter regarding a request for three-foot side and rear setbacks allowing the owners a similar buildable area and floor area ratio as other lots in Newport Shores. He noted that three-foot setbacks are standard in Newport Shores and would allow a home to be constructed comparable to other lots in the neighborhood.

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

Jeff Wilson inquired regarding existing conditions in relation to the current setbacks.

Ms. Nueno reported that in relation to the side and rear property lines, the existing house is built at three feet from the side property line adjacent to the Prospect Street property and four-and-a-half feet from the property line adjacent to the Lugonia Street property.

There being no others wishing to address the Commission, Chair Toerge closed the Public Hearing.

Motion made by Commissioner Kramer and seconded by Commissioner Brown, to adopt Resolution No. 1895 approving Staff Approval No. SA2012-015.

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Substitute Motion made by Commissioner Tucker to allow three-foot setbacks rather than four-foot setbacks. The substitute motion failed for lack of a second.

Commissioner Kramer agreed to amend the original motion to allow three-foot setbacks rather than four-foot setbacks. Commissioner Brown agreed with the proposed amendment.

The amended motion carried 7 – 0 as follows.

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

ITEM NO. 3 Chizhik Variance (PA2012-113)
Site Location: 20361 SW Cypress Street

Assistant Planner Kay Sims presented details of the report addressing location, zoning, surrounding property setbacks, location of the business park district, existing conditions, adjacent structures, previous permits issued and non-permitted elements. She presented recommendations including conditions of approval, site plan, setbacks, grading, existing wall, hedges and lattice.

Discussion followed regarding trimming hedges to the height of the wall within the front setback and location of the equestrian trail.

Ms. Brandt reported that the first five feet of the twenty-foot setback is part of the traffic safety area and must be lowered to 30 inches in order to comply with the Code.

Ms. Sims addressed the location of the hedges, accessory structures on the adjacent properties, setbacks along the southerly side, height of the lattice and the maximum height of the hedge. She presented views from the second-floor balcony, findings and recommendations.

In response to Commissioner Tucker's inquiry, Ms. Sims addressed the permitted height of the block wall, lattice and hedges and determination by the applicant to increase the heights of the block wall, lattice and hedges.

Community Development Director Brandt reported that hedges are commonly planted along property lines and that the Code limits the heights of hedges within the five-foot side yard areas and front setback. She addressed the normal course of Code Enforcement if hedges are allowed to grow beyond the permitted heights and presented options available.

Discussion followed regarding the rationale for recommending the variances and variances running with the land.

Vice Chair Hillgren questioned if this is a compliance issue with the adjacent properties.

Commissioner Myers referenced letters received by nearby residents and the issue of added fills.

Ms. Sims indicated that the grade was lowered at the time of construction and was unsure regarding the basis of the letters.

Discussion followed regarding the status of the property to the south and the uses.

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Commissioner Ameri addressed the issue of privacy and inquired about the possibility of placing a condition pending the future use of the adjacent property.

In response to an inquiry from Chair Toerge, Ms. Brandt reported that generally variances are not conditional upon changing circumstances.

Commissioner Brown reported visiting the site noting that nearby properties have walls that seem to exceed six feet.

Ms. Sims reported that there was one modification permit granted to a property across the street that was allowed up to eight feet and that others may have been granted before the annexation.

Commissioner Tucker felt that there should be a process in place to review the issue in terms of future changes in land use.

Assistant City Attorney Leonie Mulvihill reported that conditioning a variance, depending on various uses, would result in the variance findings not being supportable. She addressed the purpose of a variance and stated that to condition a variance would be problematic and difficult. She stated that she does not recommend conditioning a variance.

Commissioner Ameri noted the ability to modify the structures, if needed, in the future and inquired regarding the possibility of addressing the issue as a Conditional Use Permit rather than a variance.

Commissioner Myers commented on the process.

Chair Toerge invited the applicant to address the Commission.

Masha Chizhik, representing the Applicants, referenced documentation negating the use of fill on the property. She provided a PowerPoint presentation explaining the rationale for modifying the wall and lattice during construction as opposed to requesting a variance initially. She addressed the original wall, the need to build up because of safety issues as well as privacy, views, location of neighboring structures in the side setbacks, and horse trail. Ms. Chizhik reported that when her family moved into the home, the adjacent structures were already there. She asked for privacy from views, smells and sounds from adjacent properties.

Gennady Chizhik, property owner, indicated that he does not want to create problems but is only asking for their privacy. He referenced documents regarding grade certification and noted that dirt was removed, not brought into the property. He stated that his neighbors loved the wall and it was built at his sole expense. He noted that his property is well-maintained. He asked that the Commission approve the variance request.

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

Scott Grant, adjacent neighbor, expressed concerns that the wall and lattice were built without permits and that, because he is disabled, he is unable to maintain the hedge on his side of the property. He expressed concerns regarding his privacy and wondered about future maintenance of the hedges should the property owner choose to move in the future. He agreed with keeping the block wall and lattice but indicated the he does not want to maintain the hedge.

Marina Chizhik, Applicant, agreed with cutting the hedges but opposed removing the lattice and trimming the trees to the height of the lattice.

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Steve Sanders, owner of the property on the north side, reported that the property was graded and raised but that it was done by the owner previous to the Chizhik's. He expressed concerns regarding his privacy from the 35 foot height of the Chizhik home, as well as the process of not having prior notice of such a high structure allowed to be constructed on the property.

In response to an inquiry from Commissioner Tucker, Mr. Sanders reported he is not complaining about the fence.

There being no others wishing to address the Commission, Chair Toerge closed the Public Hearing.

Motion made by Commissioner Ameri and seconded by Commissioner Kramer, to adopt Resolution No. 1896 approving Variance No. VA2012-005.

Vice Chair Hillgren indicated the he will not support the matter and felt that the issue may be resolved by neighbors working together.

Commissioner Brown questioned what would occur if the variance is not approved.

Ms. Brandt reported that if the variance is not granted, the applicant could appeal the decision through Council. Once a final determination is made and the variance is not granted, the property would need to be brought into compliance with the City's Municipal Code. She noted the need to enforce the Municipal Code.

Commissioner Brown expressed concerns regarding the process relative to the variance not being requested prior to construction of the wall. He stated that he is inclined to grant the variance.

Chair Toerge indicated that he drove through the area and saw many cases where walls and hedges exceeded the height of the subject site. He stated that he will support staff's recommendation as well as the motion.

In response to an inquiry from Commissioner Tucker, Commissioner Ameri reported that his motion supports approval of the variance as presented and proposed by staff.

Commissioner Tucker questioned whether this is the proper use for a variance and felt there is no other mechanism for handling similar requests. He opposed running the variance with the property in perpetuity.

Chair Toerge called for the question.

The motion carried 5 – 2 as follows.

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

Ms. Brandt clarified that the motion includes reduction of the height of the hedge to the existing lattice work but that staff's recommendation also included conformance with the City's Traffic Safety Area as well as bringing the height of the wall in the front setback area to forty-two inches on the south property line.

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ITEM NO. 4 Emerson Island Annexation (PA2012-034)

Community Development Director Brandt presented background information including formation of LAFCO (Local Area Formation Commission) regarding incorporation of "small islands" in cities within Orange County. She addressed related State legislation and stated that the Emerson Island is one of the remaining islands between the City of Costa Mesa and the City of Newport Beach. The City was recently approached by LAFCO to complete the annexation of the property.

Associate Planner Fern Nueno presented details of the report addressing location, annexation area, Negative Declaration previously adopted, land-use designation and zoning, existing conditions, proposed General Plan Land-Use designations, proposed zoning, findings, property owner requests and recommendations. She reported that Planning Commission recommendations will be forward to Council for hearing on November 27, 2012. If approved by Council, the application will be finalized with LAFCO and if approved the annexation will be complete after fifty-days.

In response to Commissioner Tucker's inquiry, Ms. Nueno explained that there are 9 existing dwelling units and that as proposed, 10 dwelling units would be allowed in the portion of the annexation area designated Multiple Residential - 10 units maximum.

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

Jim Mosher asked if there are more areas to be annexed in the future and felt that the maps presented are confusing as they show the annexation area to bisect several properties. He inquired about ownership of Emerson Street.

Ms. Nueno reported that the present item is the last of the "small islands" to be annexed. She noted that the private street will be part of the City of Newport Beach and will be part of the annexation.

Ms. Brandt reported that there are still unincorporated "islands" between the City of Costa Mesa and the City of Newport Beach in the general area but are within the sphere of influence within the City of Costa Mesa.

Fred Kindgren addressed ownership of the private street. He noted that there are more mixed units in the area than there are single-family and felt that the designation is appropriate.

There being no others wishing to address the Commission, Chair Toerge closed the Public Hearing.

Motion made by Chair Toerge and seconded by Commissioner Ameri, and carried 7 – 0, to adopt Resolution No. 1897 recommending City Council approval of General Plan Amendment No. GP2012-001 and Code Amendment No. CA2012-002.

Commissioner Kramer commented on the use of Google Earth or something comparable when staff presents similar cases in the future.

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

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ITEM NO. 5 Woody's Wharf Use Permit (PA2011-055)
Site Location: 2318 Newport Boulevard

Senior Planner Javier S. Garcia presented details of the report addressing consolidation of previous conditions of approval, removal of duplicate conditions or those that no longer apply and inclusion of new conditions of approval. He addressed location, details of the requests, setbacks, parking lot, existing conditions, surrounding properties, nearest residential district, spaces for boats, approval of the original Use Permit and allowances as well as subsequent amendments and permits. Mr. Garcia addressed patron dancing, extensions of opening and closing hours, valet parking, site plan, outdoor dining area, bar, main entrance and access walkway and doors.

Mr. Garcia addressed removal of tables and chairs to allow for dancing, extension of opening and closing hours, ambient noise levels, closure of outdoor dining area and issues related to use of the patio beyond 11:00 p.m. He stated no parking issues during the day, valet parking service during night-time use and availability of municipal parking lots for additional parking during evenings. He presented details of staff recommendations as presented in the report.

Chair Toerge invited the applicant to address the Commission.

Mark Serventi, Applicant and Co-owner of the restaurant, thanked staff and the Commission and introduced others on his team. He noted that the facility is a good neighbor and has made efforts to mitigate problems in the area. Mr. Serventi addressed their request noting that they are not asking for anything new and referenced a request for amending the conditions of approval. He stated that he understands the concerns voiced by residents and listed actions to resolve some of the issues and their willingness to work with staff and residents. Mr. Serventi referenced Police reports noting there was only one complaint reported in many years of operation. He reported actions to minimize noise impacts, meetings with Code Enforcement, self-imposed curfews and the possibility of hiring a security guard to monitor the adjacent condominiums. Mr. Serventi addressed construction of a retractable roof to minimize noise and further plans to minimize noise impacts.

Chair Toerge noted that the issue of the retractable roof is not being addressed at this time.

Mr. Serventi asked for the City's help in mitigating noise impacts by allowing an enclosure and the possibility of conducting sound readings and studies.

Marty Potts, Entitlement Consultant, referenced a handout, distributed under separate cover, asking for amendments to the conditions of approval. He agreed with the need for a new operator's license permit and expressed concerns that the Code indicates that the conditions could be amended to be more restrictive and that the final decision maker is the City Manager. He requested the ability to come back to the Planning Commission instead of the City Manager on additional issues. In addition, he asked that they be allowed to remove patio chairs and tables after 10:00 p.m. Regarding a dance permit, he felt that it is not applicable in this instance and stated that the owners are accepting to prepare a security plan for the Police Department's approval. Regarding the latter, he indicated wanting to make sure that the process is consistent with the use permit conditions approved by the Commission. Mr. Potts requested the allowance for events to be conducted by outside promoters. He reported that there is a cover charge in the evenings and asked that the Commission consider the condition or modification.

Roger Jon Diamond focused on the claim by opponents of the application regarding noise being generated by the restaurant. He noted the existence of a restaurant and a bar between Woody's Wharf and the existing condominiums and stressed that the source of the noise is not Woody's Wharf. He felt that there is no evidence that Woody's is the source of the noise and stressed the need for a

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mechanism to establish the truth or the falsity of the accusations. Mr. Diamond addressed the importance of supporting small businesses and asked that the Commission approve the application with the modifications that are needed to make sure that the business does not have to close at 11:00 p.m. He noted that there are residential properties to the west of Woody's that have made no complaints at all.

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

Denver Andrews, Legal Counsel to the 28th Street Marina Association, noted a direct line of sight to the Woody's Wharf patio. He emphasized that the homeowners in the Association realize, appreciate and respect the fact that they are in a mixed-use area. Mr. Andrews noted that people purchased their homes in the neighborhood with expectations that there would be conditions placed upon adjacent businesses that would respect the rights of those residing in the neighborhood. He felt that the subject restaurant has not demonstrated respect for the nearby residential neighborhood and that the business has repeatedly violated and failed to operate in accordance with its permits, particularly with respect to the use of the outdoor patio. Mr. Andrews stated that the Association is not asking the restaurant to close, but rather that the outdoor patio be closed at 11:00 p.m. and that it be enforced. He requested that the Commission deny the application of Woody's Wharf to extend the use of the outdoor patio beyond 11:00 p.m.

Jack Gleason, Director of the 28th Street Marina Association, voiced opposition to the staff report related to clarification of condition number 3. He suggested including that all service and occupancy of the outdoor dining area cease at 11:00 p.m. daily. He indicated opposition to the dancing, referenced denial of a café dancing permit and agreed with a memo from the Police Department regarding their projection that the applicant's proposal will result in an increase in police-related activities and calls for police services and their recommendation to not approve the application. He asked that regulations in place be upheld. Mr. Gleason felt that bad behavior should not be rewarded.

Joe Balzar reports that he resides closest to the subject property and is not shy about complaining about noise. He stated that there is noise on the street but that it is not coming from Woody's. He suggested that the Commission seek proof as to the source of the noise and spoke in support of the application.

Brian Serra indicated that he would oppose the waiver of any of the parking spaces, commented on the noise and felt that current problems are endemic not just to Woody's, but all of the restaurants/bars in the area. He opposed the extension of operating hours.

In reply to Vice Chair Hillgren's inquiry, Mr. Serra addressed valet parking at night and noted that daytime parking is not an issue.

Kent Stoddard reported that noise from Woody's is extensive and routinely prevents him from sleeping. He stated opposition to the extension of patio hours past 11:00 p.m. and allowing dancing. He asked that the outdoor dining area shall be closed at 11:00 p.m. daily and not be used or occupied after 11:00 p.m. He distinguished between the noise from the Commonwealth restaurant and Woody's and addressed the number of calls for police services at Woody's and recommendations by the Police Department to deny the application.

Laith Ezzet asked for the opportunity to sleep and opposed allowing dancing in the facility. He addressed the use of the patio and the inability to lock the doors that go out into the patio. He reported that problems have existed even when the Commonwealth restaurant has been shut down over the years.

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Dennis Halloran referenced recent actions by the Laguna Beach Planning Commission, reported experience with mixed-use areas and stated that Woody's has recently become a nightclub which is inappropriate in a mixed-use area. He agreed with the need to clearly specify use and closure of the outdoor dining area and encouraged the Commission to deny the application.

Norman Einhorn spoke in opposition to the application and noted that he has made many complaints throughout the years regarding the operation of Woody's. He stated that current laws are not being enforced and that they should not be rewarded. He asked that the Commission deny the application.

Christopher Rolfs spoke in opposition to the application and addressed noise related to Woody's Wharf. He thanked the Commission for making the neighborhood better, but felt that the situation has become worse throughout the years.

Joe Reiss expressed concerns that the owners of Woody's Wharf have operated the business while multiple violations have occurred. He spoke in opposition to the application and noted that the issue is one of quality of life. He encouraged the Commission to accept the recommendations from the Police Department and noted the high concentration of alcohol-related uses in the area. In addition, he addressed problems with parking and lack of parking and noise studies.

There being no others wishing to address the Commission, Chair Toerge closed the Public Hearing.

In response to an inquiry from Chair Toerge, Mr. Garcia reported that Woody's Wharf has always been a restaurant.

In response to Vice Chair Hillgren's inquiry, Mr. Garcia addressed the possibility of putting a roof over the patio and the prohibition of placing additional structures across the lot line, without consolidating the lots. Mr. Garcia reported that the Code does not require noise or parking studies be submitted for this type of change since it is an existing use.

Commissioner Tucker inquired regarding the possibility of a temporary lot merger to allow placement of a patio cover structure.

Ms. Brandt noted the two different Codes being considered including the State Building Code and the City's Municipal Code requirements. She addressed steps relative to certificates of compliance and the need to subdivide once conditions would change.

Commissioner Tucker noted that the noise issue is a Code Enforcement issue and did not think that it was an item to approve or not approve. He commented on the issue of dancing and the operation of the patio beyond 11:00 p.m.

Mr. Garcia addressed allowances related to the current approval.

Community Development Deputy Directory Brenda Wisneski explained that the noise issue would be a Code Enforcement issue regardless of the Planning Commission's decisions.

Commissioner Tucker referenced the Police Department recommendations and questioned why staff would find that dancing would be acceptable.

Mr. Garcia addressed limitations of the use of outdoor dining and felt that allowing dancing would allow for private parties/receptions/fundraising events and that limiting the dancing to the interior would not impact the neighbors.

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Chair Toerge commented on conflictions with the previous use of the site and the lack of a noise study. He noted that the facility is approved as a restaurant but that when tables and chairs are removed and cover charges are implemented, these are not the activities of a restaurant. He stated that he would be inclined to deny the application but suggested that the applicant consider continuing the item while they try to conduct a noise study and enclosing the roof. He highlighted the proposed changes to the conditions.

Commissioner Brown agreed with Chair Toerge's comments. He asked whether dancing is permitted with the current permit and Mr. Garcia reported that it is not. Commissioner Brown felt that it is unfortunate that the noise issue cannot be mitigated with a patio cover and expressed concerns that the operation is migrating from operation of a restaurant to a night club use.

Commissioner Kramer suggested continuing the item in order to give the applicant the opportunity to prepare a better case regarding noise evidence and possible solutions with respect to a cover. He stated that he is in favor of the application and felt that he is not completely satisfied with the solutions presented at this time.

Commissioner Ameri agreed with Commissioner Kramer's comments and addressed compliance issues involved where the applicant has been in violation of what they are allowed to do. He stressed the need to comply with the Code and felt that many of the residents' concerns may not be directly related with dancing, but rather the whole structure of the operation of the facility. He agreed with continuing the item to allow the applicant to develop solutions acceptable to all sides.

Vice Chair Hillgren agreed with allowing opportunities to modify the uses in order to work with the neighbors. He addressed incompatibility with the way the property is used or has been used. He felt that a thorough review has not been conducted and stated the need for the proper studies to ensure compliance.

Motion made by Chair Toerge and seconded by Vice Chair Hillgren, to adopt Resolution No. 1898 approving Conditional Use Permit No. UP2011-010 to allow changes to the operation of the restaurant that includes: extending the opening hour of the restaurant and outdoor dining area from 11:00 a.m. to 10:00 a.m.; the use of the valet parking on an as-needed basis; a waiver for a portion of the required parking; but denying the introduction of patron dancing; denying the removal of tables and chairs within the outdoor dining area; and denying the extension of the closing hour of the outdoor dining area from 11:00 p.m. to 2:00 a.m.

Chair Toerge invited the applicant to address the Commission.

Mr. Serventi reported that, per City Code, a dance permit is not required when an admission fee is charged and that is why dancing has occurred. He noted his willingness to work with staff and residents to supply the necessary noise and parking studies to generate mutually-agreeable solutions, and asked for a continuance.

Chair Toerge closed the Public Hearing.

Commissioner Brown questioned how the issues of noncompliance be addressed currently if the item is continued.

Chair Toerge noted that noncompliance with current approvals and conditions is a Code Enforcement issue.

DRAFT

Commissioner Tucker addressed the dancing issue noting that it changes the character of the facility to a night club. He stated that a continuance will not change his mind on the matter.

Substitute Motion made by Commissioner Kramer and seconded by Commissioner Ameri, to continue the item to the January 17, 2013, meeting of the Planning Commission as requested by the applicant.

Commissioner Kramer commented on the possibility of allowing the applicant to present more evidence, stated that he does not have an issue with allowing dancing and that there should be a modification of the establishment of a restaurant to a bar.

Commissioner Ameri suggested that the Association designate a person to contact staff and work with the owners to ensure that when the item returns to the Planning Commission, tangible solutions can be discussed.

Chair Toerge felt that the only way the project can move forward is with some type of enclosure and stated that he will not support the continuance.

Chair Toerge called for the question.

The substitute motion failed 3 – 4.

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

Chair Toerge restated the original motion.

Commissioner Tucker recommended including clarification regarding all service and occupancy of the outdoor dining area shall cease after 11:00 p.m.

Discussion followed regarding modifications to the findings in order to be consistent with the motion for approval.

Chair Toerge agreed to include Commissioner Tucker's recommendation in the motion.

Vice Chair Hillgren asked whether the Chair would consider different hours of closure for Friday and Saturday evening for the outdoor patio.

Chair Toerge indicated that he would not.

Substitute Motion by Commissioner Kramer and seconded by Vice Chair Hillgren, to adopt Resolution No. 1898 approving Conditional Use Permit No. UP2011-010 to allow changes to the operation of the restaurant that includes: extending the opening hour of the restaurant and outdoor dining area from 11:00 a.m. to 10:00 a.m.; the use of the valet parking on an as-needed basis; a waiver for a portion of the required parking; but denying the introduction of patron dancing; denying the removal of tables and chairs within the outdoor dining area; and denying the extension of the closing hour of the outdoor dining area from 11:00 p.m. to 2:00 a.m., clarifying that all service and occupancy of the outdoor dining area shall cease after 11:00 p.m. except on Friday and Saturday nights which would be extended to 12:00 midnight.

DRAFT

Assistant City Attorney Mulvihill requested clarification from Vice Chair Hillgren.

Commissioner Tucker seconded Chair Toerge's original motion to include clarification regarding all service and occupancy of the outdoor dining area ceasing after 11:00 p.m.

Commissioner Myers clarified that dancing will not be allowed. He felt that by eliminating dancing, the nature of the business is being changed and indicated support of staff's original recommendation. He suggested looking at the original recommendation with limits on the use and operation of the outdoor dining patio.

Commissioner Ameri reiterated his support for continuance and expressed hesitancy in taking away something that is already occurring at the establishment.

Substitute Substitute Motion by Commissioner Ameri to approve staff recommendations as presented without further recommendations. The Substitute Substitute Motion died for lack of a second.

Commissioner Tucker noted that dancing is not permitted currently and has not been "grandfathered".

Motion by Commissioner Myers and seconded by Commissioner Ameri, and failed 3 – 4, to reconsider continuing the item to the Planning Commission meeting of January 17, 2013.

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

In accordance with direction from Assistant City Counsel Mulvihill, Commissioner Kramer indicated that he would maintain his substitute motion and Vice Chair Hillgren affirmed so as well.

Chair Toerge called for the question on the substitute motion.

The substitute motion carried 4 – 3.

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

VIII. STAFF AND COMMISSIONER ITEMS

ITEM NO. 6 MOTION FOR RECONSIDERATION - None

ITEM NO. 7 COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

Ms. Brandt reported that there is no second scheduled meeting for the month of November because of the Thanksgiving Holiday. The next regularly scheduled meeting of the Planning Commission will be on December 6, 2012, where the Uptown Village Project will be presented as well as a new development in Corona del Mar as well as a use permit. Staff anticipates that it will be a long agenda and Ms. Brandt suggested starting the meeting at 5:30 p.m. rather than 6:30 p.m. She will contact Members individually regarding the matter.

DRAFT

ITEM NO. 8 ANNOUNCEMENTS ON MATTERS THAT THE PLANNING COMMISSION MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR REPORT.

Commissioner Tucker hoped that the Planning Commission will soon convene in the new City Hall facility.

Ms. Brandt reported that a decision has not yet been made.

Chair Toerge announced the Mayor's Dinner on Friday, February 8, 2013.

ITEM NO. 9 REQUESTS FOR EXCUSED ABSENCES - None

IX. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 10:01 p.m.

The agenda for the Regular Meeting was posted on November 2, 2012, at 3:15 p.m. on the City Hall Bulletin Board located outside of the City of Newport Beach Administration Building.

DRAFT

_____
Michael Toerge, Chairman

_____
Fred Ameri, Secretary

CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT
December 6, 2012 Meeting
Agenda Item 2

SUBJECT: Goldenrod Variance - PA2012-126
211 Goldenrod Avenue
Variance No. VA2012-006

APPLICANT: Annette Wiley, AIA – Wiley Architects

PLANNER: Fern Nueno, Associate Planner
(949) 644-3227 or fnueno@newportbeachca.gov

PROJECT SUMMARY

The proposed project consists of the demolition of the existing single-unit dwelling and construction of a new 1,848-square-foot, single-unit dwelling with a two-car tandem garage. The applicant requests a variance to encroach 5 feet into the required 10-foot rear setback adjacent to the northwestern property line. The applicant also requests to exceed the maximum allowed floor area limit for the property of 1,404 square feet by 444 square feet. The applicant further requests to allow the third floor to be located closer than 15 feet from the front setback line and to exceed the allowed third floor area of 20 percent of the buildable area by approximately 30 square feet.

RECOMMENDATION

1) Conduct a public hearing; and

2) Adopt Resolution No. ___ approving Variance No. VA2012-006 (Attachment No. PC 1).

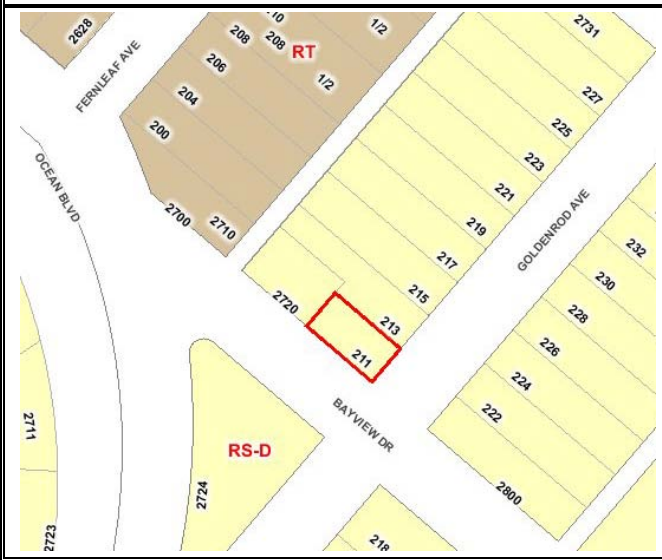
INTRODUCTION

Project Setting

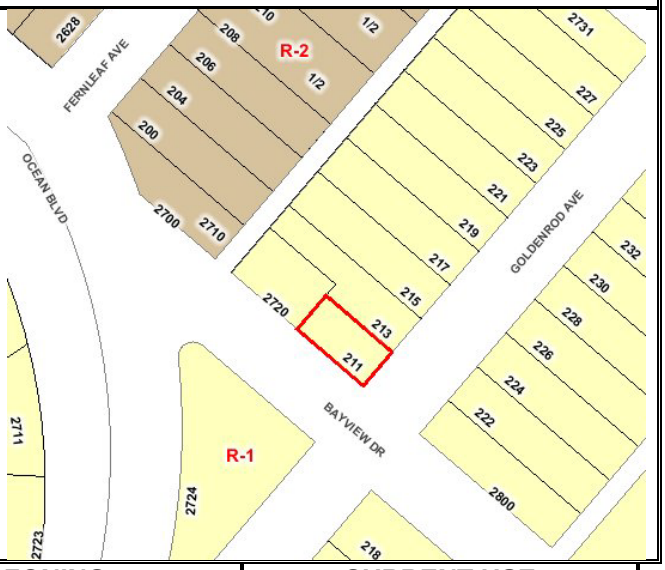
The subject property is located within Corona del Mar at the north corner of Goldenrod Avenue and Bayview Drive. The subject lot is 1,770 square feet in area (59' X 30') where the typical lots in the area are 3,540 square feet in area (118' X 30'). Some of the end lots along each block and lots along Ocean Boulevard vary in shape and size. Corona del Mar is developed with mostly single- and two-unit dwellings. The subject property is developed with a single-unit dwelling with a one-car garage that is nonconforming due to height, parking, and floor area.

VICINITY MAP

GENERAL PLAN



ZONING



LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	Single-Unit Residential Detached (RS-D)	Single-Unit Residential (R-1)	Single-unit dwelling
NORTH	Single-Unit Residential Detached (RS-D)	Single-Unit Residential (R-1)	Single-unit dwelling
SOUTH	Single-Unit Residential Detached (RS-D)	Single-Unit Residential (R-1)	Single-unit dwelling
EAST	Single-Unit Residential Detached (RS-D)	Single-Unit Residential (R-1)	Single-unit dwelling
WEST	Single-Unit Residential Detached (RS-D)	Single-Unit Residential (R-1)	Single-unit dwelling

DISCUSSION

Analysis

General Plan, Local Coastal Plan, and Zoning Code

The Land Use Element of the General Plan designates the site as Single-Unit Residential Detached (RS-D), the Coastal Land Use Plan designates this site as Single-Unit Residential Detached (RSD-B), and the Zoning Code designates the site as Single-Family Residential (R-1), which are intended to provide for detached single-unit residential dwellings on a single legal lot. The proposed development is consistent with these designations and will not change the use of the property.

Setback Encroachment Variance

The required setbacks for the subject property are 10 feet along the front property line adjacent to Goldenrod Avenue, 3 feet along the side property lines, and 10 feet along the rear property line. The applicant proposes to maintain the 10-foot front setback, preserving the neighborhood pattern of development along Goldenrod Avenue. The request is to encroach 5 feet into the required 10-foot rear setback with a two story portion of the structure and a roof deck. The default rear setback for R-1 properties is 10 feet unless the property abuts an alley. The typical lots in Corona del Mar have alley access and are subject to a 5-foot rear alley setback requirement. The subject property is a half lot and lacks alley access as a result of a prior re-subdivision. The lack of alley access results in the Zoning Code requirement for a 10-foot rear setback that is intended for larger-sized lots and is not required for typical lots in Corona del Mar. Application of a 10-foot rear setback and 10-foot front setback would equate to approximately 33.9 percent of the lot depth. In comparison, application of the standard 10-foot front setback and 5-foot rear alley setback on the typical 118-foot deep lot in the vicinity would equate to 12.7 percent of the lot depth.

The intent of a rear setback is to provide adequate separation for light, air, and usable outdoor living space adjacent to other residential properties. However, in Corona del Mar, most properties abut an alley to the rear and do not have usable rear yards, but instead utilize their front yards, courtyards, and decks for outdoor living space. The rear setback area of the subject property abuts the side setback area of the adjacent property that fronts Bayview Drive. The required side setback for a property is based on the width of the lot. The proposed 5-foot rear setback is compatible with the required 4-foot side setback on the abutting property and other dwellings in the area that maintain 3-foot side setbacks. The proposed design maintains the required 10-foot front setback providing for usable outdoor living space consistent with the other properties in the vicinity, in addition to the two balconies and a roof deck. The project also meets the open volume requirement of 15 percent of the buildable area.

Although the City has a process for establishing alternative setback areas where the orientation of an existing lot is not consistent with the character or orientation of other lots in the vicinity, the applicant is requesting additional floor area beyond what would be allowed using the revised buildable area based on the alternative setbacks; therefore, a variance is requested for the setback encroachment, floor area, and the third floor limitations.

Floor Area Variance

The Zoning Code allows structures within the R-1 Zoning District of Corona del Mar to have a maximum floor area, or Floor Area Limit ("FAL"), equal to 1.5 times the buildable area of the lot. The buildable area of a lot is the lot area excluding the required setback areas. Using the required setbacks and this formula, the FAL for the subject lot is 1,404 square feet. The proposed single-unit dwelling would have a gross floor area of 1,848 square feet, which would exceed the FAL by 444 square feet. The floor area ratio ("FAR") is the floor area to lot area ratio and is a method to compare the maximum square footage allowed on a site based on the lot size. Table 1 compares the development standards, FAR, and FAL of the subject lot, two typical lots in the vicinity, and the proposed project. The required front setback areas vary from 5 feet to 25 feet, with 10, 15, and 20 feet being the most common in the area.

Table 1
Development Standards Comparison

	Typical Lot (10 foot front setback)	**Typical Lot (20 foot front setback)**	**Subject Lot Required**	**Proposed Project**
Front Setback	10'	20'	10'	10'
Side Setbacks	3'	3'	3'	3'
Rear Setback	5' (alley)	5' (alley)	10'	5'
Lot Area (SF)	3,540 (30' x 118')	3,540 (30' x 118')	1,770 (30' x 59')	1,770 (30' x 59')
Buildable Area (SF)	2472 (70% of lot)	2232 (63% of lot)	936 (53% of lot)	1056 (60% of lot)
Floor Area Limit (SF)	3708	3348	1404	1,848
Floor Area Ratio	1.05	0.95	0.79	1.04

Due to the required setbacks, the subject property has a smaller buildable area as a percent of the lot when compared to typical lots Corona del Mar and thus has a lower floor area limit. As illustrated in Table 1, the buildable area of the subject lot with the code required setbacks is 53 percent of the total lot area; the buildable area of the larger, typical lot equates to 63 or 70 percent of the total lot area, depending on the required front setback. The buildable area of the proposed project would equate to 60 percent of the lot area, which is closer to the typical lots in the area.

The intent of floor area limits is to ensure each residential structure can be developed with a reasonable sized dwelling in relationship to the lot size and setbacks. To establish a recommendation, staff used an FAR comparison to determine an appropriate floor area, a method that has been used in the past when analyzing similar requests. Allowing additional floor area above the FAL, would allow for the construction of a reasonable sized dwelling that remains consistent with the development pattern in the vicinity. Strict application of the code required 1.5 FAL allows a maximum of 1,404 gross square feet, which results in an FAR of 0.79. The FAR of a typical lot within the block with a 10-foot front setback is 1.05. The applicant's requested variance to exceed the 1.5 floor area limit with a single-unit dwelling that has a gross floor area of 1,848 square feet results in a 1.04 FAR, which is consistent with the typical lots within the vicinity. Therefore, the floor area of the proposed structure would not be out of proportion to the allowed floor area within the immediate neighborhood and throughout Corona del Mar. The additional floor area would allow the design to include two bedrooms, a kitchen, a great room, and an entertainment loft area.

Third Floor Limitations Variance

Section 20.48.180 (Residential Development Standards and Design Criteria) of the Zoning Code establishes a third floor area limit of 20 percent of the buildable area (for lots 30 feet wide or less). The third floor area is also required to be set back an additional 15 feet from the front and rear setback lines. Twenty percent of the buildable area is 187 square feet and the applicant proposes a third floor area of 220 square feet, 33 square feet above the maximum. The application of the standard third floor area location requirements would allow a 9-foot by 24-foot area in which to construct a third floor. A typical lot with a 10-foot front setback and 5-foot alley setback would have an area of 73 feet by 24 feet in which to construct a third floor with a maximum third floor area of 494 square feet.

Due to the short depth of the lot, the additional setback requirements make the design difficult to achieve. Additionally, the first floor is partially below grade, so the third floor is not a typical third floor and it is designed with a flat roof at the 24-foot height limit. Most third floors are constructed with a pitched roof built to the 29-foot pitched roof height limit. The third floor is a loft entertainment room with a bathroom and provides access to the two third floor decks and the roof deck. Furthermore, the location of the third floor will have minimal aesthetic impact to the views from the streets because of the balcony, windows, and other design features of the structure.

Variance Findings and Summary

Pursuant to Section 20.52.090 (Variances) of the Zoning Code, the Planning Commission must make the following findings in order to approve a variance:

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

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

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

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

5. *Granting of the variance will not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood; and*

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

Staff believes sufficient facts exist to support the variance request for the rear setback encroachment, increased floor area, and third floor exceptions, as demonstrated in the Draft Resolution (Attachment No. PC 1).

As previously discussed, the subject property is sub-standard in size due to a prior re-subdivision and it lacks alley access. Given its small size, application of required setbacks results in a disproportionate reduction in buildable area and thus less allowable floor area. The proposed encroachment into the rear setback is reasonable in this case due to the extremely short depth of the lot. The encroachment affords the property owner a more usable buildable lot depth and the rear setback is adjacent to the 4-foot side setback area of the adjacent lot. The proposed gross floor area of the dwelling is consistent with the FAR of typical nearby lots in Corona del Mar. The equitable FAR preserves private property rights, while ensuring a special privilege is not granted to the property owner, and results in a dwelling that is proportionate to others in the area and is consistent with the neighborhood development pattern. The strict application of the third floor limitations would not allow an adequate third floor to be constructed due to the

short depth of the lot and small buildable area. The design of the proposed third floor and deck reduces any potential aesthetic impacts and allows reasonable living area for the dwelling.

Alternatives

The Planning Commission has the option to approve a revised project for alternate setback encroachments, gross floor area, and third floor limitations based on the required findings for approval. The Planning Commission also has the option to deny the request if any of the required findings cannot be made (Draft resolution for denial is provided as Attachment No. PC 2). Denial of the Variance would allow construction of a 1,404 square-foot dwelling with the required setbacks and third floor limitations.

Environmental Review

The project is categorically exempt under Section 15303, of the California Environmental Quality Act (CEQA) Guidelines - Class 3 (New Construction or Conversion of Small Structures), which allows for the construction of new, small structures, including one single-unit residence in a residential zone. In this case, an existing single-unit dwelling would be demolished and a new single-unit dwelling would be constructed on the lot located within the Single-Unit Residential Zoning District.

Public Notice

Notice of this application was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant, and posted on the subject property at least 10 days prior to the decision date, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:

Fern Nueno, Associate Planner

Submitted by:

Brenda Wisneski, AICP, Deputy Director

ATTACHMENTS

PC 1 Draft Resolution - Approve
PC 2 Draft Resolution - Deny
PC 3 Applicant's Project Description
PC 4 Project Plans

Attachment No. PC 1

Draft Resolution - Approve

RESOLUTION NO. ____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING VARIANCE NO. VA2012-006 FOR AN ENCROACHMENT INTO THE REAR SETBACK, AN INCREASE IN FLOOR AREA LIMIT, AND EXECPTIONS FROM THE THIRD FLOOR LIMITATIONS ASSOCIATED WITH THE CONSTRUCTION OF A NEW SINGLE-UNIT DWELLING LOCATED AT 211 GOLDENROD AVENUE (PA2012-126)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Annette Wiley, with respect to property located at 211 Goldenrod Avenue, and legally described as the southeasterly ½ of Lot 1, Block 133, Re-subdivision of Corona del Mar, requesting approval of a variance.

2. The applicant proposes to construct a new single-unit dwelling with a two-car garage on a sub-standard size lot. The applicant is requesting a variance to encroach 5 feet into the required 10-foot rear setback, to exceed the maximum allowed floor area limit for the property (1,404 square feet) by 444 square feet, and to deviate from the third floor size and location limitations. The third floor would exceed the maximum floor area (187 square feet) by 33 square feet and would be located closer than 15 feet to the front setback line.

3. The subject property is located within the Single-Unit Residential (R-1) Zoning District and the General Plan Land Use Element category is Single-Unit Residential (RS-D).

4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single-Unit Residential Detached (RSD-B).

5. A public hearing was held on December 6, 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.

1. This project has been determined to be categorically exempt under Section 15303, of the California Environmental Quality Act ("CEQA") Guidelines - Class 3 (New Construction or Conversion of Small Structures).

2. Class 3 allows for the construction of new, small structures, including one single-unit residence in a residential zone. In this case, an existing single-unit dwelling would be

demolished and a new single-unit dwelling would be constructed on the lot located within the Single-Unit Residential Zoning District.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.090 of the Newport Beach Municipal Code, the following findings for approval of a variance and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

A-1. The subject lot is a half lot measuring 30 feet by 59 feet, totaling 1,770 square feet in area. The surrounding typical lots in Corona del Mar are 30 feet by 118 feet, totaling 3,540 square feet in area. The lot depth, lot size, and buildable area of the subject property are significantly smaller than that of typical lots in the area.

A-2. The typical lots in Corona del Mar maintain alley access and are subject to a 5-foot rear alley setback. In this case, the subject property is sub-standard in size and lacks alley access as a result of a prior re-subdivision, resulting in a 10-foot required rear setback and a proportionately smaller buildable area compared with the typical lots in the area.

Finding:

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

Facts in Support of Finding:

B-1. Applying standard setbacks to the subject property results in a smaller buildable area and floor area ratio ("FAR") than for typical lots in Corona del Mar. Additionally, the rear property line is not adjacent to an alley as with most typical lots within the vicinity and throughout Corona del Mar; therefore, the required rear yard setback is 10 feet instead of the typical 5-foot alley setback. This is an unusually large setback for not only the subject property, but for a typical lot within the vicinity. Strict application of these default setbacks results in a buildable area that is 53 percent of the total lot area, while the buildable area of the larger, typical lot with a 10-foot front setback equates to 70 percent of the total lot area.

B-2. Strict application of the Zoning Code required floor area limit ("FAL") to the subject site allows a maximum area of 1,404 gross square feet, which results in an FAR of 0.79.

The allowed FAR of a typical lot with a 10-foot front setback located within the Single-Unit Residential Zoning District in Corona del Mar is 1.05.

B-3. The lack of alley access results in a 10-foot rear setback that is intended for larger-sized lots and is not required for the typical lot throughout Corona del Mar. Application of a 10-foot rear setback and 10-foot front setback would equate to approximately 33.9 percent of the lot depth as a required setback. In comparison, application of the standard 10-foot front setback and 5-foot rear alley setback on the typical lot in the vicinity would equate to 12.7 percent of the lot depth.

B-4. Strict application of the third floor limitations would limit the third floor area to 20 percent of the buildable area (187 square feet), and would require the third floor to be set back an additional 15 feet from the front setback line. The application of the standard third floor area location requirements would allow a 9-foot by 24-foot area in which to construct a third floor. A nearby typical lot with a 10-foot front setback and 5-foot alley setback would have an area of 73 feet by 24 feet in which to construct a third floor with a maximum third floor area of 494 square feet.

Finding:

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

Facts in Support of Finding:

C-1. The application of the 10-foot rear setback is unusually large and not typical of other lots in Corona del Mar and it significantly limits the buildable depth of the lot. The proposed encroachment into the rear setback is reasonable in this case due to the extremely short depth of the lot and affords the property owner a more usable buildable area and lot depth.

C-2. The requested variance to exceed the 1.5 floor area limit with a single-unit dwelling that has a gross floor area of 1,848 square feet results in a 1.04 FAR, which is more consistent with the typical lots within the vicinity and allows the property owner the right to construct a dwelling with a similar FAR to other dwellings in Corona del Mar.

C-3. The application of the third floor area limitations prevents the construction of a usable third floor area. Due to the short depth of the lot, the additional third floor setback requirements are not consistent with the intent of the Zoning Code as it results in an area that is 9 feet by 24 feet in which to construct the third floor and limits the size to 187 square feet in area.

Finding:

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

Facts in Support of Finding:

D-1. The proposed 5-foot rear setback does not result in a special privilege because it is consistent with the standard 5-foot alley setback and is compatible with the 4-foot side setback on the abutting property and with other dwellings in the area that maintain 3-foot side setbacks.

D-2. The FAR is a method to compare the maximum square footage allowed on a site based on the lot size. Using an FAR comparison to determine the appropriate maximum square footage allowed on a site provides equity for sub-standard lots without granting special privilege. The proposed gross floor area results in an FAR of 1.04, which is less than the 1.05 FAR of typical lots in the area with a 10-foot front setback, ensuring that the increased floor area does not result in a special privilege not enjoyed by other property owners in the vicinity.

D-3. The proposed deviations from third floor area limitations do not result in a special privilege because the limitations are based on the buildable area, which is proportionately smaller compared with the typical lots in the area. The first floor is partially below grade, so the third floor is not a typical third floor area and it is designed with a flat roof under the 24-foot height limit. Most third floors are constructed with a pitched roof built to the 29-foot pitched roof height limit.

Finding:

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

Facts in Support of Finding:

E-1. The proposed dwelling would provide adequate setbacks consistent with the neighborhood pattern of development and would ensure the protection of air, light, and separation that exists with other properties in the vicinity.

E-2. The size of the proposed dwelling is proportionate to the other dwellings within the immediate neighborhood and throughout Corona del Mar.

E-3. The design of the structure includes articulation and modulation through the use of several decks and windows to minimize bulk and enhance the aesthetics of the structure.

E-4. The required two-car parking would be provided in a tandem garage.

E-5. The property is located on a corner, which provides street access on two sides for emergency access.

Finding:

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

Facts in Support of Finding:

F-1. The intent of a rear setback is to provide adequate separation for light, air, and usable outdoor living space adjacent to other residential properties. However, in Corona del Mar, most properties abut an alley and do not have usable rear yards, but instead utilize their front yards for outdoor living space. The proposed 5-foot rear setback is consistent with the standard 4-foot side setback on the abutting property and other dwellings in the area that maintain 3-foot side setbacks. The proposed design maintains the required 10-foot front setback providing for usable outdoor living space consistent with the other properties in the vicinity, in addition to the two balconies and roof deck.

F-2. The intent of floor area limits is to ensure each residential structure can be developed with a reasonable sized dwelling in relationship to the lot size and setbacks; however, in this case, utilizing the FAL disproportionally reduces buildable area on this site due to the sub-standard lot size and larger rear setback requirement. Allowing additional floor area above the allowed FAL, would allow for the construction of a reasonable sized dwelling that remains consistent with the development of other dwellings in the vicinity.

F-3. Due to the short depth of the lot, the additional third floor setback requirements are not consistent with the intent of the Zoning Code. The request to deviate from the third floor limitations is reasonable and justified due to the depth and size of the lot and the design of the proposed structure.

F-4. The proposed project meets all other required code requirements, including parking, height, and open volume.

F-5. The requested Variance is consistent with the intent of Zoning Code and General Plan because the proposed deviations from the Zoning Code allow for a single-unit dwelling with a comparable FAR to other properties in the vicinity. The design provides usable open volume area and articulation and modulation so that the bulk is consistent with other properties in the area.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby approves Variance No. VA2012-006, 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.

PASSED, APPROVED, AND ADOPTED THIS 6TH DAY OF DECEMBER, 2012.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY:_____
Michael Toerge, Chairman

BY:_____
Fred Ameri, 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. Variance No. VA2012-006 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.

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

4. Prior to issuance of building permits, approval from the California Coastal Commission shall be required.

5. 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 Division.

6. The proposed structure shall be limited to a maximum encroachment of 5 feet into the rear 10-foot setback, with the exception of decorative architectural features and roof overhangs which may encroach as allowed in the Zoning Code.

7. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code, including the glass railing, projections, stairway, and automatic fire sprinkler system requirements.

8. All improvements shall be constructed as required by ordinance and the Public Works Department.

9. All damaged or broken concrete curb, gutter, and sidewalk along Goldenrod Avenue and Bayview Drive shall be reconstructed.

10. The existing curb access ramp at the corner of Goldenrod Avenue and Bayview Drive shall be upgraded to by ADA compliant.

11. All existing private, non-standard improvements within the public right-of-way and/or extensions of private, non-standard improvements into the public right-of-way fronting the development shall be removed. All brick carriage walks, planter walls, decorative stones, and stair risers along Goldenrod Avenue and Bayview Drive are considered non-standard improvements.

12. The existing sewer cleanout shall be upgraded per STD-406-L within the public right-of-way if constructed with substandard material. Replacement shall be determined by a City Public Works Inspector.

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

14. All improvements shall comply with the City's sight distance requirements (City Standard 110-L).

15. Landscaping within the sight distance triangle shall be a maximum height of 24 inches. Landscaping within 24 inches from the curb face shall be low growing ground cover. Landscaping within the public right-of-ways shall be limited to a maximum height of 36 inches.

16. The existing street tree along Goldenrod Avenue shall be protected in place. Unauthorized tree removal will trigger substantial penalties for all of the parties involved.

17. Pursuant to Chapter 13 of the Municipal Code, one (1) 36 inch box Maytenus boaria (Mayten Tree) street tree shall be planted along the Bayview Drive frontage per City Standard 118-L-B.

18. The existing 4 inch outlet drain shall be plugged. If an overflow outlet is required, a new curb drain shall be installed per City Standard 184-L.

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

20. 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 Variance No. VA2012-006. 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.

Attachment No. PC 2

Draft Resolution - Deny

RESOLUTION NO. ____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH DENYING VARIANCE NO. VA2012-006 FOR AN ENCROACHMENT INTO THE REAR SETBACK, AN INCREASE IN FLOOR AREA LIMIT, AND EXECPTIONS FROM THE THIRD FLOOR LIMITATIONS ASSOCIATED WITH THE CONSTRUCTION OF A NEW SINGLE-UNIT DWELLING LOCATED AT 211 GOLDENROD AVENUE (PA2012-126)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Annette Wiley, with respect to property located at 211 Goldenrod Avenue, and legally described as the southeasterly ½ of Lot 1, Block 133, Re-subdivision of Corona del Mar, requesting approval of a variance.

2. The applicant proposes to construct a new single-unit dwelling with a two-car garage on a sub-standard size lot. The applicant is requesting a variance to encroach 5 feet into the required 10-foot rear setback, to exceed the maximum allowed floor area limit for the property (1,404 square feet) by 444 square feet, and to deviate from the third floor size and location limitations. The third floor would exceed the maximum floor area (187 square feet) by 33 square feet and would be located closer than 15 feet to the front setback line.

3. The subject property is located within the Single-Unit Residential (R-1) Zoning District and the General Plan Land Use Element category is Single-Unit Residential (RS-D).

4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single-Unit Residential Detached (RSD-B).

5. A public hearing was held on December 6, 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.

1. Pursuant to Section 15270 of the California Environmental Quality Act ("CEQA") Guidelines, projects which a public agency rejects or disapproves are not subject to CEQA review.

SECTION 3. REQUIRED FINDINGS.

The Planning Commission may approve a variance only after making each of the required findings set forth in Section 20.52.090 (Variances). In this case, the Planning Commission was unable to make the required findings based upon the following:

1. The Variance application for the proposed single-unit residential dwelling is not consistent with the legislative intent of Title 20 of the Municipal Code and that findings required by Section 20.52.090 are not supported in this case. The proposed project may prove detrimental to the community.

2. The design, location, size, and characteristics of the proposed project are not compatible with the single- or two-unit dwellings in the vicinity. The development may result in negative impacts to residents in the vicinity and would not be compatible with the enjoyment of the nearby residential properties.

3. The sub-standard size of this property does not preclude the construction of a reasonable size dwelling of 1,404 square feet that would be compatible with surrounding lots. The proposed dwelling can be redesigned to comply with the required development standards and approval of the Variance is not necessary to preserve this substantial property right.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby denies Variance No. VA2012-006.

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.

PASSED, APPROVED, AND ADOPTED THIS 6TH DAY OF DECEMBER, 2012.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY:_____
Michael Toerge, Chairman

BY:_____
Fred Ameri, Secretary

Attachment No. PC 3

Applicant's Project Description

211 Goldenrod
AP No. 052-071-009
Variance Application
11.29.2012

Project Description and Justification:

Project consists of the demolition of the existing structure and construction of a new single family residence of 1,848 square feet which includes a two-car garage.

1 Rear Setback Encroachment request:
The proposed structure would maintain the required 10-foot front yard setback from the easterly property line adjacent to Goldenrod Avenue and the 3-foot side yard setbacks from the northerly and southerly property lines; however, the applicant is requesting a variance to encroach 5 feet into the required 10-foot rear setback adjacent to the westerly property line.

The setbacks when applied to a substandard sized lot disproportionately and unfairly burden the property.

The setback encroachment variance is compatible with existing development in the neighborhood. The immediately adjacent properties have 4-foot rear setbacks instead of the 5 foot requested.

2 Third Floor Limitation
The applicant is requesting that the third floor area be located closer than 15 feet from the front setback line and that the floor area exceed the 20 percent of the buildable area limit of 187 square feet by 33 square feet.

The location of the third floor was determined by the structural design and needed to align with the placement of the shear walls.

The design exceeds the goal of the Development Standards for open volume area by 98 square feet.

3 Allowable Floor Area:
The applicant is requesting to exceed the maximum permitted floor area limitation for the property of 1,404 square feet by an additional 444 square feet. When the garage area is deducted the net area equals only 1,062 SF which the applicant feels is insufficient to create a practical and livable home commensurate with the neighborhood.

This lot is substandard in size at 30' x 59'. The current structure was built in approximately 1949, consisting of 1,770 square feet with a one car garage and has an unpermitted rooftop room and an unpermitted enclosed deck at easterly elevation. Stairs to the roof top encroach into the side yard setback. Structural damage caused by water intrusion has required the City to post a notice of safety violation.

Design challenges encountered in this project included extra square footage required by vertical circulation currently outside the building footprint that now is included in the total allowable area and a 332 SF garage which can only be accessed by the existing single curb cut.

The value per square foot of the Subject Property would be substantially less than the per square foot value of other homes in the vicinity as a 1,062 SF home would have very limited marketability. In addition, construction of a 1,062 SF home of comparable quality to the surrounding homes is not economically feasible.

The Planning Commission granted a similar variance to Davidson-Took property at 201 Sapphire Avenue, Balboa Island, on September 20, 2012.

Additional Points

The approval of a variance is appropriate as applicant has demonstrated the existence of conditions which support each of the required findings:

1 There are special or unique circumstances or conditions applicable to the subject property that do not apply generally to other properties in the vicinity under an identical zoning classification in that the Subject Property is substandard in size as compared to other properties in the vicinity;

2 Strict compliance with Zoning Code requirements would deprive the subject property of privileges enjoyed by other properties in the vicinity and under an identical zoning classification as the required setbacks unfairly and disproportionately burden the Subject Property as compared to other typical properties in this CDM block; e.g., the FAR typical in this CDM block is 1.047 whereas the allowable FAR for the Subject Property with the required setbacks is only .79; additionally, a structure in strict compliance with the Zoning Code requirements would include only 1,062 square feet of livable area.

3 Granting of the variance is necessary for the preservation and enjoyment of substantial property rights of the applicant; given the land costs in the vicinity of the Subject Property, it is not economically feasible to construct a residence on the property with only 1,062 sf of livable area that is compatible with the quality of neighboring residences;

4 Granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district in that the Subject Property is unique in size and the requested FAR is consistent with the FAR typical in this CDM block;

5 Granting of the variance will not be detrimental to the harmonious and orderly growth of the City, nor 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 in that the granting of the variance will allow the demolition of the current structure which is non-conforming, has been "red tagged" and is an "eyesore" to the neighborhood and will enable the construction of a replacement structure compatible with quality of residences in the neighborhood; and

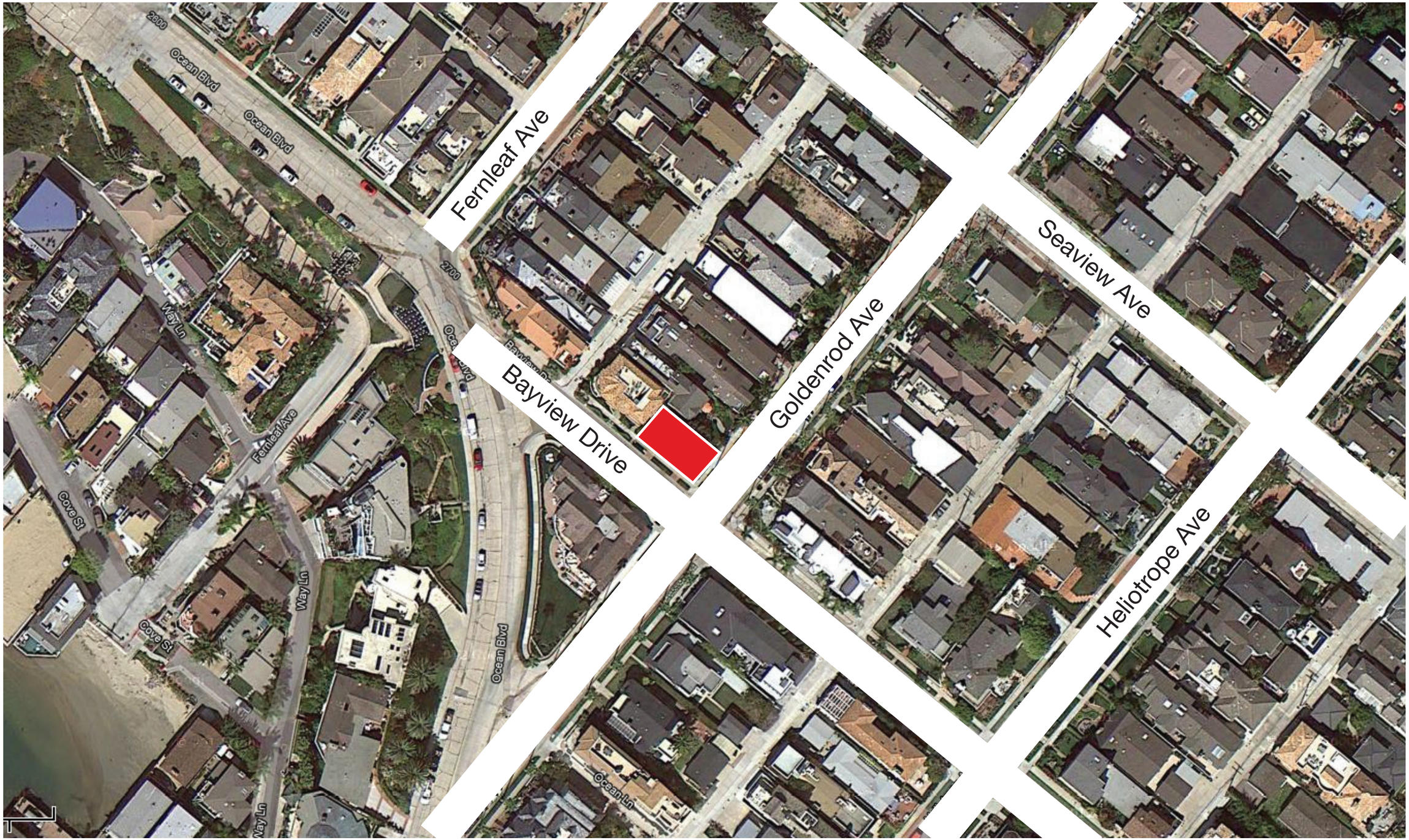
6 Granting of the variance will not be in conflict with the intent and purpose of this section, this Zoning Code, the General Plan, or any applicable specific plan as the granting of the variance will improve the neighborhood by enabling the demolition of a non-conforming, "red tagged" structure and replace it with a high quality residence consistent with that of the neighboring residences.

Attachment No. PC 4

Project Plans

CITY OF NEWPORT BEACH, VARIANCE PERMIT APPLICATION

WILEY
ARCHITECTS



Vicinity Map

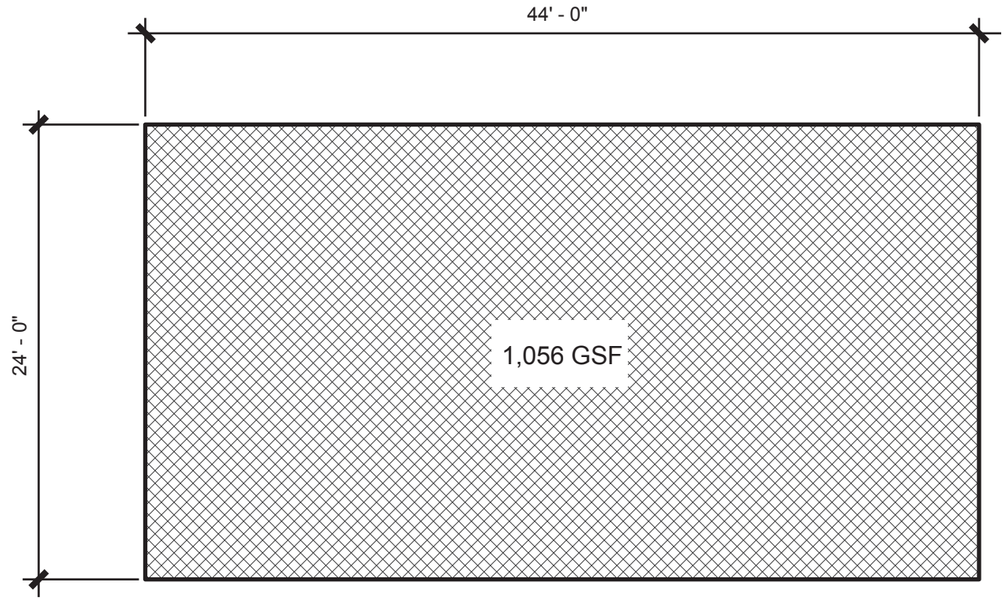
NORTH

Project Address:
211 Goldenrod Ave
Corona Del Mar, CA

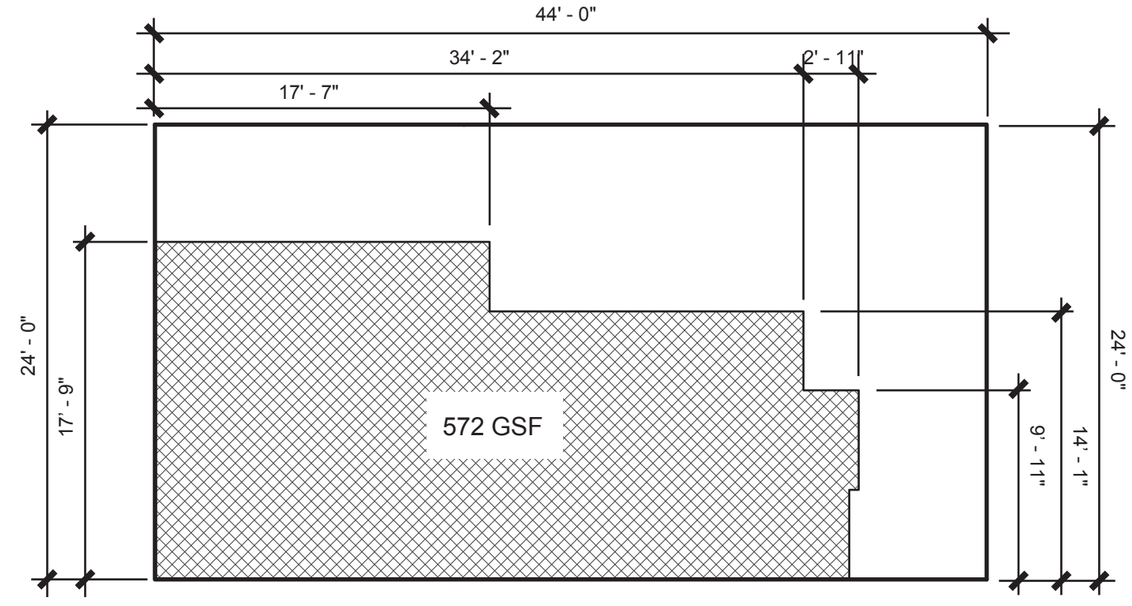
Legal Description:
EAST ONE HALF OF LOT 1, BLOCK 133
OF RE SUB, CORONA DEL MAR TRACT

Contact Person:
Annette Wiley
949-371-9793

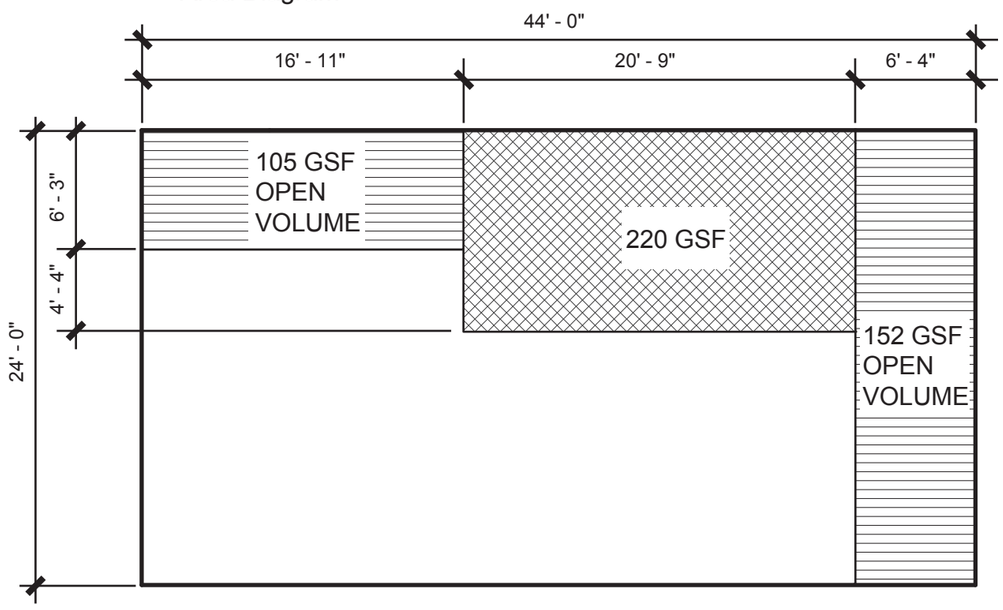
WILEY ARCHITECTS



First Floor Plan
Area Diagram



Second Floor Plan
Area Diagram



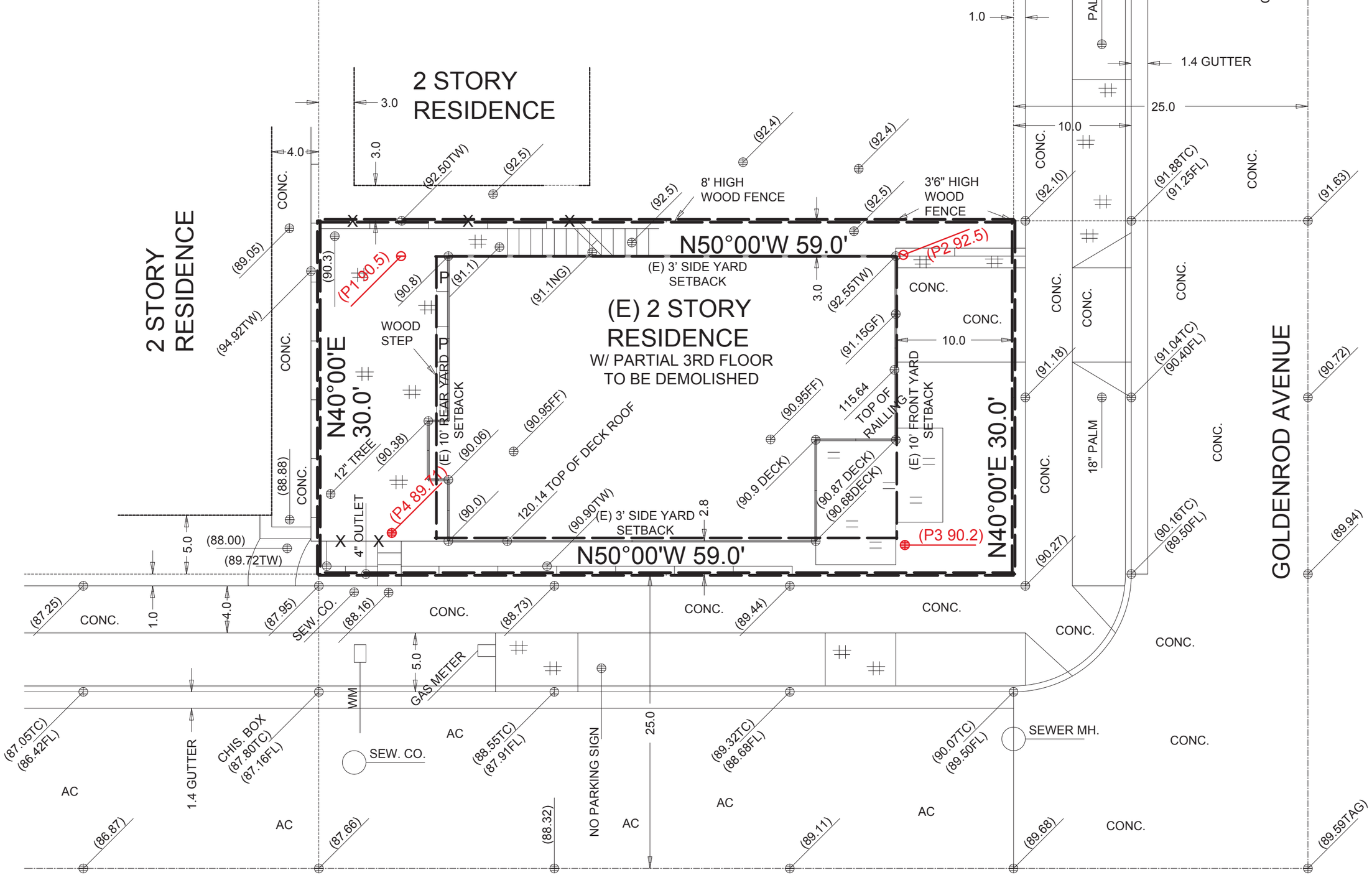
Third Floor Plan
Area Diagram

Open Volume required 20% buildable:
Buildable: 44' x 24' = 1,056 sf
20% buildable: .20 x 1,056 = 211.2 sf
Actual Open Volume: 257 sf

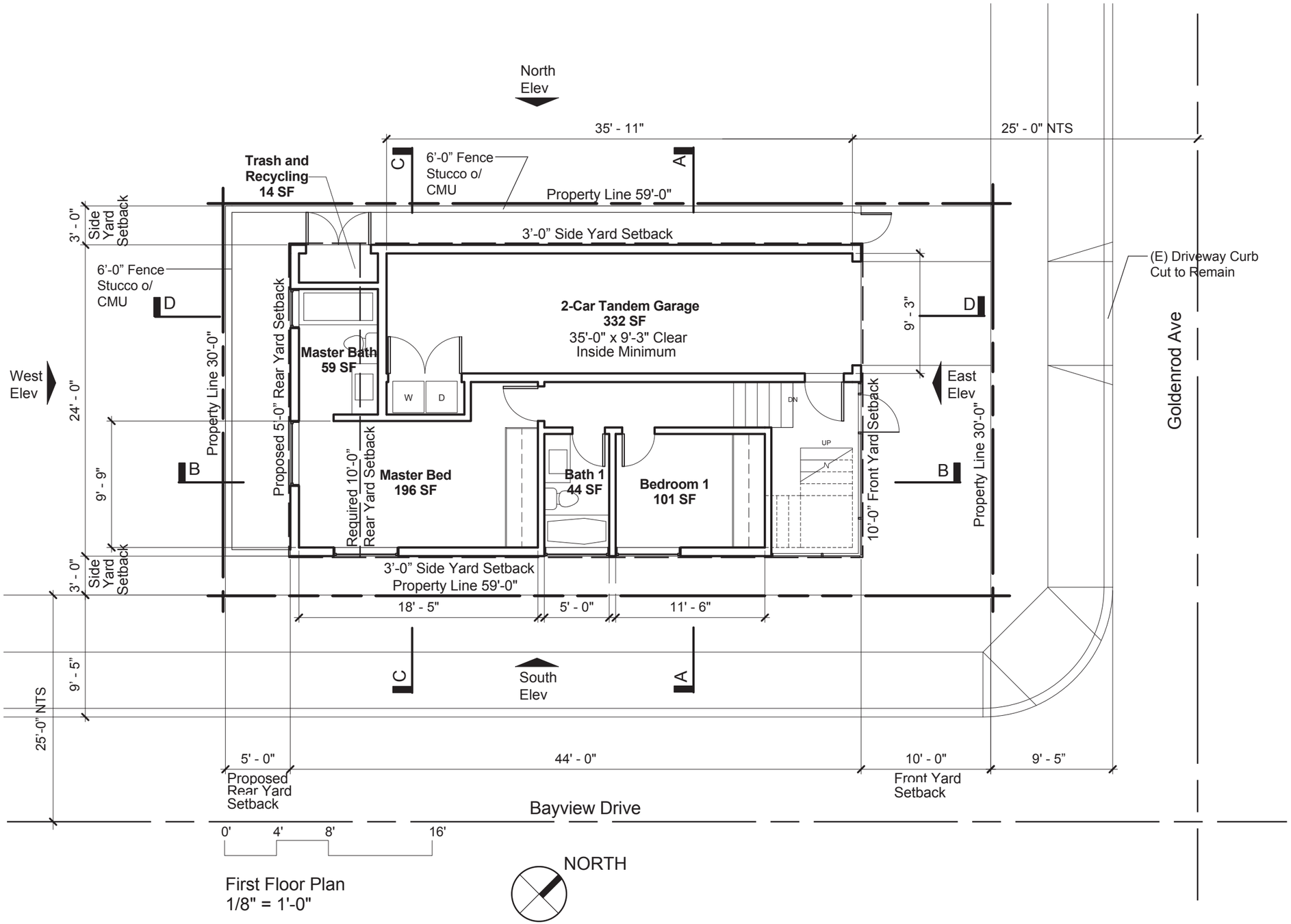
Area Diagrams for Open Volume Calculations

Project Area

Floor 1 -	1,056 gsf
Floor 2 -	572 gsf
Floor 3 -	220 gsf
Total GSF:	1,848 gsf

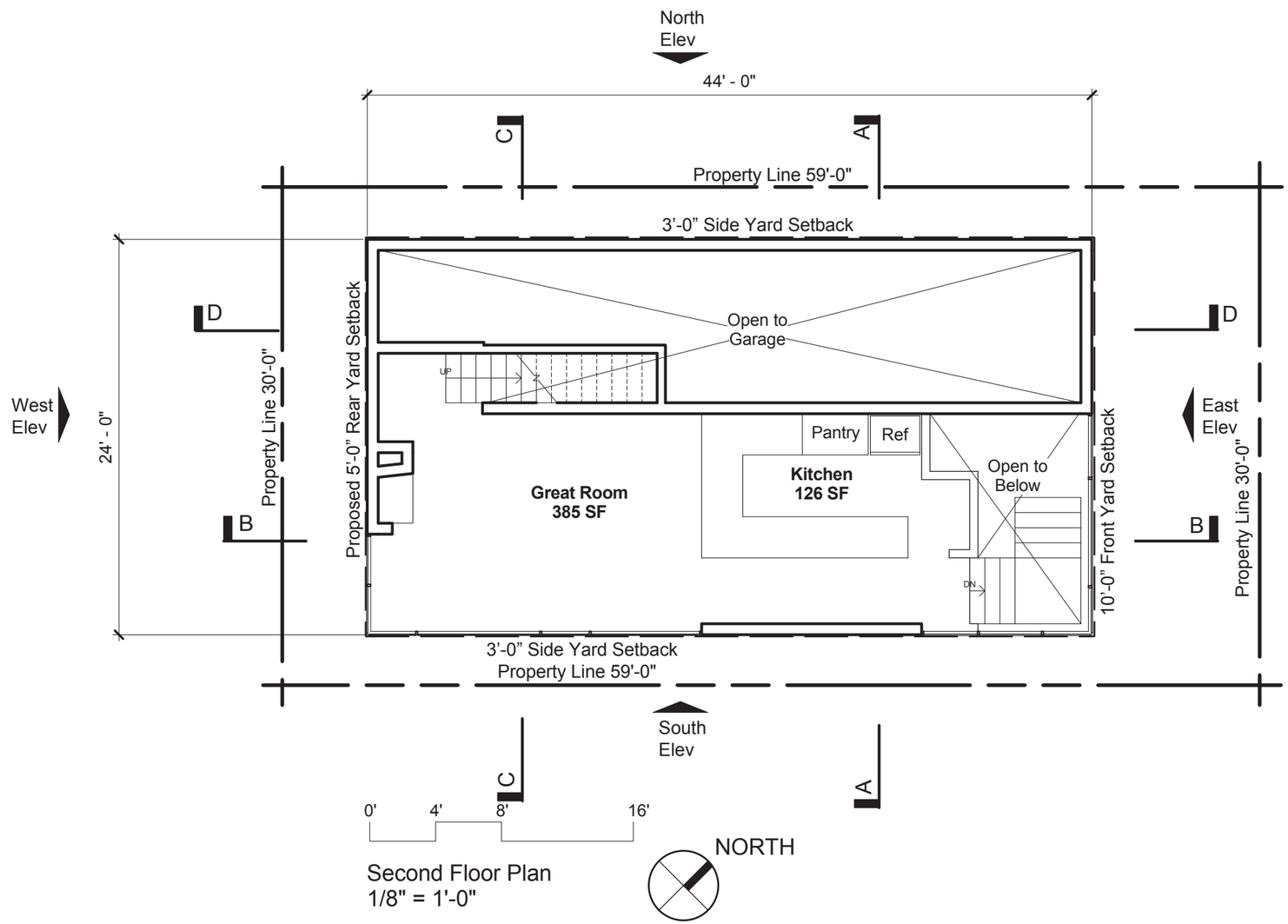


Existing Site Plan
1/4" = 1'-0"



First Floor Plan
1/8" = 1'-0"

WILEY ARCHITECTS



Second Floor Plan
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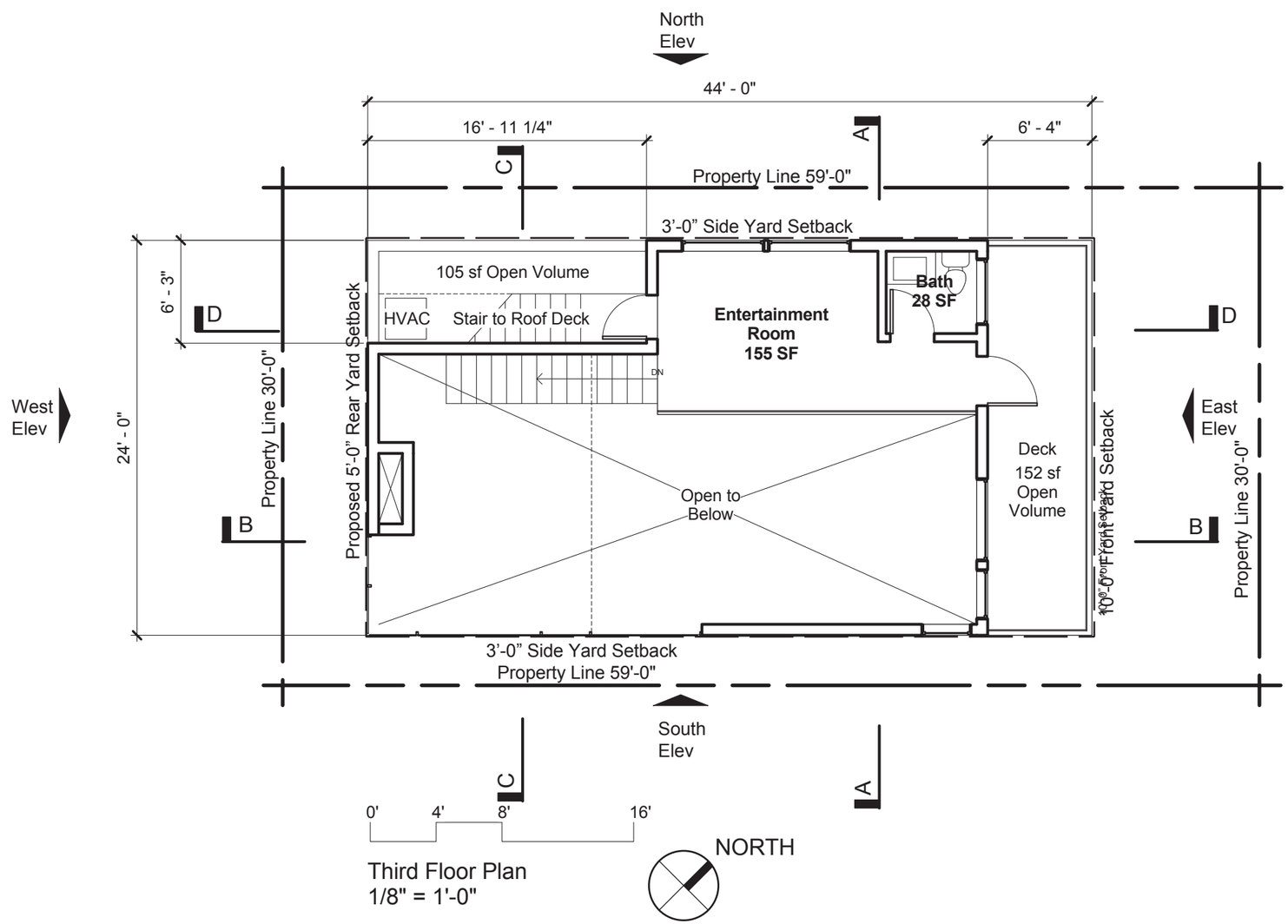

Third Floor Plan
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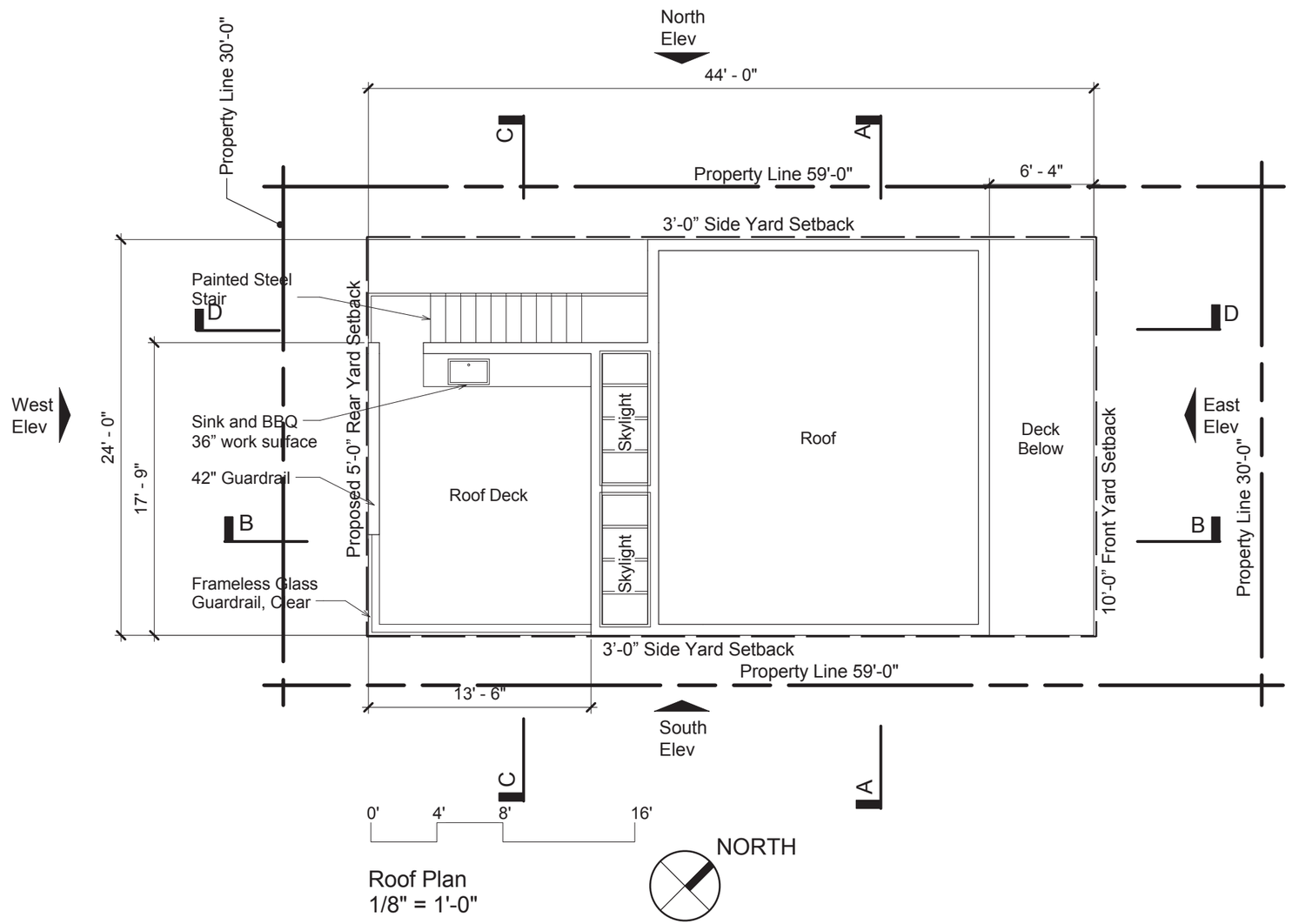

Roof Plan
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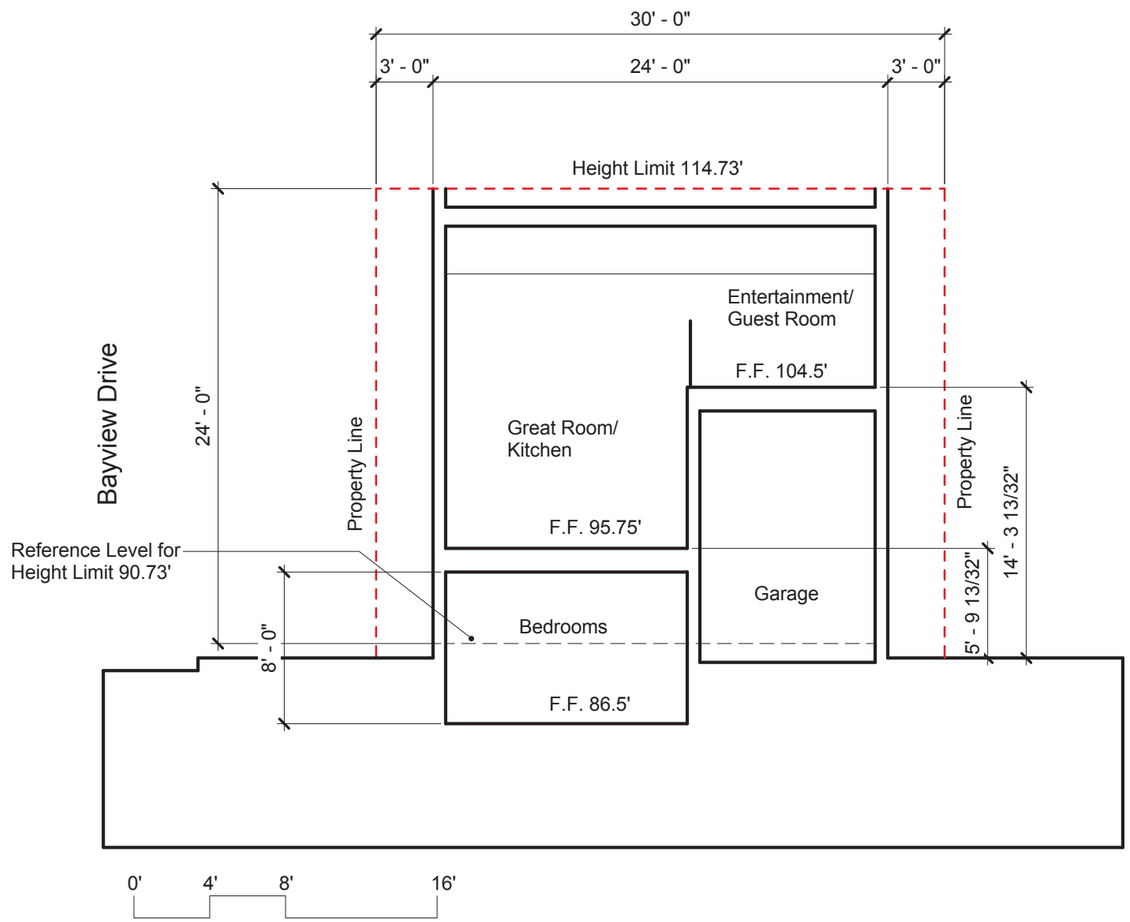

Section A-A
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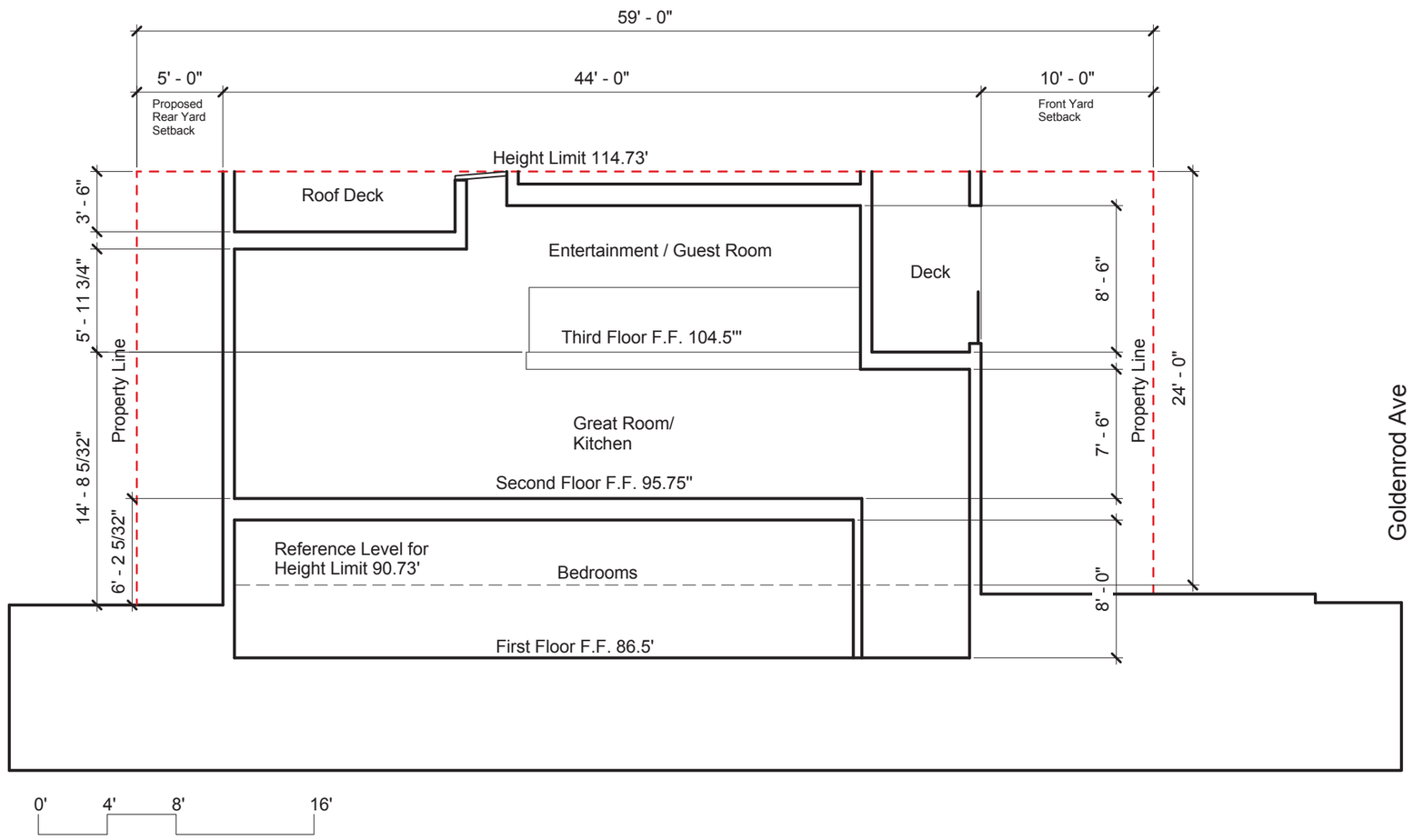

Section B-B
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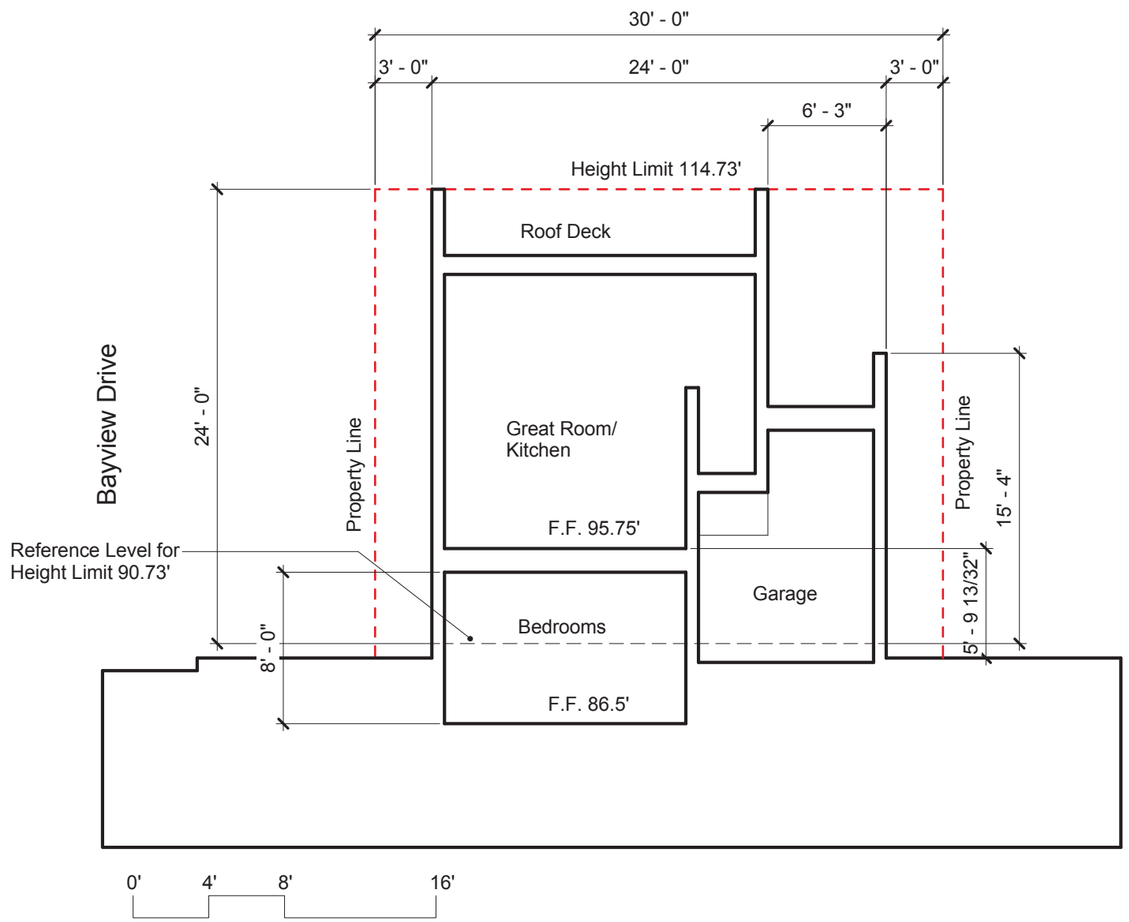

Section C-C
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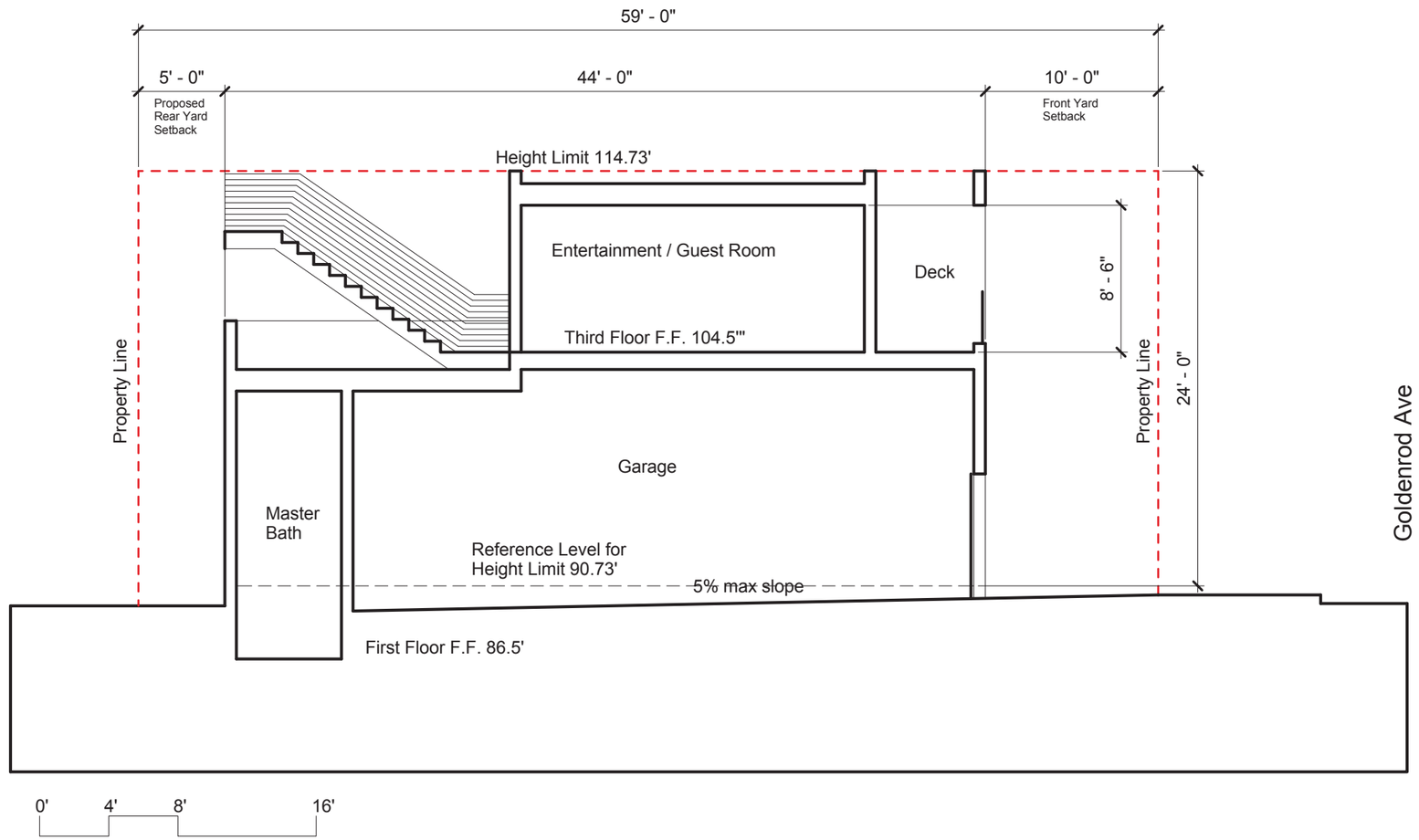

Section D-D
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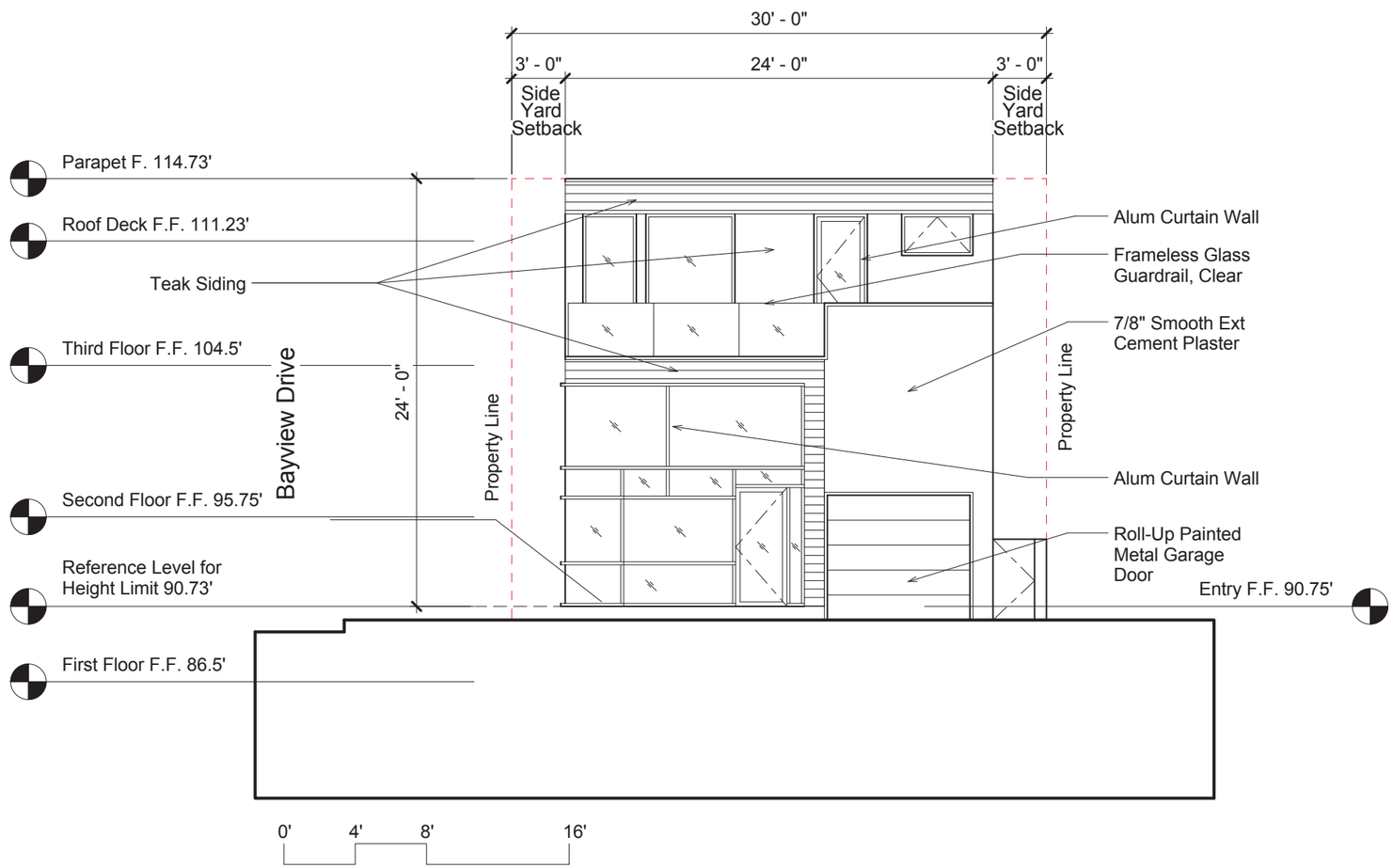
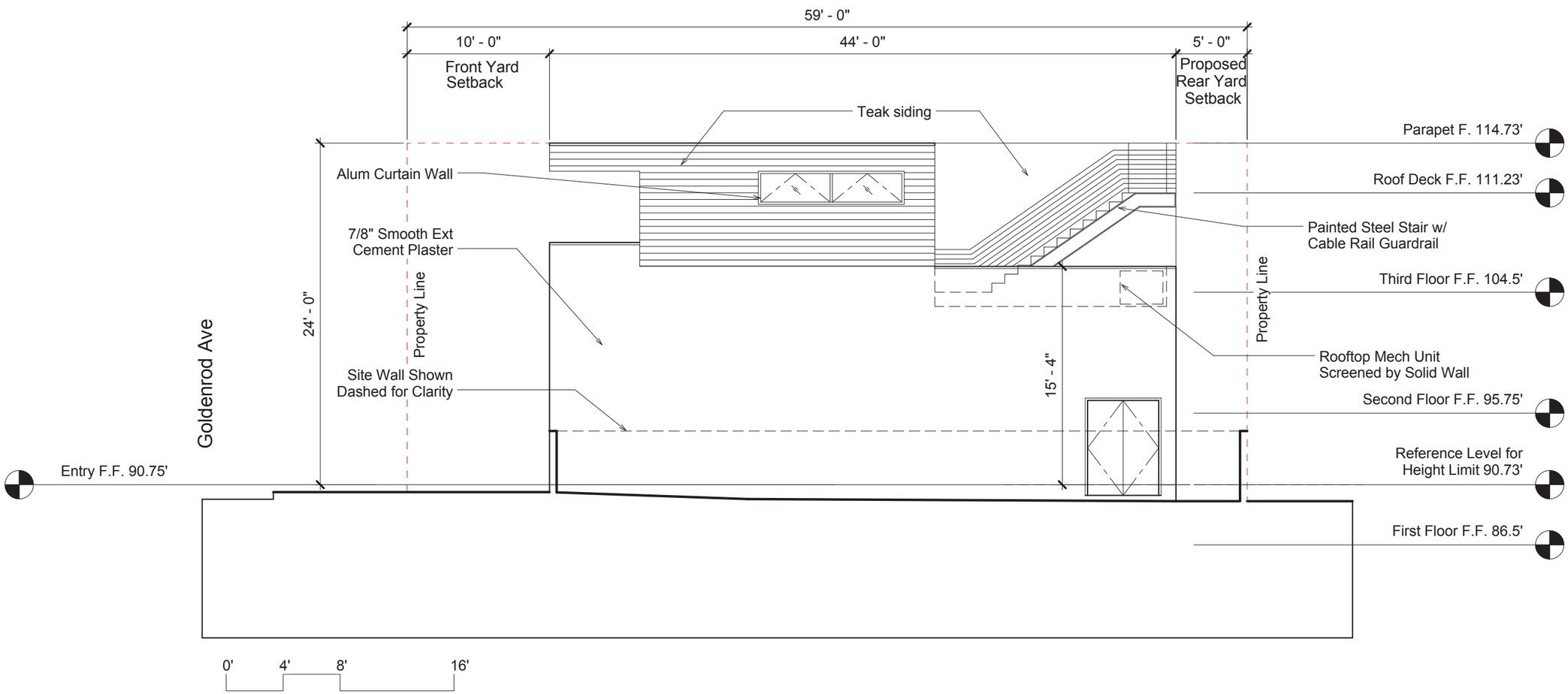


East Elevation
1/8" = 1'-0"



North Elevation
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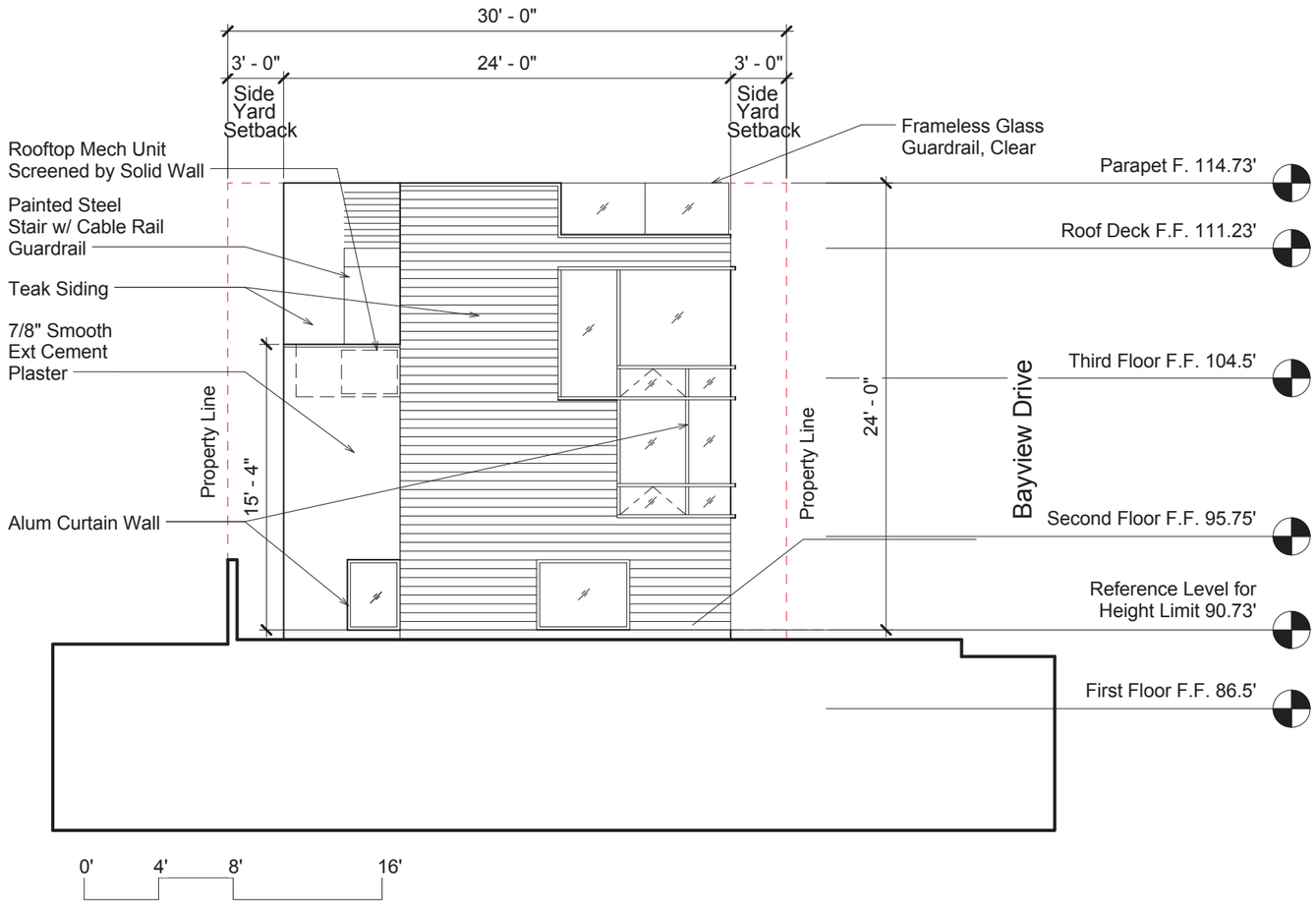

West Elevation
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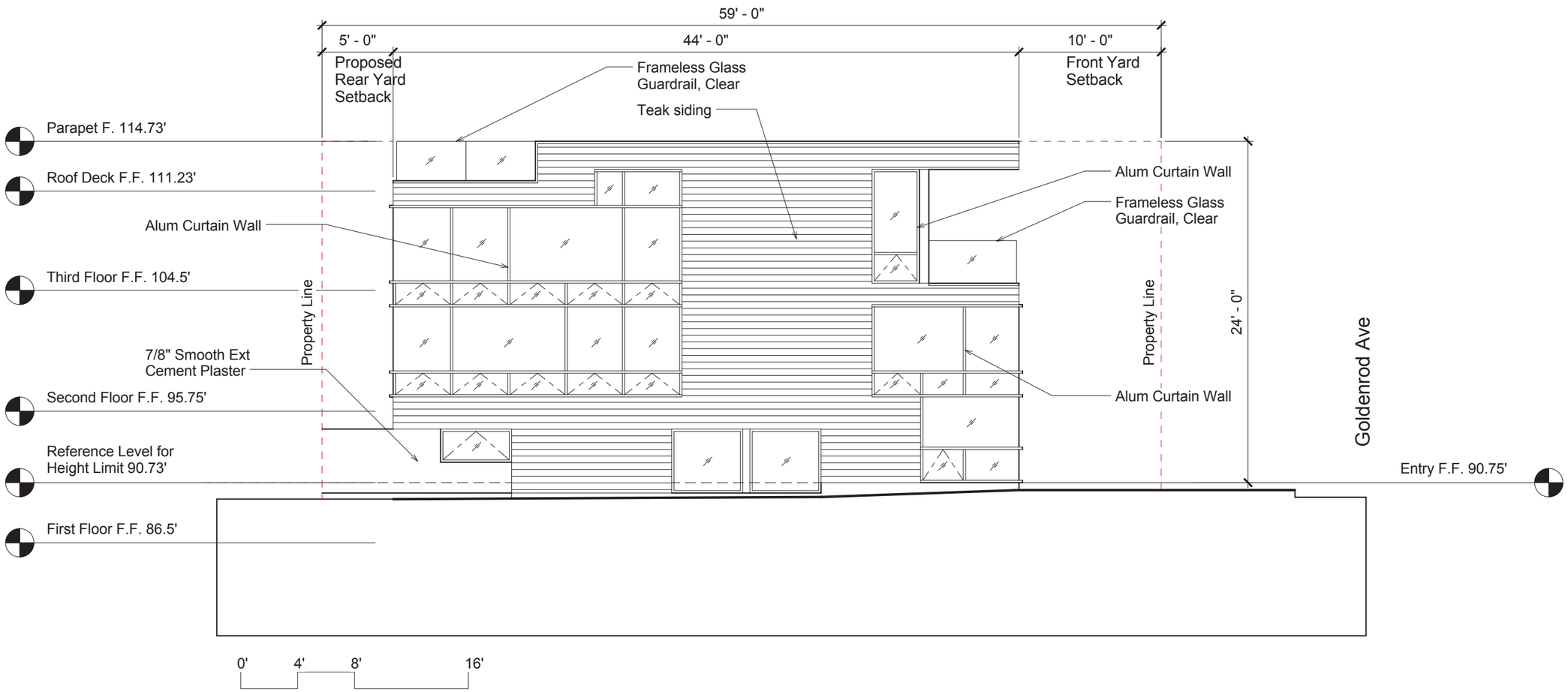
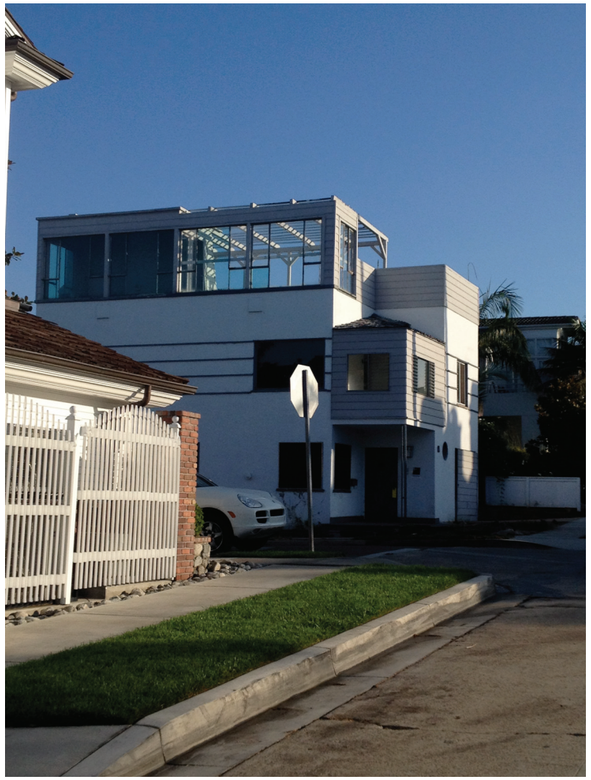
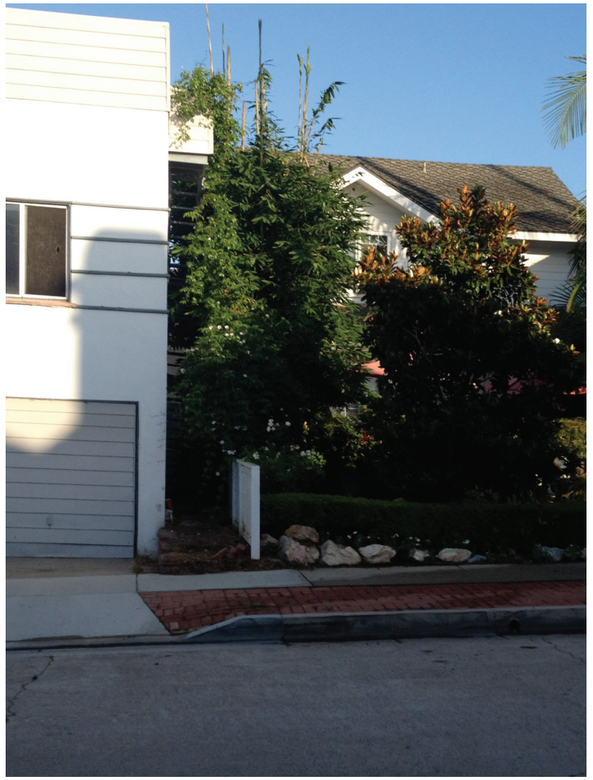


South Elevation
1/8" = 1'-0"

Existing Condition, North Property Line


Existing Condition, Neighbor to South


Existing Condition, Neighbor to North

Existing House, Bayview Elevation

Existing House, Corner of Bayview abd Goldenrod

Existing Condition, Neighbor to West

Existing Condition, Neighbor to West

View from corner Bayview and Goldenrod

View from Bayview Drive looking North

Aerial View

Aerial View

CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT
December 6, 2012 Meeting
Agenda Item 3

SUBJECT: Plaza Corona del Mar (PA2010-061)
SITE LOCATION: 3900 and 3928 East Coast Highway

- Conditional Use Permit No. UP2012-011
- Modification Permit No. MD2012-011
- Site Development Review No. SD2012-001
- Tentative Tract Map No. NT2012-001
- Variance No. VA2012-002

APPLICANT: Marcelo E. Lische, Architect AIA

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

Makana Nova, Assistant Planner
(949) 644-3249, mnova@newportbeachca.gov

PROJECT SUMMARY

The applicant is proposing to construct a horizontal mixed-use development that includes six detached dwelling units above a common subterranean parking structure, a 2,160-square-foot office addition above an existing 535-square-foot delicatessen (Gallo's Deli), and a 10-space shared, ground level parking lot. The following approvals are requested or required in order to implement the project as proposed:

1. A site development review to ensure compatibility with the site and surrounding land uses;

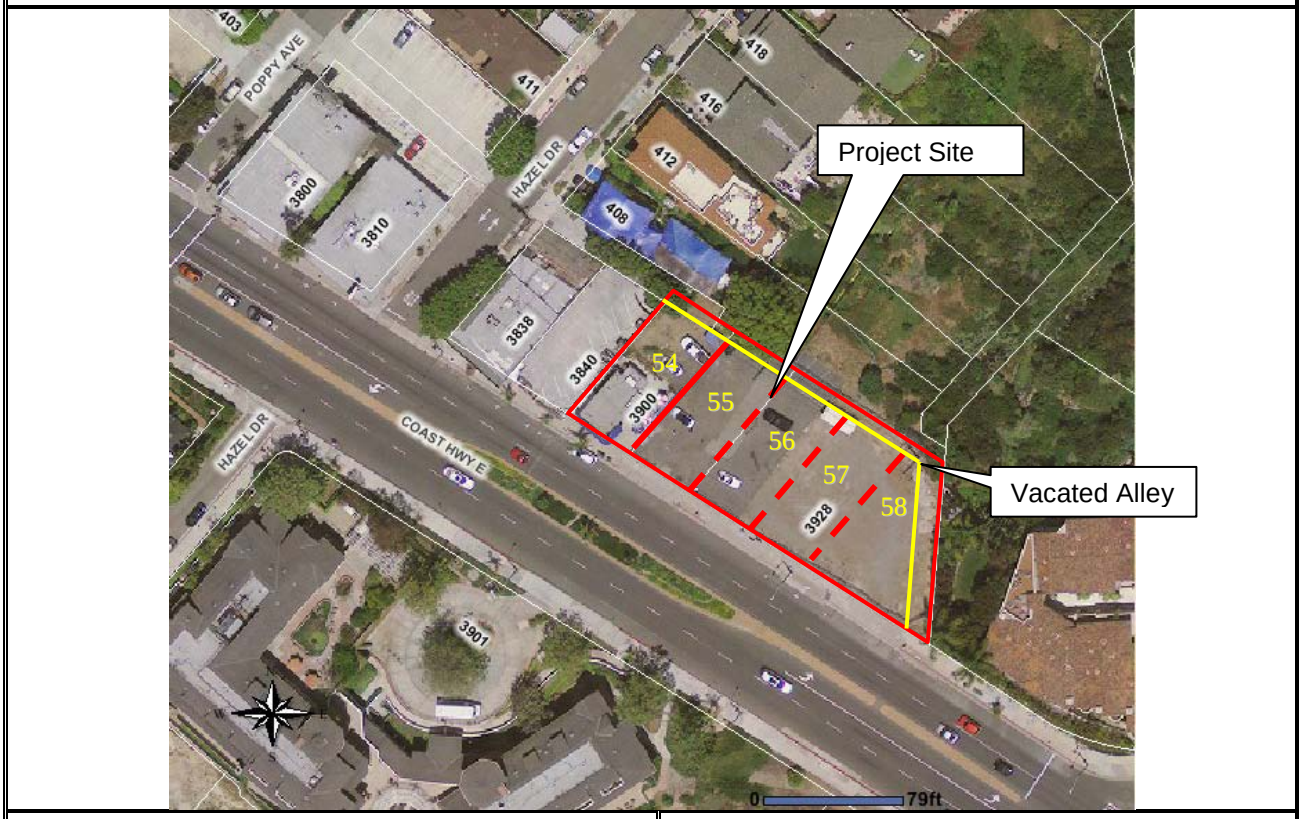
2. A conditional use permit to allow parking for nonresidential uses in a residential zoning district and to allow approval of off-site parking;

3. A modification permit to allow construction of a retaining wall that is up to 17-feet 2-inches in height, where the Zoning Code limits the height to 8-feet maximum;

4. A tentative tract map for condominium purposes and to consolidate five lots and portions of a vacated alley into two lots; and

5. A variance for the residential structures to establish a 15-foot front setback and corresponding buildable area, where a 20-foot setback is currently required.

VICINITY MAP



GENERAL PLAN

ZONING

LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	Corridor Commercial (CC) & Multiple-Unit Residential (RM)	Commercial Corridor (CC) & Multiple Residential (RM)	Delicatessen & vacant lots
NORTH	Single-Unit Residential, Detached (RS-D)	Single-Unit Residential (R-1)	Single-unit dwelling
SOUTH	Private Institution (PI)	Emerald Village Planned Community (PC-36)	Assisted living facility
EAST	RM	Multiple Residential (RM)	18-unit condominium complex
WEST	CC	CC	Restaurant and office

RECOMMENDED ACTION

1) Conduct a public hearing; and

2) Adopt Resolution No. ___ approving Conditional Use Permit No. UP2012-011, Modification Permit No. MD2012-011, Site Development Review No. SD2012-001, Tentative Tract Map No. NT2012-001, and Variance No. VA2012-007 (Attachment No. PC 1).

INTRODUCTION

Project Setting

The project site is located at the east end of the Corona del Mar commercial corridor at 3900 and 3928 East Coast Highway. The property consists of five underlying legal lots and portions of a vacated alley that total 19,171 square feet (0.44 acres) of land area (see vicinity map).

The westerly portion of the property (3900 E. Coast Highway) is developed with a 535-square-foot delicatessen (Gallo's Deli) located on an individual lot (Lot 54) and adjacent vacated alley. The northwesterly corner of this lot slopes up in grade approximately 17 feet in height. The remaining four lots (Lots 55-58) and vacated alley (3928 E. Coast Highway) are relatively flat and are currently undeveloped and covered with gravel. A total of three curb cuts currently provide access to this undeveloped area, which was previously developed with a service station. The service station was demolished and remediated in the early 1990's. Existing site photographs are included as Attachment No. PC 3.

The project site is bounded by the Buck Gully canyon on the northeast, a single-unit dwelling, restaurant and commercial building on the northwest, and an attached 18-unit condominium development on the southeast. An assisted living facility is located across East Coast Highway from the project site.

Project Description

The applicant owns all five lots and portions of the adjacent vacated alley and is proposing to redevelop the site as a horizontal mixed-use development that includes a residential and commercial component, and a shared 10-space ground level parking lot (Project Plans- Attachment No. PC 4). For the residential component, the westerly four lots and portions of the vacated alley are proposed to be consolidated into one parcel and developed with six detached dwelling units above a subterranean parking structure. For the commercial component, the applicant proposes to retain the existing 535-square-foot delicatessen on the easterly lot and construct a 2,160-square-foot second floor office addition above. The shared 10-space ground level parking lot would be located primarily on the proposed residential parcel; however, a majority of the spaces

are intended to serve the commercial component portion of the project. Each component is described in more detail below.

Residential Component - 3928 East Coast Highway

The four underlying lots and portions of the vacated alley are proposed to be consolidated into one 15,495-square-foot parcel[1] and developed with six detached residential condominium units above a common subterranean parking structure. The proposed architecture consists of a contemporary or modern style with exterior materials consisting of stucco, metal roofing, aluminum windows and doors, and glass railings. Three units front onto East Coast Highway and three units front Buck Gully at the rear. Each unit is similar in design with three levels of living area above grade. A building separation of either 10 feet or 6 feet is provided between each unit. Each unit is designed with sloping roofs with overall heights of 33 feet. The units range in size between 1,808 square feet to 2,657 square feet of living area. One unit (Unit C) has been designed to be accessible for persons with disabilities.

Access to the project site would be provided via two driveways on East Coast Highway. The easterly driveway would serve as the project's primary access for residents into the subterranean parking garage. The westerly driveway would serve as a shared driveway with the commercial component and would provide access to a majority of the residential guest parking.

The subterranean parking garage would accommodate a total of 12 resident parking spaces located in individual garages (with the exception of a covered van accessible space for Unit C) and two additional covered guest spaces. Each of the individual garages includes space for vehicle parking, laundry facilities, and an internal elevator. Access to the ground floor level is also provided via two stairwells. The remaining required guest parking would be provided within the adjacent ground level shared parking lot that also serves the commercial component of the project.

Commercial Component – 3900 East Coast Highway

The applicant is proposing to consolidate the underlying legal lot and portion of the adjacent vacated alley into one 3,676-square-foot parcel[1]. The existing 535-square-foot commercial building (Gallo's Deli) would be retained and a new 2,160-square-foot office addition would be constructed above. The proposed architecture of the addition and exterior façade of the existing commercial building would consist of a similar contemporary or modern style as the residential component with exterior materials consisting of stucco, block, metal roofing, and aluminum windows and doors. A common elevator and stairway would provide access to the second floor office area. Two

[1] Proposed plans included as Attachment PC4 incorrectly label and illustrate the proposed residential lot (Lot 1) as 15,577 SF and the proposed commercial lot (Lot 2) as 3,594 SF due to a mapping error. An approximately 82 SF area illustrated at the northeasterly corner of proposed Lot 2 is inadvertently illustrated as a portion of proposed Lot 1. Revised plans will be provided prior to the 12/06/12 meeting.

separate offices are proposed with a common restroom. A defined 125-square-foot outdoor dining area would continue to serve the existing food use.

A retaining wall would be constructed at the northwesterly corner of the site to provide additional area for parking, vehicular turn-around, and a shared trash enclosure. The retaining wall would measure 17 feet 2 inches in height at its highest point and would slope down consistent with the adjacent grade (See Sheet A-5 of Attachment PC 4). The nine parking spaces required for the commercial use would be provided within the shared 10-space parking lot.

Background

According to the applicant, the existing food use was established on the site as early as 1975. On August 15, 1995, Specialty Food Permit No. 38 (Attachment No. PC 5) was approved allowing the food use to expand with a 125-square-foot outdoor patio and established a maximum seating/stand-up counter space for 20 customers. No on-site parking was provided. Permitted hours of operation are from 7:00 a.m. to 9:00 p.m., daily. The existing food use would continue operating as a vested land use under Specialty Food Permit No. 38 upon completion of the proposed project.

DISCUSSION

General Plan

Residential Component

The Land Use Element of the General Plan designates this portion of the site as Multiple Residential (RM, 8 DU), which is intended primarily for multi-family residential development containing attached or detached dwelling units. The site is limited to a maximum of eight dwelling units. The proposed project consists of six detached dwelling units, which is consistent with the land use designation of the site.

The size, density, and character of the proposed residential dwelling units complement the existing land uses in the project area and include design elements consistent with Land Use Element Policy 5.1.9 (Character and Quality of Multi-Family Residential) that requires multi-family dwellings to be designed to convey a high quality architectural character. Consistent with this policy, the architectural treatment of the building includes high quality finishes and modulation of mass to convey the character of separate living units and avoiding the appearance of a singular building volume. The roofs have been designed with inverted sloping planes to provide visual interest. Significant private open space would also be provided in the form of large balconies and yard areas, and further complemented with additional common recreational open space area to provide a pleasant living environment. In addition, the project is consistent with the goals and objectives articulated in the Housing Element of the General Plan, including Policy H 2.3, which encourages the approval of, wherever feasible and appropriate, mixed

residential and commercial use developments that improve the balance between housing and jobs.

Commercial Component

The Land Use Element designates the commercial component portion of the project as Corridor Commercial (CC), 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. In addition, the Land Use Element also includes Goal LU 6.20 and Policy LU 6.20.1 related to sustaining Corona del Mar as a pedestrian-oriented retail village that serves surrounding neighborhoods and encourages neighborhood serving uses. The commercial component provides for new office space above an existing small delicatessen, which fronts East Coast Highway, fostering pedestrian activity. The existing delicatessen will continue to serve the neighborhood, and the new office space will complement the existing development. Therefore, the land uses within the proposed project are consistent with the land use designations and policies for the property.

Also, Policy 6.20.3 encourages the redevelopment of residential parcels immediately adjoining commercial uses that front Coast Highway for surface parking, provided that adequate buffers are incorporated to prevent impacts on adjoining residential uses. The proposed project requests a shared parking orientation that is consistent with the policy overview for the Corona Del Mar corridor.

Additional discussion related to project compliance with other applicable General Plan policies is included in California Environmental Quality Act (CEQA) Categorical Exemption determination, which the project meets the criteria for (Attachment No. PC 6).

<u>Zoning & Site Design</u>

Residential Component

The residential component of the project is located within the Multi-Unit Residential (RM) zoning district. The intent of the RM zoning district is to provide for areas appropriate for multi-unit residential developments containing attached or detached dwelling units. The proposed six-unit residential condominium development is consistent with this designation and complies with all applicable development standards, with the exception of the front setback and buildable area. The following table provides a summary of the project's compliance with applicable development standards and deviations requested:

Table 1- Residential Component Zoning Compliance		
Development Standards	**Required**	**Proposed**
Lot Size	5,000 square feet min. for newly created lots	15,495 square feet (requires tract map)
Min. Lot Size Per Unit	1,200 sq. ft./unit	2,582.5 sq. ft./unit
Max. Density	8 dwelling units	6 dwelling units
Setbacks		
Front	20 feet	15 feet (requires variance)
Side	13 feet 8 inches (8% of avg. lot width)	23 feet 5 inches (west) 29 feet 9 inches (east above grade) 13 feet 8 inches (basement)
Rear	10 feet	10 feet
Height	28 feet for flat roofs or parapet walls 33 feet for sloped roofs	33 feet sloped roofs
Buildable Area (lot size minus setbacks)	8,402 sq. ft. (utilizing 20-foot front setback)	9,175 sq. ft. (utilizing 15-foot front setback: requires variance)
Maximum Floor Area[1,2] Buildable Area x Floor Area Limit (FAL)	12,603 sq. ft. (1.5 FAL)	13,703 sq. ft. (requires variance) (Approx. 1.63 FAL w/required buildable area) (Approx. 1.49 FAL w/proposed buildable area)
Open Space		
Common (75 sq. ft./unit)	450 sq. ft.	533 sq. ft.
Private (5% of gross floor area/unit)	Varies 90-sq. ft. to 133 sq. ft.	Complies 158 sq. ft. (7.2%) to 458 sq. ft. (22.98%)
Parking		
Resident (2 per unit covered)	12 spaces	12 spaces • 11 in private garages • 1 covered van accessible
Guest (0.5 per unit)	3 spaces	3 spaces • 2 in subterranean structure • 1 in surface parking lot
Total	15 spaces	15 spaces
Solid Waste and Recyclable Materials	16 sq. ft. refuse 16 sq. ft. recycling 32 sq. ft. total	56 sq. ft. total (located in a 112 sq. ft. trash enclosure area shared with commercial component)

[1] Per Section 20.18.030, up to 200 square feet of floor area per required parking space devoted to enclosed parking shall not be included in calculations of total gross floor area.
[2] Per Section 20.70.020, the definition of "Gross Floor Area" for multi-unit residential structures excludes parking structures. The proposed subterranean parking structure has been excluded from the floor area calculation, with the exception of the private garages.

Commercial Component

The commercial component of the project is located within the Commercial Corridor (CC) zoning district. The intent of the CG zoning district is to provide a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity. The proposed commercial building is consistent with this designation in that it would maintain the existing neighborhood-serving food use on the ground level and provide new commercial office uses on the second level. The proposed commercial building complies with all applicable development standards, with the exception of the height of the retaining wall located at the rear of the site and the off-site parking arrangement. The following table provides a summary of the project's compliance with applicable development standards and deviations requested:

Table 2- Commercial Component Zoning Compliance

Development Standards	Required	Proposed
Lot Size	5,000 square feet min. for newly created lots	3,676 square feet (pre-existing legal lot)
Setbacks		
Front	0	0
Side	0 abutting commercial 5 feet min. abutting residential	0 abutting commercial to west 6 feet 4 inches to residential lot to east
Rear	5 feet min. abutting residential	10 feet 7 inches –commercial building 5 feet - trash enclosure
Height	32 feet for flat roofs or parapet walls 37 feet for sloped roofs	27 feet 6 inches flat/parapet
Floor Area Ratio	0.75 FAR (2,757 sq. ft.)	0.73 FAR (2,695 sq. ft.)
Parking	9 spaces total: • Office (1/250 sf) 2,160 sf / 250 = 9 spaces • Specialty Food Use (1/250 sf) 0 spaces required per SFP#38	9 spaces total: • 2 spaces on-site • 7 spaces off-site on adjacent shared parking lot (requires conditional use permit)
Solid Waste and Recyclable Materials	16 sq. ft. refuse 16 sq. ft. recycling 32 sq. ft. total	56 sq. ft. total (located in a 112 sq. ft. trash enclosure area shared with residential component)
Parking Lot Landscaping	• Setback and open areas landscaped • 5-foot-wide perimeter landscaping adjacent to right-of-way • 5-foot-wide landscaped buffer adjacent to residential • 1 tree /30 sf of landscaped area • 1 tree/5 spaces • 6-foot-high wall to buffer residential	Complies

Findings

The following sections of this report discuss each of the applications required to implement the proposed project, findings required to approve the requested applications, and summary of facts in support of such findings.

Site Development Review Findings

Pursuant to 20.52.080 of the Zoning Code, residential developments of five or more units that are processed in conjunction with a tentative tract map require site development review by the Planning Commission. Technically the commercial component of the project is not subject to site development review; however, because the proposed project is essentially a horizontal mixed-use development with a shared parking lot, the following analysis addresses the project as a whole. The required findings and the facts in support of these findings are discussed below:

Table 3-Site Development Review Findings and Facts in Support of Findings	
Finding	**Facts in Support of Finding**
1) Allowed within the subject zoning district	The proposed detached residential condominiums are permitted uses within the RM zoning district. The commercial component of the project would consist of a general office and food use, which are permitted uses within the CC zoning district. The food use is an existing use which would continue operating under Specialty Food Permit No. 38.
2) In compliance with all of the following applicable criteria	
a) Compliance with this Section, the General Plan, this Zoning Code, any applicable specific plan, and other applicable criteria and policies related to the use or structure	The proposed residential component is consistent with the RM General Plan land use designation and RM zoning district. The proposed general office and food use within the commercial component is consistent with the CC General Plan land use designation and CC zoning district. The applicant is requesting a conditional use permit, variance, and modification permit to allow for a number of deviations from the zoning standards. These requests are being reviewed concurrently with the site development review.
b) The efficient arrangement of structures on the site and the harmonious relationship of the structures to one another and to other adjacent developments; and whether the relationship is based on standards of good design	• The residential and commercial components of the project are integrated as a unified development through the use of similar architectural style and design elements, shared use of parking, and internal pedestrian circulation. • The proposed office addition above the existing food use has been designed to improve the aesthetics of the site and improve the commercial presence and interface on East Coast Highway. Also, due to the difference in grade and the increased setback, the project provides increased privacy and open space to the residential property to the rear. • Consistent with General Plan Policy 6.20.3 and Policy Overview for Corona del Mar, to facilitate redevelopment of the commercial lot, parking spaces required for the office addition would primarily be accommodated on the adjacent residential lot. The parking spaces would also serve as an area for guest parking for the residential development. This shared parking arrangement provides flexibility to

Table 3-Site Development Review Findings and Facts in Support of Findings	
Finding	**Facts in Support of Finding**
	accommodate the varying peak parking demands of the commercial and residential uses, efficiently utilizes the site to maximize the number of spaces that can be provided on-site, and serves as a buffer between the proposed residential units and expanded commercial building. • The residential component of the project has been designed as six detached units above grade, minimizing the bulk and mass of the project and provides for increased open space, light, and air for each unit. Below grade, the project has been designed to efficiently accommodate private garages and guest parking within a single subterranean parking structure. • The mechanical equipment enclosure for the commercial building has been located away from the adjacent residential lot to the rear and from the proposed residential units to the west to reduce noise impacts, and would be screened within a single equipment enclosure. • The project has been design to avoid conflicts among uses, such as noise, vibration, lighting, odors, and similar impacts. • Both the commercial and residential components of the project provide separate and well-defined entries.
c) The compatibility in terms of bulk, scale, and aesthetic treatment of structures on the site and adjacent developments and public areas	• The unified design theme of the residential and commercial components of the project provides for an architectural transition between the residential uses that front East Coast Highway to the east and the commercial corridor that begins to the west. • The height and bulk of the proposed commercial building are in scale with the commercial building to the west with roof top parking. The commercial building would also be setback 10 feet 7 inches to the existing residential property located to the rear (408 Hazel Dr.) and due to the difference in grade (approx. 17 feet), the visual bulk of the building would be minimized. • The proposed commercial building has been designed to front directly onto East Coast Highway, implementing the General Plan policies to foster pedestrian activity with the Corona del Mar commercial corridor. • The front façade of the commercial building includes both vertical and horizontal off-sets and utilizes a variation of building materials to provide enhanced visual relief. • The proposed residential units have been designed with horizontal off-sets and variation in roof heights to provide visual interest. In addition, the massing of the units is broken up by the varying building separation that exists between the units. • The height, bulk, and scale of the residential units are consistent with the adjacent residential condominium complex to the east. • The shared surface parking lot provides a buffer between the proposed commercial and residential uses and is designed to maintain privacy and protection for the residential tenants.
d) The adequacy, efficiency, and safety of pedestrian and vehicular access, including drive aisles, driveways, and parking and loading spaces	• The project would consolidate and minimize the three existing driveways along East Coast Highway into two driveways, thereby reducing potential conflicts and increasing vehicular safety. • The elimination of a driveway also increases the number of on-street parking spaces along the project frontage from 2 spaces to a total of 5 spaces (3 new spaces). • The residential component includes separate and independent access via the easterly driveway into a subterranean parking structure. Furthermore, each residential unit would be afforded a private enclosed

Table 3-Site Development Review Findings and Facts in Support of Findings	
Finding	**Facts in Support of Finding**
	garage with direct interior access to their units. • The project results in a total peak parking requirement of 24 surface spaces (nine spaces for the commercial office floor area, 12 residential parking spaces, and three residential guest parking spaces), which can be provided entirely on-site site within the 14-space subterranean parking lot and the 10 space surface parking lot. • The existing specialty food use was approved as Specialty Food Permit No. 38 without any required parking and will continue to operate as a vested land use right. • The 10-space surface parking lot would be accessed via the westerly driveway and would accommodate parking for the commercial uses and guests of the residential units. The shared parking arrangement allows for flexibility for use of the parking spaces during the varying peak parking demands of the commercial and residential uses. • The project provides adequate sight distance at each driveway, as determined by the City Traffic Engineer. • The proposed surface parking lot has been designed to accommodate and provide safe access for emergency, delivery, and refuse collections vehicles, as determined by the City Traffic Engineer. • The project would include enhanced pedestrian walkways that provide access between the various uses and within the project site, and to the surrounding public sidewalks and uses.
e) The adequacy and efficiency of landscaping and open space areas and the use of water efficient plant and irrigation materials	• The residential component includes the enhanced use of landscaping, including a variation of ornamental groundcover, vines, shrubs, and trees, to help soften and buffer the massing of the condominium units from the commercial uses to the west, residential uses to east, and from East Coast Highway. • The shared parking lot complies with the landscape parking lot requirements of NBMC Sec. 20.40.070.D.3 and includes adequate and effective use of ground cover, hedges, and shade trees. The parking lot is also screened from East Coast Highway by a 5-foot-wide planter. • A six-foot-high block wall and row of columnar trees would be provided between the residential units and the shared parking to provide a screening buffer. • The project is subject to the City's Water Efficient Landscape Ordinance (Chapter 14.17 of NBMC) and compliance will be confirmed at plan check prior to issuing building permits. • The relocated outdoor dining area of the existing food use would be better defined for compliance with the condition of Specialty Food Permit No. 38 through the use of planter boxes and also improve the appearance of the site. • The proposed residential development provides a large common outdoor living area of 533 square feet that includes a spa and barbeque area. In addition, each unit is afforded private outdoor living space in the form of large balconies and/or private yard areas.
f) The protection of significant views from public right(s)-of-way and compliance with Section 20.30.100 (Public View	The portion of East Coast Highway, on which the project is located, is not a designated coastal view road and is not considered a public view corridor requiring public view protection.

Table 3-Site Development Review Findings and Facts in Support of Findings	
Finding	**Facts in Support of Finding**
Protection).	
3) Not detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed development.	• The project has been conditioned to ensure that potential conflicts with surrounding land uses are minimized to the extent possible to maintain a healthy environment for both businesses and residents. • The project's refuse area would be shared between the residential and commercial component, and would be located at the rear of the commercial lot. The size, design, location, and screening of the refuse enclosure comply with the requirements of NBMC Sec. 20.30.120 ensuring compatibility with the on-site and adjacent uses. Adequate access to refuse containers would be provided through the shared parking lot and noise and visual impacts to the adjacent residential use to the rear would be minimized due to the retaining wall, differences in grade, and landscaping. • The project is subject to the City's Outdoor Lighting requirements contained with Section 20.30.070 of the Zoning Code. • The relocated 125-square-foot outdoor dining area of the existing food use would be covered by the office addition above and would be screened and noise attenuated from the adjacent residential use to the rear due to the difference in grade. • The specialty food use and the proposed general office would not maintain late hours, defined as beyond 11:00 p.m.

<u>Conditional Use Permit Findings –Nonresidential Parking on a Residential Lot and Off-Site Parking</u>

Although the project includes the use of the 10-space ground level parking lot for shared use between the both the commercial and residential components, the parking lot would technically be located across the legal property lines separating the two uses. Seven of the required parking spaces for the commercial component of the project are proposed to be located on the adjacent lot of the residential component of the project and are considered off-site parking. Pursuant to Sections 20.40.080 and 20.40.100 of the Zoning Code, a conditional use permit is required in order to locate a parking lot intended for nonresidential use within a residential zoning district and to allow for the use of off-site parking.

General Conditional Use Permit Findings

Pursuant to Section 20.52.020.F of the Zoning Code, the Planning Commission must make the following findings in order to approve a conditional use permit:

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

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

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

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

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

As previously discussed, the proposed residential and commercial uses are consistent with the CC and RM land uses designations of the General Plan and zoning districts. In compliance with the provisions of the Zoning Code, the project requests a number of deviations from zoning standards and is subject to the approval of the Planning Commission. In terms of the requested shared parking arrangement, the project can be found consistent with General Plan Land Use Policy LU6.20.3 (Expanded Parking) that encourages the redevelopment of residential parcels in Corona del Mar immediately adjoining commercial uses that front onto Coast Highway for surface parking, provided that adequate buffers are incorporated to prevent impacts on adjoining residential uses. The proposed project requests a shared parking orientation that is consistent with the policy and includes walls and landscape buffers to delineate the change of land uses.

The project has been reviewed for compliance with the requirements as provided in Section 20.40.080 (Parking for Nonresidential Uses in Residential Zoning Districts), which requires the parking area to be designed to be compatible with and to not fragment the adjacent neighborhood, located within a reasonable walking distance to the use it is intended to serve, and to not be detrimental or injurious to property and improvements in the neighborhood. The shared parking lot is primarily intended to serve the parking demands of the proposed commercial office floor area; however, parking will be unrestricted so as to allow for shared parking with the existing food use and guest parking for the residential components. The residents will have direct access through a secured gate, but would be adequately buffered from the parking lot activity by solid 6-foot-high block walls and landscaping buffers. The parking lot is landscaped in compliance with the parking lot landscaping standards provided in Section 20.40.070 (Development Standards for Parking Areas) and lighting would be properly controlled in compliance with the outdoor lighting standards in Section 20.30.070 (Outdoor Lighting).The parking lot provides adequate maneuverability for vehicle circulation and parking, including access for emergency and service vehicles. Conditions of approval have also been included to ensure that potential conflicts with the adjacent residential uses are minimized to the greatest extent possible, including limiting the hours of deliveries and refuse collection.

The proposed shared use of the parking lot allows for the redevelopment of the lots that will revitalize the project site and provide an economic opportunity for the property owner to improve the visual character of East Coast Highway, a major thoroughfare through Corona Del Mar, which best serve the quality of life for the surrounding residential community.

Off-Site Parking Findings

Pursuant to Section 20.40.100.B of the Zoning Code, the Planning Commission must also make the following findings below in addition the standard conditional use permit findings:

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

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

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

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

In this case, the required parking for the commercial office use is considered off-site because it is partially located on a separate legal lot; however, the reality is that the parking would conveniently be located within a shared parking lot that is integral to the overall development of the site. The parking lot is accessible from the westerly driveway and is primarily intended to serve the commercial component of the project. The Traffic Engineer has reviewed and approved the configuration of the new parking lot and has determined that the design will not create an undue traffic hazard in the surrounding area. The design consolidates three driveways into two driveways, thereby reducing potential conflicts and increasing vehicular safety along East Coast Highway. As a condition of approval, the homeowner's association for the condominium development and the property owner will be required to enter into a reciprocal parking and access agreement for the joint use of the 10-space surface parking lot; therefore, the parking facility will remain available, marked, and maintained as intended.

<u>Modification Permit – Retaining Wall</u>

Since a small portion of the northwesterly corner of property slopes up approximately 17 feet, a terraced retaining wall is proposed to provide a level grade for the parking lot and trash enclosure (See Sheet A-5 of Attachment No. PC4). The proposed retaining wall would measure 17 feet 2 inches at its highest point from finished grade and drops down in height approximately 8 feet over a distance of 16 feet 6 inches, consistent with the elevation of the adjacent grade. In addition, a 4- to 5-foot-high wrought iron fence would be constructed on top of the retaining wall. A modification permit is requested to allow construction of a retaining wall at the northwesterly corner of the commercial lot at a maximum height of 17 feet 2 inches, where the Zoning Code limits the height to 8-feet maximum. In accordance with Section 20.52.050 (Modification Permits), the Planning Commission must also make the following findings for approval of a modification permit:

1. *The requested modification will be compatible with existing development in the neighborhood.*

2. *The granting of the modification is necessary due to the unique physical characteristic(s) of the property and/or structure, and/or characteristics of the use.*

3. *The granting of the modification is necessary due to practical difficulties associated with the property and that the strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code.*

4. *There are no alternatives to the Modification Permit that could provide similar benefits to the applicant with less potential detriment to surrounding owners and occupants, the neighborhood, or to the general public.*

5. *The granting of the modification would not be detrimental to public health, safety, or welfare to the occupants of the property, nearby properties, the neighborhood, or the City, or result in a change in density or intensity that would be inconsistent with the provisions of this Zoning Code*

The proposed commercial lot is constrained due to lot depth and the steepness of the slope at the rear. In order to maximize the usable area of the lot and provide a level grade for vehicular circulation, parking, and to accommodate a trash enclosure, the retaining wall is required. The location of the retaining wall, at the rear of the subject property is appropriate given that the retaining wall would be adequately screened from the public by the proposed commercial building as viewed from East Coast Highway. For safety purposes, the proposed retaining wall would also include a wrought iron fence on top.

The Zoning Code allows a series of retaining walls to be constructed up to a maximum of 8 feet in height, so long as a 6-foot-wide separation is provided between walls. However, due to the small size of the lot, the required separation would result in a critical loss of project site area that is necessary to provide required on-site parking and a trash area. Additionally, a design that provides the required separation would not benefit surrounding property owners or the public given its location at the rear of the lot and at a grade that is lower in elevation that is not visible to surrounding properties. However, to minimize the massing and visual impact of the wall to the on-site users, a planter wall and trash enclosure is proposed to be located in front of the retaining wall and to improve its overall aesthetics, consistent with the intent of the horizontal separation requirement.

<u>Variance for Residential Component – Front Setback and Buildable Area</u>

Three of the proposed residential dwelling units would encroach five feet into the required 20-foot front setback adjacent to East Coast Highway. The subterranean parking garage would encroach an additional one foot, but is located entirely below grade. In addition, the applicant is requesting a residential Floor Area Limit (FAL) based on the buildable area that would result utilizing a 15-foot front setback instead of the default 20-foot setback. The Zoning Code permits structures within the RM District located in Corona del Mar to have a total gross floor area, or floor area limit, equal to

1.5 times the buildable area of the lot. The buildable area of a lot is defined as the lot area minus the area of required setbacks. Using this formula and the 20-foot setback for calculating buildable area, the maximum allowable gross floor area for the subject lot is 12,603 square feet. The proposed residential dwellings have a total gross floor area of 13,703 square feet. Pursuant to Section 20.52.090 of the Zoning Code, the Planning Commission must make the following findings in order to approve a variance:

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

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

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

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

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

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

The subject property is a wide (approx. 165 feet), but shallow lot (approx. 91 feet). The shallowness of the lot creates a design constraint for developing the site to its maximum allowed density of eight dwelling units, while still providing for required parking, vehicular circulation, open space, and providing the required setbacks. Due to these constraints, the applicant is only proposing to develop a total of six dwelling units but is requesting a 15-foot front setback from East Coast Highway, similar to other developed RM lots in the vicinity.

Based on a review of the development pattern of adjacent multi-unit residential developments east of the project site that also front East Coast Highway (Setback Map-Attachment No. PC 7), staff believes a 15-foot setback and resulting buildable area is appropriate for this property. Immediately to the east of the subject property is a large 18-unit residential condominium complex (401 Seaward Rd) that maintains a 15-foot front setback adjacent to both East Coast Highway and Seaward Road. Further east are several RM-6000 zoned lots (4104-4348 Shorecrest Ln.) that also maintain 15-foot front setbacks adjacent to East Coast Highway. Granting of the variance would allow the applicant to develop a multi-unit residential development utilizing similar setbacks consistent with other multi-unit residential developments in the area. In addition, the

commercial properties to the west do not have a front setback requirement. Therefore, the proposed 15-foot setback for the residential structures would be consistent with the development pattern of the multi-unit developments to the east and compatible with the commercial lots to the west. Also, the intent of the front setback is to provide adequate separation for light, air, privacy and open space adjacent to the street. In this case, the five-foot encroachment into the 20-foot setback would not be detrimental to the City or result in a hazard to the existing community or future residents of the project. The project would still provide a 15-foot front setback to the street, which is adequate to provide for light, air, privacy and open space, consistent with the intent of the Zoning Code. Trees and shrubs would be planted within the front setback to act as a buffer and soften the visual impact along the highway.

With regard to floor area, the proposed residential floor area would be under the permitted floor area limit utilizing a 15-foot setback for buildable area calculation. However, it should also be noted that of the 1,100 square feet of additional floor area that the applicant is requesting above the maximum floor area limit (based on a buildable area utilizing a 20-foot setback), 1,018 square feet of that floor area is located below grade within the private garage area that is counted towards gross floor area and garage stairs. Therefore, this additional floor area is predominately below grade and does not add significant bulk or mass to the development as compared to what normally be allowed to be developed above grade using the 20-foot setback and resulting floor area limit.

In addition, it should be noted that the 18-unit condominium complex to the east is located on a larger one acre lot and is permitted a larger floor area limit of 1.75 times the buildable area (instead of 1.5). If the subject property would were allowed a similar 1.75 floor area limit, the floor area limit would be 14,719 square feet, which is larger than the 13,703 square feet proposed. Also, the RM-6000 zoned lots further east are not subject to a floor area limit ratio, but rather are regulated by a 60 percent maximum lot coverage requirement. For comparison, the proposed lot coverage of the residential development is only 38 percent. In both these examples of nearby RM lots, the setbacks, buildable area, and total allowed floor areas are more permissive than what the subject property is limited to. Therefore, strict compliance with the 20-foot front setback, buildable area, and resulting floor area limit would deprive the subject property of privileges enjoyed by nearby RM lots.

Subdivision- Tentative Tract Map

The applicant is requesting the approval of a tentative tract map (Attachment No. PC 8), for condominium purposes, to create six airspace condominium units. The map would also serve to consolidate Lots 55, 56, 57, 58 and portions of vacated alley into a single lot (Lot 1) for the residential component and Lot 54 and adjacent portion of vacated alley into a single lot (Lot 2) for the commercial component. Staff believes the facts in support of the required findings exist to approve the map and have included them in the attached draft resolution for approval.

The site is relatively flat and a geotechnical engineering investigation determined that the site is safe and suitable for the proposed development. In addition, the site does not support any environmental resources and proposed development would not significantly impact any sensitive resources within the adjacent Buck Gully drainage area to the north (see Exhibit A of Attachment No. PC 6). A preliminary Acoustical Study was prepared for the project to evaluate the potential impact of traffic noise to the proposed residential units. The study estimates that future traffic noise exposure will be 72.5 dB CNEL to the nearest residential facades to East Coast Highway and concludes that with appropriate noise control measures incorporated into the design of the proposed project (e.g., ventilation and air conditioning, weather stripping, increased sound-rated doors, windows, and wall finishes, etc.), the interior noise levels would comply with the City and State interior noise standard of 45 dB CNEL for residential units (see Exhibit B of Attachment No. PC 6). The Public Works Department has also reviewed the proposed tentative map and believes it is consistent with the Newport Beach Subdivision Code (Title 19) and applicable requirements of the Subdivision Map Act. Each residential unit would be required to provide separate sewer and water connections. Conditions of approval have been included to ensure compliance with Title 19.

The property does not include any public access or public use easements; however, there are several infrastructure easements. An existing 7.5-foot-wide utilities easement at the rear of the two lots will be retained. An approximately 15-foot-wide access and utilities easement located along the eastern side of the residential lot that is no longer needed would be vacated. An existing slope and drainage easement over the southeasterly corner of the residential lot would also be vacated and replaced with a new variable width storm drain easement. The existing overhead power lines running along the rear of the property would also be re-routed and undergrounded. In addition, the applicant would be required to construct public improvements, including new curbs, gutters, and sidewalks along the East Coast Highway frontage and the installation of new street trees in the right-of-way.

The proposed tentative map includes a mapping error along the easterly property line of the proposed Lot 2 towards the northeasterly corner of the lot. A condition of approval has been included requiring that the easterly property line of the proposed Lot 2 be revised on the Final Tract Map such that the prolongation of the easterly property line directly intersects with the rear property line (i.e., the approx. 82 SF notched area illustrated at the northeasterly corner of Lot 2 shall be made a part of Lot 2 and removed from Lot 1).

Environmental Review

The project is categorically exempt under Section 15332, of the California Environmental Quality Act (CEQA) Guidelines - Class 32 (In-Fill Development Projects). This exemption applies to in-fill development projects in urban areas that are consistent with the General Plan and applicable development standards. In addition, the proposed development must occur on a site of no more than five acres, have no value as habitat for endangered, rare or threatened species, be adequately served by all utilities and

public services, and must not result in any significant effects relating to traffic, air quality, water quality, or any other significant effect on the environment due to an unusual circumstance.

The proposed project site is only 0.44 acres in size, is located within the built-out Corona del Mar commercial corridor area (urban area), and can be adequately served by all required utilities and public services. The project is consistent with the General Plan designations and policies, and can be found consistent with all applicable zoning regulations upon approval of the requested applications. A jurisdictional delineation and biological study have been conducted and determined that the project site and adjacent areas subject to fuel modification have no value as habitat for endangered, rare, or threatened species. The project is expected to have a less than significant impacts related to traffic, noise, air quality, and water quality. A more detailed policy analysis supporting the Class 32 exemption is attached as Attachment No. PC 6.

Summary

The proposed project would result in the redevelopment of an under-utilized and aging commercial lot with a new office addition that implements the goals and policies for the development of the commercial corridor of Corona del Mar. The project would also result in the redevelopment of a vacant lot that was specifically re-designated for residential use as part of the 2006 General Plan Update to encourage its redevelopment. Although not a zoned mixed-use, the redevelopment of the property is essentially an integrated horizontal mixed-use project. The project successfully improves the transition from residential uses to commercial uses within the corridor. The project exhibits high quality architectural treatment of the building, and given the constraints of the property, the requested retaining wall and the arrangement of the shared 10-space ground level parking lot is a reasonable and efficient solution to developing the site consistent with the General Plan and Zoning designations. The requested 15-foot front setback and proposed floor area limit for the residential component is consistent with the development pattern of the adjacent RM zoned properties to the east and results in a development that is compatible with the surrounding neighborhood in terms of bulk and scale.

Public Notice

Notice of this hearing 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.

Alternatives

Staff believes that the findings for approval can be made for the proposed project and the facts in support of the required findings are presented in the draft resolution (Attachment No. PC 1). The following alternatives are available to the Planning Commission:

1. The Planning Commission may suggest specific changes that are necessary to alleviate any concerns. If any additional requested changes are substantial, the item could be continued to a future meeting. Should the Planning Commission choose to do so, staff will return with a revised resolution incorporating new findings and/or conditions.

2. If the Planning Commission believes that there are insufficient facts to support the findings for approval, the Planning Commission may deny the application and provide facts in support of denial to be included in the attached draft resolution for denial (Attachment No. PC 2).

Prepared by:

Jaime Murillo
Associate Planner

Makana Nova
Assistant Planner

Submitted by:

Brenda Wisneski, AICP, Deputy Director

ATTACHMENTS

PC 1 Draft Resolution of Approval with Findings and Conditions
PC 2 Draft Resolution for Denial
PC 3 Site Photos
PC 4 Project Plans
PC 5 Specialty Food Permit No. 38
PC 6 CEQA Exemption Determination
PC 7 Setback Map
PC 8 Tentative Tract Map

Attachment No. PC 1

Draft Resolution of Approval with Findings and Conditions

RESOLUTION NO. ####

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING CONDITIONAL USE PERMIT NO. UP2012-011, MODIFICATION PERMIT NO. MD2012-011, SITE DEVELOPMENT REVIEW NO. SD2012-001, TENTATIVE TRACT MAP NO. NT2012-001, AND VARIANCE NO. VA2012-002 FOR THE CONSTRUCTION OF A 2,160-SQUARE-FOOT COMMERCIAL OFFICE ADDITION AND SIX DWELLING UNITS LOCATED AT 3900 AND 3928 EAST COAST HIGHWAY (PA2010-061)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Marcelo E. Lische, the architect representing property owner, Magdi Hanna, with respect to property located at 3900 and 3928 East Coast Highway, and legally described as Lots 54, 55, 56, 57, 58, and portions of abandoned alley, Block B, Tract No. 673 requesting approval of a site development review, conditional use permit, modification permit, tentative tract map, and variance.

2. The project includes a horizontal mixed-use development with six detached dwelling units above a common subterranean parking structure, a 2,160-square-foot office addition above an existing 535-square-foot delicatessen (Gallo's Deli), and a 10-space shared, surface parking lot. The following approvals are requested or required in order to implement the project as proposed:

   a. A site development review to ensure compatibility with the site and surrounding land uses.

   b. A conditional use permit to allow parking for nonresidential uses in a residential zoning district and to allow off-site parking.

   c. A modification permit to allow a retaining wall up to 17 feet 2 inches in height, where the Zoning Code limits the height to 8 feet.

   d. A variance for the residential structures to establish a 15-foot front setback and corresponding buildable area, where a 20-foot setback is currently required.

   e. A tentative tract map for condominium purposes and to consolidate five lots and portions of a vacated alley into two lots.

3. The subject property at 3900 East Coast Highway 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 at 3928 East Coast Highway is located within the Multiple Residential (RM) Zoning District and the General Plan Land Use Element category is Multiple-Unit Residential (RM).

5. The subject properties are not located within the coastal zone.

6. A public hearing was held on December 6, 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.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 32 (Infill Development Projects). This exemption applies to in-fill development projects in urban areas that are consistent with the General Plan and applicable development standards. In addition, the proposed development must occur on a site of no more than five acres, have no value as habitat for endangered, rare or threatened species, be adequately served by all utilities and public services, and must not result in any significant effects relating to traffic, air quality, water quality, or any other significant effect on the environment due to an unusual circumstance.

2. An analysis and exemption determination was prepared for this project. CEQA Class 32 consists of projects characterized as in-fill development meeting the conditions described above. The proposed project consists of the development of new commercial office space with required off-street parking and six detached dwelling units and is consistent with the City's General Plan land use designations (Corridor Commercial and Multiple Residential) and zoning designations. Potential development of the project site was considered and analyzed in the City's 2006 General Plan EIR for potential environmental impacts. Based on that analysis, there is no reasonable probability that the proposed project will have a significant effect on the environment due to unusual circumstances, nor will the project result in any short-term or long-term impacts that were not previously considered in the Newport Beach General Plan and General Plan EIR. Implementation of the proposed project will not result in any adverse effects on sensitive biological resources, traffic, air quality, noise or water quality. The project site does not exceed five acres in area, is located in an urban area, and can be adequately served by all required utilities and public services. Therefore, the proposed project meets all of the conditions described above for in-fill development and qualifies for a Class 32 exemption.

SECTION 3. REQUIRED FINDINGS.

Site Development Review

1. A site development review is required for the construction of five or more residential units processed in conjunction with a tentative tract map. Also, because the proposed project is essentially a mixed-use development with horizontal inter-mixing of residential and commercial uses and a shared parking lot, the site development review analyzes the project as a whole for compatibility with the site and surrounding land uses. In accordance with Section 20.52.080 (Site Development Review) of the Zoning Code, the Planning Commission must also make the following findings for approval of a site development review:

Finding:

A. Allowed within the subject zoning district;

Facts in Support of Finding:

A-1. The zoning designation for the commercial component at 3900 East Coast Highway is Commercial Corridor (CC), 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. A commercial building with retail, office, and restaurant uses are permitted uses for the commercial component of the proposed project at 3900 East Coast Highway. The existing food use (Gallo's Deli) was previously permitted through Specialty Food Permit No. 38 and would continue operating under said permit.

A-2. The zoning designation for the residential component at 3928 East Coast Highway is Multiple Residential (RM, 8 DU), which is intended to provide for areas appropriate for multi-unit residential developments containing attached or detached dwelling units. The site is limited to a maximum of eight dwelling units. The proposed project consists of the development of six detached dwelling units, which is consistent with the zoning designation of the site.

A-3. The subject property is not part of a specific plan area.

Finding:

B. In compliance with all of the applicable criteria [below]:

a. Compliance with this Section, the General Plan, this Zoning Code, any applicable specific plan, and other applicable criteria and policies related to the use or structure;

b. The efficient arrangement of structures on the site and the harmonious relationship of the structures to one another and to other adjacent

development; and whether the relationship is based on standards of good design;

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

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

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

f. The protection of significant views from public right(s)-of-way and compliance with Section 20.30.100 (Public View Protections); and

Facts in Support of Finding:

Ba-1. The proposed detached residential condominiums are permitted uses within the RM General Plan land use designation and zoning district. The commercial component of the project would consist of a general office and food use, which are permitted uses within the CC General Plan land use designation and zoning district. The food use is an existing use which would continue operating under Specialty Food Permit No. 38.

Ba-2 As required by the Zoning Code, a conditional use permit has been requested for the off-site parking arrangement on the residential lot, a variance has been requested to establish a 15-foot front setback for the purposes of setbacks and buildable area for the residential component, and modification permit has been requested to allow for the proposed height of the retaining wall.

Ba-3. The size, density and character of the proposed residential dwelling units complement the existing land uses in the project area and include design elements consistent with Land Use Element Policy 5.1.9 (Character and Quality of Multi-Family Residential) that requires multi-family dwellings to be designed to convey a high quality architectural character. Consistent with this policy, the architectural treatment of the building includes high quality finishes and modulation of mass to convey the character of separate living units and avoiding the appearance of a singular building volume. The roofs have been design with inverted sloping planes to provide visual interest. Significant private open space would also be provided in the form of large balconies and yard area, and further complemented with additional common recreational open space area to provide a pleasant living environment with opportunities for recreation.

Ba-4. The General Plan also includes Policy LU 6.20.1 that encourages neighborhood serving uses that complement existing development. Policy 6.20.3 encourages the redevelopment of residential parcels immediately adjoining commercial

uses that front onto Coast Highway for surface parking. The proposed project requests a shared parking arrangement that is consistent with the policy overview for the Corona Del Mar corridor.

Bb-1. The residential and commercial components of the project are integrated as a unified development through the use of similar architectural style and design elements, shared use of parking, and internal pedestrian connectivity.

Bb-2. The proposed office addition above the existing food use has been designed to improve the aesthetics of the site and improve the commercial presence and interface on East Coast Highway.

Bb-3. Due to the approximately 17-foot grade differential of the project site and the existing residential property to the rear at 408 Hazel Drive and 10-foot 7-inch separation from the commercial addition to the residential property line, the residential property will not be negatively impacted by the project and will maintain increased privacy and open space.

Bb-4. Consistent with General Plan Policy LU 6.20.3 and Policy Overview for Corona del Mar, to facilitate redevelopment of the commercial lot, parking spaces required for the office addition would primarily be accommodated on the adjacent residential lot. The parking spaces would also serve as an area for guest parking for the residential development. This shared parking arrangement provides flexibility to accommodate the varying peak parking demands of the commercial and residential uses, efficiently utilizes the site to maximize the number of spaces that can be provided on-site, and serves as a buffer between the proposed residential units and expanded commercial building.

Bb-5. The residential component of the project has been designed as six detached units above grade, minimizing the bulk and mass of the project and provides for increased open space, light, and air for each unit. Below grade, the project has been designed to efficiently accommodate private garages and guest parking within a single subterranean parking structure.

Bb-6. The mechanical equipment enclosure for the commercial building has been located approximately 29 feet away from the adjacent residential lot to the rear and approximately 57 feet from the proposed residential units to the west to reduce noise impacts, and would be screened within an equipment enclosure.

Bb-7. Both the commercial and residential components of the project provide separate and well-defined entries.

Bc-1. The unified design theme of the commercial and residential component of the project provides for an architectural transition between the residential uses that front East Coast Highway to the east and the commercial corridor that begins to the west.

Bc-2 The height and bulk of the proposed commercial building are consistent in scale with the commercial building to the west that has roof top parking. The commercial building would also be setback 10 feet 7 inches to the existing residential property line located to the rear and due to the difference in grade (approx. 17 feet), the visual bulk of the building would be minimized when viewed from above.

Bc-3. The proposed commercial building fronts East Coast Highway, thereby implementing the General Plan policies to foster pedestrian activity with the Corona del Mar commercial corridor.

Bc-4. The front façade of the commercial building includes both vertical and horizontal off-sets and utilizes a variation of building materials to provide enhanced visual relief.

Bc-5. The proposed residential units have been designed with horizontal off-sets and variation in roof heights to provide visual interest. In addition, the massing of the units is broken up by the varying building separation.

Bc-6. The height, bulk, and scale of the residential units are consistent with the adjacent residential condominium complex to the east.

Bc-7. The shared surface parking lot provides a buffer between the proposed commercial and residential uses and is designed to maintain privacy for the residential tenants and protection from vehicular impacts.

Bd-1. The project would consolidate the three existing driveways along East Coast Highway into two driveways, thereby reducing potential conflicts and increasing vehicular safety.

Bd-2. The consolidation of driveways also increases the number of on-street parking spaces along the project frontage from two spaces to a total of five spaces (three new spaces).

Bd-3. The residential component includes separate and independent access via the easterly driveway into a subterranean parking structure. Furthermore, each residential unit would be afforded a private enclosed garage with direct interior access to their units.

Bd-4. The project results in a total peak parking requirement of 24 surface spaces (nine spaces for the commercial office floor area, 12 residential parking spaces, and three residential guest parking spaces), which can be provided entirely on-site site within the 14-space subterranean parking lot and the 10 space surface parking lot.

Bd-5. The existing specialty food use was approved Specialty Food Permit No. 38 without any required parking and will continue to operate as a vested land use right.

Bd-6 The 10-space surface parking lot would be accessed via the westerly driveway and would accommodate parking for the commercial uses and guests of the residential units. The shared parking arrangement allows for flexibility for use of the parking spaces during the varying peak parking demands of the commercial and residential uses.

Bd-7. The proposed surface parking lot has been designed to accommodate and provide safe access for emergency, delivery, and refuse collections vehicles, as determined by the City Traffic Engineer.

Bd-8. The project provides adequate sight distance at each driveway, as determined by the City Traffic Engineer.

Bd-9. The project would include enhanced pedestrian walkways that provide access between the various uses and within the project site, and to the surrounding public sidewalks and uses.

Be-1. The residential component includes the enhanced use of landscaping, including a variation of ornamental groundcover, vines, shrubs, and trees, to help soften and buffer the massing of the condominium units from the commercial uses to the west, residential uses to east, and from East Coast Highway.

Be-2. The shared parking lot complies with the landscape parking lot requirements of Newport Beach Municipal Code (NBMC) Sec. 20.40.070.D.3 (Landscaping) and includes adequate and effective use of ground cover, hedges, and shade trees. The parking lot is also screened from East Coast Highway by a 5-foot-wide planter.

Be-3. A six-foot-high block wall and row of columnar trees would be provided between the residential units and the shared parking to provide a screening buffer.

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

Be-5. The relocated outdoor dining area of the existing food use will be better defined for compliance with the condition of Specialty Food Permit No. 38 through the use of planter boxes, which will also improve the appearance of the site.

Be-6. The proposed residential development includes a large common outdoor living area of 533 square feet that includes a spa and barbeque area. In addition, each unit is afforded private outdoor living space in the form of large balconies and/or private yard areas.

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

Finding:

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

Facts in Support of Finding:

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

C-2. The project's trash enclosure would be shared between the residential and commercial component, and would be located at the rear of the commercial lot. The size, design, location, and screening of the refuse enclosure comply with the requirements of NBMC Sec. 20.30.120 ensuring compatibility with the on-site and adjacent uses. Adequate access to refuse containers would be provided through the shared parking lot and noise and visual impacts to the adjacent residential use to the rear would be minimized due to the retaining wall, differences in grade, and landscaping.

C-3. The project is subject to the City's Outdoor Lighting requirements contained with Section 20.30.070 of the Zoning Code.

C-4. The relocated 125-square-foot outdoor dining area of the existing food use would be covered by the office addition above and would be screened and noise attenuated from the existing adjacent residential use to the rear due to the difference in grade.

C-5. The specialty food use and the proposed general office would not maintain late hours as defined by the Zoning Code to be later than 11:00 p.m.

C-6. Roof-top mechanical equipment would be fully enclosed within an equipment screen and would not be visible from the residences above. The rooftop mechanical equipment enclosure has been located at the center of the commercial building to minimize the bulk of the building as viewed from East Coast Highway.

C-7. Tenant improvements to the new commercial component of the development will comply with all Building, Public Works, and Fire Codes. All ordinances of the City and all conditions of approval will be complied with.

Conditional Use Permit – General Findings

2. A conditional use permit is requested to allow off-site parking for the commercial development at 3900 East Coast Highway to be located on the adjacent residential property at 3928 East Coast Highway. In accordance with Section 20.52.020.F (Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a conditional use permit 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 proposed detached residential condominiums are consistent with the RM General Plan Land Use Element designation.

A-2. The proposed general office and food uses within the commercial component are consistent with the CC General Plan land use designation.

A-3. Land Use Policy LU6.20.3 (Expanded Parking) for Corona Del Mar seeks to accommodate the redevelopment of residential parcels immediately adjoining commercial uses that front onto Coast Highway for surface parking, provided that adequate buffers are incorporated to prevent impacts on adjoining residential uses. The proposed project requests a shared parking orientation that is consistent with the policy overview for the Corona Del Mar corridor. Adequate walls and landscape buffers will be provided to clearly delineate the change of uses along the Coast Highway frontage.

A-4. The subject properties are 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 proposed detached residential condominiums are permitted uses within the RM zoning district.

B-2. The proposed general office and food uses within the commercial component are consistent with the CC zoning district.

B-3. The required number of parking spaces to accommodate the new commercial development will be provided in a shared parking situation across the commercial property and the adjacent residential property at 3928 East Coast Highway. The proposed parking lot complies with the requirements as provided in Section 20.40.080 (Parking for Nonresidential Uses in Residential Zoning Districts), which requires the parking area to be designed to be compatible with and to not fragment the adjacent neighborhood, located within a reasonable walking distance to the use it is intended to serve, and to not be detrimental or injurious to property and improvements in the neighborhood.

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. All of the required parking for the additional commercial development would be provided within close proximity and in an accessible manner for patrons at 3900 East Coast Highway.

C-3. The shared parking lot is primarily intended to serve the parking demands of the proposed commercial office floor area; however, parking will be unrestricted so as to allow for shared parking with the existing food use and guest parking for the residential components.

C-4. The residential users will have direct access to the commercial site and parking lot through a secured gate, but would be adequately buffered from the parking lot activity by solid 6-foot-high block walls, landscaping buffers, and minimal windows designed facing the parking lot.

C-5. The project has been reviewed and found to be compliant with the parking area requirements and landscaping standards as provided in Section 20.40.070 (Development Standards for Parking Areas) and the outdoor lighting standards in Section 20.30.070 (Outdoor Lighting).

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 proposed parking lot provides adequate vehicle circulation and parking spaces for patrons.

D-2. Adequate public and emergency vehicle access, public services, and utilities are provided.

D-3. The development of the project site will comply with all Building, Public Works, and Fire Codes. All ordinances of the City and all conditions of approval will be complied with.

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, a safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

Facts in Support of Finding

E-1. The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible.

E-2. The proposed commercial and residential development will serve the surrounding residential and retail community. This will revitalize the project site and provide an economic opportunity for the property owner to improve the visual character of East Coast Highway, a major thoroughfare through Corona Del Mar.

Conditional Use Permit- Additional Findings for Off-Site Parking

3. Pursuant to Section 20.40.100 of the Zoning Code, off-street parking on a separate lot from the project site also requires the approval of a conditional use permit. In addition to the standard conditional use permit findings, approval of off-site parking is subject to specific findings. The following findings and facts in support of such findings are set forth:

Finding

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

Facts in Support of Finding

A-1. The off-site parking lot is located immediately adjacent to the subject property is essentially on-site.

Finding

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

Facts in Support of Finding

B-1. The nine parking spaces required to accommodate the additional commercial development are provided entirely within the parking lot.

B-2. The enhancement of public improvements and parking are identified as an opportunity for change within Land Use Policy LU3.3 of the General Plan. The proposed project would close an existing driveway on 3928 East Coast Highway and provide additional on-street parking available to the public.

Finding

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

Facts in Support of Finding

C-1. The Traffic Engineer has reviewed and approved the configuration of the new parking lot extension and proposed changes to the existing parking lot, and has determined that the parking lot design will not create an undue traffic hazard in the surrounding area.

C-2. The design consolidates three driveways into two driveways, thereby reducing potential conflicts and increasing vehicular safety along East Coast Highway.

Finding

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

Facts in Support of Finding

D1. Both of the commercial and residential components of the project site are currently owned in common across six legal lots. The proposed tract map would result in two new lots with commercial development on one and the six-unit residential condominiums on the second. As a condition of approval, the homeowner's association for the condominium development and the property owner of the commercial property will be required to enter into a reciprocal parking agreement for the joint use of the 10-space surface parking lot; therefore, the parking facility will remain available, marked, and maintained as intended.

Modification Permit

4. A modification permit is requested to allow construction of a retaining wall at a maximum height of 17 feet 2 inches from the finished grade that is located at the northwesterly corner of the lot located at 3900 East Coast Highway, where the Zoning Code limits the height to 8-feet maximum. An increase in height of a retaining wall may be requested per Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls) of the Zoning Code. In accordance with Section 20.52.050 (Modification Permits), the Planning Commission must also make the following findings for approval of a modification permit:

Finding:

A. *The requested modification will be compatible with existing development in the neighborhood.*

Facts in Support of Finding:

A-1. The view of the new retaining wall from East Coast Highway will be partially shielded by the second floor of the proposed commercial development.

A-2. To minimize the massing and visual impact of the wall to the on-site users, a planter wall and trash enclosure is proposed to be located in front of the retaining wall and to improve its overall aesthetics.

Finding:

B. *The granting of the modification is necessary due to the unique physical characteristic(s) of the property and/or structure, and/or characteristics of the use.*

Facts in Support of Finding:

B-1. The proposed commercial lot is constrained due to size and the steepness of the slope at northwesterly corner of the lot.

B-2. The commercial lot is currently developed with a food use and the proposed development includes additional commercial office construction that would maximize the development potential identified by the General Plan floor area limit (0.75 FAR). The proposed retaining wall would accommodate the proposed development and make sufficient useable area available to provide required on-site parking for the new commercial office development.

Finding:

C. *The granting of the modification is necessary due to practical difficulties associated with the property and that the strict application of the Zoning Code*

results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code.

Facts in Support of Finding:

C-1. Zoning Code regulations allow retaining walls at a maximum height of 8 feet with a minimum separation requirement of 6 feet between walls. Due to the topography of the project site, the construction of two terraced retaining walls that comply with this standard would result in a significant loss of site area necessary to provide on-site parking, vehicular circulation, and a trash enclosure for the new commercial development

Finding:

D. *There are no alternatives to the Modification Permit that could provide similar benefits to the applicant with less potential detriment to surrounding owners and occupants, the neighborhood, or to the general public.*

Facts in Support of Finding:

D-1. Without this approval, the applicant would be required to construct a series of 8-foot retaining walls with a 6-foot separation between walls. This would result in a significant loss of project site area that is necessary to provide required on-site parking for the proposed use.

D-2. A terraced design that provides the required separation would not be less detrimental to existing residential property located to the rear at 408 Hazel Drive because they would not be able to see the face of the retaining wall from their vantage point due to the grade differential. Also, since the retaining wall is partially screened as viewed from East Coast Highway, the terraced design would not be readily visible from the public.

D-3. The location of the retaining wall, at the rear of the subject property is appropriate given the proposed retaining wall would be adequately screened from the adjacent right-of-way. The retaining wall will provide a planter wall and trash enclosure in front of it to provide variation and articulation to improve the visual aesthetic of the retaining wall, consistent with the intent of the wall separation requirement.

Finding:

E. The granting of the modification would not be detrimental to public health, safety, or welfare to the occupants of the property, nearby properties, the neighborhood, or the City, or result in a change in density or intensity that would be inconsistent with the provisions of this Zoning Code.

Facts in Support of Finding:

E-1. The proposed retaining wall would provide a wrought iron guardrail for safety on the higher side of the property on the adjacent commercial and residential properties.

E-2. The highest point of the retaining wall is near the northwest corner of the lot and is screened by the proposed commercial building as viewed from Coast Highway. Also, the retaining wall drops approximately 8 feet over a distance of 16 feet 6 inches, minimizing the height of the wall as the existing grade drops so that the visual impact of the wall is reduced.

E-3. The design of the development will not conflict with any easements acquired by the public at large for access through or use of property within the proposed development. The portion of the property at 3900 East Coast Highway where the retaining wall is proposed was previously an alley that has recently been vacated by the City and granted to the property owner of 3900 East Coast Highway.

Variance

5. A variance for the residential structures to establish a 15-foot front setback and corresponding buildable area where a 20-foot setback is required. In accordance with Section 20.52.090.F (Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of a variance are set forth:

Finding:

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

Facts in Support of Finding:

A-1. The subject property is a wide (approx. 165 feet), but shallow lot (approx. 91 feet). The shallowness of the lot creates a design constraint for developing the site to its maximum allowed density of eight dwelling units, while still providing for required parking, vehicular circulation, open space, and the required setbacks. Due to these constraints, the applicant is only proposing to develop a total of six dwelling units but is requesting the ability to encroach five feet into the front 20-foot setback, similar to other developed RM lots in the vicinity.

A-2. A 20-foot setback, corresponding buildable area, and resulting floor are limit are not appropriate for this property based on a review of the development pattern of adjacent multi-unit residential developments east of the project site that also front onto East Coast Highway.

Finding:

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

Facts in Support of Finding:

B-1. Immediately to the east of the subject property is a large 18-unit residential condominium complex (401 Seaward Rd.) that maintains a 15-foot front setback adjacent to East Coast Highway and to Seaward Road. This property is located on a one acre lot and is permitted a much larger floor area limit of 1.75 (instead of 1.5).

B-2. Further east are several RM-6000 zoned lots (4104-4348 Shorecrest Ln.) that also maintain 15-foot front setbacks adjacent to East Coast Highway. These lots are not subject to a floor area limit ratio, but rather are limited to a 60 percent maximum lot coverage requirement.

B-3. The setbacks and allowed floor area for nearby multi-unit developments are more permissive than what the subject property is limited to. Therefore, strict compliance with the 20-foot front setback and resulting floor area limit would deprive the subject property of privileges enjoyed by nearby RM lots.

B-4. Granting of the variance would allow the applicant to develop a multi-unit residential development utilizing similar setbacks and to a more reasonable floor area limit consistent with other multi-unit residential developments in the area.

Finding:

C. That the granting of the Variance is necessary for the preservation and enjoyment of substantial property rights of the applicant.

Facts in Support of Finding:

C-1. The 18-unit condominium complex to the east is located on a larger one acre lot and is permitted a larger floor area limit of 1.75 times the buildable area (instead of 1.5). If the subject property would were allowed a similar 1.75 floor area limit, the floor area limit would be 14,719 square feet, which is larger than the 13,703 square feet proposed. Also, the RM-6000 zoned lots further east are not subject to a floor area limit ratio, but rather are regulated by a 60 percent

maximum lot coverage requirement. For comparison, the proposed lot coverage of the residential development is only 38 percent. In both these examples of nearby RM lots, the setbacks, buildable area, and total allowed floor areas are more permissive than what the subject property is limited to. Therefore, strict compliance with the 20-foot front setback, buildable area, and resulting floor area limit would deprive the subject property of privileges enjoyed by nearby RM lots.

Finding:

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

Facts in Support of Finding:

D-1. The size of the proposed residential development would be in scale with nearby multi-unit residential developments located on East Coast Highway and Shorecrest Lane.

D-2. The granting of the Variance would not constitute a special privilege inconsistent with the limitations upon other properties zoned RM as it allows the property owner to maintain equity with other multiple-unit developments along East Coast Highway.

Finding:

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

Facts in Support of Finding:

E-1. The five-foot encroachment into the 20-foot setback would not be detrimental to the City or result in a hazard to the existing community or future residents of the project. The project would provide a 15-foot front setback to the street, which is adequate to provide for light, air, privacy and open space, consistent with the intent of the Zoning Code.

E-2. Trees and shrubs will be planted within the 15-foot front setback to act as a buffer and soften the visual impact along the East Coast Highway frontage.

E-3. The approval of this Variance is conditioned such that the applicant is required to obtain all necessary permits in accordance with the Building Code and other applicable Codes.

E-4. The proposed 15-foot setback for the residential structures would be consistent with the development pattern of the multi-unit developments to the east and compatible with the commercial lots to the west which so not have front setback requirements.

E-5. Of the 1,100 square feet of additional floor area that the applicant is requesting above the maximum floor area limit (based on a buildable area utilizing a 20-foot setback), 1,018 square feet of that floor area is located below grade within the private garage area that is counted towards gross floor area and garage stairs. Therefore, this additional floor area is predominately below grade and does not add significant bulk or mass to the development as compared to what normally be allowed to be developed above grade using the 20-foot setback and resulting floor area limit.

Finding:

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

Facts in Support of Finding:

F-1. The intent of the front setback is to provide adequate separation for light, air, privacy and open space adjacent to the street. In this case, the project would provide a 15-foot front setback to the street, which is consistent with the front setbacks of the other RM zoned lots east. Fifteen feet is adequate to provide for light, air, privacy and open space, consistent with the intent of the Zoning Code.

F-2. The subject property is designated RM by the Land Use Element of the General Plan and zoned RM. Both designations are intended primarily for multi-family residential development containing attached or detached dwelling units. The subject property is entitled for the development of eight dwelling units where six are proposed. Approval of the Variance will not affect residential density.

F-3. The subject property is not located within a specific plan area.

F-4. The overall design, based upon the proposed plans, meets residential design criteria provided within Section 20.48.180.B.2 (Design Criteria) by avoiding long unarticulated walls and providing architectural treatment of all elevations.

Tentative Tract Map

6. A tentative tract map is requested for residential condominium purposes, to create six airspace condominium units. The map would also serve to consolidate five lots and portions of a vacated alley into two lots. In accordance with Section 19.12.070 (Required Findings for Action on Tentative Maps) of the Newport Beach Municipal Code, the following findings and facts in support of a tentative tract map are set forth:

Finding:

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

Facts in Support of Finding:

A-1. The project is consistent with the Commercial Corridor and Multiple Unit Residential General Plan designations of the project site.

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

A-3. Conditions of approval have been included to ensure compliance with Title 19.

Finding:

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

Facts in Support of Finding:

B-1. The residential portion of the project site is currently a vacant paved/gravel lot and the commercial portion of the project site is currently developed with a 535-square-foot delicatessen.

B-2. The site where construction will occur is relatively flat and based on the geologic investigation, the site is safe and suitable for development. The subject property has been placed with a significant amount of fill to provide a generally level site perched above the neighboring descending ravine. The fills encountered appear to be dense and compacted to acceptable levels. Expansive soils were encountered and the soils report recommends special attention be given to the project design and maintenance in compliance with Expansive Soil Guidelines.

B-3. A preliminary Acoustical Study prepared for the project estimates that future traffic noise exposure will be 72.5 dB CNEL to the nearest facades to East Coast Highway. All multi-family projects must comply with the State of California's noise standards that specify that the intrusion of noise from exterior sources (such as traffic) shall not exceed a CNEL of 45 dB within the interior of any habitable space. This is also consistent with the City's interior noise standards established in the General Plan Noise Element, including Policy N1.1, N1.2, and N1.5. The Acoustical Study concludes that with appropriate noise control measures incorporated into the design of the proposed project (e.g., ventilation and air conditioning, weather stripping, increased sound-rated doors, windows, and wall finishes, etc.), no significant noise impacts will occur

and the interior noise levels would comply with the City and State interior noise standard of 45 dB CNEL for residential units.

Finding:

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

Facts in Support of Finding:

C-1. The portion of the project site to be developed does not support any environmental resources as indicated in the jurisdictional delineation prepared for the project. The project would not require discharge of fill into areas subject to Army Corp of Engineers, California Department of Fish and Game, or California Coastal Commission jurisdiction within the Buck Gully drainage. As such, there would be no significant impacts to the Buck Gully drainage associated with the project.

C-2. Portions of the Buck Gully drainage are within areas that could be potentially affected by fuel modification activities, including cutting of vegetation. The jurisdictional delineation concludes that alkali bulbrush and southern cattail are growing in the stream channel and account for minimal biomass and would not likely require removal or thinning, as they pose no fire risk or theat. As such, there would be no impacts to wetland vegetation associated with the project.

Finding:

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

Facts in Support of Finding:

D-1. The project consists of six residential units and commercial development at 0.75 floor area ratio as allowed by the Zoning Code and the General Plan.

D-2. No evidence is known to exist that would indicate that the planned subdivision pattern will generate any serious public health problems.

D-3. All construction for the project will comply with Building, Public Works, and Fire Codes. Public improvements will be required of the developer per Section

19.28.10 of the Municipal Code and Section 66411 of the Subdivision Map Act. All ordinances of the City and all Conditions of Approval will be complied with.

Finding:

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

Facts in Support of Finding:

E-1. That the design of the development will not conflict with any easements acquired by the public at large for access through or use of property within the proposed development.

E-2. That public improvements will be required of the applicant per the Municipal Code and the Subdivision Map Act.

E-3. An existing 7.5-foot-wide utilities easement at the rear of the two lots will be retained. An approximately 15-foot-wide access and utilities easement located along the eastern side of the residential lot that is no longer needed would be vacated. An existing slope and drainage easement over the southeasterly corner of the residential lot would also be vacated and replaced with a new variable width storm drain easement. Southern California Edison power lines running in the rear of the property will be re-routed and placed underground.

Finding:

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

Facts in Support of Finding:

F-1. The site is not subject to a Williamson Act contract.

Finding:

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

Facts in Support of Finding:

G-1. The subject property is not located within the boundaries of a specific plan.

Finding:

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

Facts in Support of Finding:

H-1. Title 24 of the Uniform Building Code requires new construction to meet minimum heating and cooling efficiency standards depending on location and climate.

H-2. The Newport Beach Building Division will enforce Title 24 compliance through the plan check and field inspection processes for the construction of any future proposed residences.

Finding:

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

Facts in Support of Finding:

I-1. There are no existing dwelling units on the project site. Rather the proposed project includes the construction of six new condominium units to contribute to the City's share of the regional housing need. The applicant will be responsible for the payment of appropriate fair share, park, and housing in-lieu fees for the development of these new dwelling units.

Finding:

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

Facts in Support of Finding:

J-1. Waste discharge will be directed into the existing sewer system and will not violate Regional Water Quality Control Board (RWQCB) requirements.

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

Finding:

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

Facts in Support of Finding:

K-1. The project site is not located within the Coastal Zone.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby approves Site Development Review No. SD2012-001, Conditional Use Permit No. UP2012-011, Modification Permit No. MD2012-011, Variance No. VA2012-002, and Tentative Tract Map No. NT2012-001(PA2012-061) subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.

2. This Site Development Review, Conditional Use Permit, Modification Permit, and Variance actions 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 Tentative Tract Map action shall become final and effective ten days after the adoption of this Resolution unless within such time an appeal is filed with the Director of Community Development in accordance with the provisions of Title 19 Subdivisions, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 6TH DAY OF DECEMBER, 2012.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY:_____
Michael Toerge, Chairman

BY:_____
Fred Ameri, Secretary

EXHIBIT "A"

CONDITIONS OF APPROVAL

PLANNING

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. Site Development Review No. SD2012-001, Conditional Use Permit No. UP2012-011, Modification Permit No. MD2012-011, and Variance No. VA2012-002 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.

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

4. 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 Site Development Review No. SD2012-001, Conditional Use Permit No. UP2012-011, Modification Permit No. MD2012-011, and Variance No. VA2012-002.

5. 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 Division.

6. Prior to the issuance of building permits, Fair Share Traffic Fees shall be paid for the new dwelling units and commercial floor area in accordance with Chapter 15.38 of the Newport Beach Municipal Code.

7. Prior to issuance of building permits, an in-lieu housing fee for six dwelling units (currently $20,513.00 per new additional dwelling unit) shall be paid in accordance City Council Resolution No. 2010-44 of the Newport Beach Municipal Code.

8. 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.

9. This approval may be modified or revoked by the 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.

10. The existing food use shall continue operating in compliance with the conditions of approval of Specialty Food Permit No. 38. Any intensification of use shall require the application of a new conditional or minor use permit.

11. The existing power poles and overhead power lines located at the rear of the property shall be removed and the power lines shall be undergrounded.

12. Flat roof portions of the commercial building shall be constructed to meet “cool roofs” standards for energy efficiency; however, the color and material shall not result in glare as viewed from the residents above. No mechanical equipment shall be permitted on the roof, except within the designated mechanical well and shall not be visible from East Coast Highway or the adjacent residential properties.

13. The floor plans and building envelopes for each residential unit are approved as precise plans, unless revisions are approved by the Community Development Director. Future floor area additions to the building envelopes shall be prohibited. The proposed open patio and deck areas for each unit shall not be permitted to be enclosed and the landscape and common open space areas proposed throughout the development site shall be preserved.

14. A total of 10 parking spaces shall be provided within the shared parking lot as illustrated on the approved plans and shall be available for use by guest of the residential tenants and commercial tenants and customers.

15. All employees of the commercial building are required to park on site.

16. The shared 10-space parking lot shall be used for the parking of passenger vehicles only, with the exception of temporary parking for the loading and unloading of commercial and residential delivery trucks.

17. Commercial overnight parking within the shared 10-space parking lot shall be prohibited. Residential guest parking overnight is permitted.

18. The future homeowner’s association for the condominium development and the property owner of the commercial property shall enter into a reciprocal parking and access agreement for the joint use of the 10-space surface parking lot ensuring the permanently availability of parking. The agreement, approved as to form the City Attorney’s Office, shall be recorded prior to the issuance of the Certificate of Occupancy or final of building permits.

19. No signs, other than signs designating entrances, exits, and conditions of use shall be maintained in the shared parking lot. Signs shall not exceed four square feet in area and five feet in height. The number and location shall be approved by the Community Development Director before installation.

20. <u>Prior to the issuance of building permits</u>, documents/plans shall be submitted demonstrating compliance with the requirements of Chapter 14.17 (Water-Efficient Landscaping Ordinance) of the Municipal Code.

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

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

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

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

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

26. Prior to the issuance of building permits, the applicant shall prepare photometric study in conjunction with a final lighting plan for approval by the Planning Division. The survey shall show that lighting values are “1” or less at all property lines. Higher lighting levels are subject to the review and approval of the Community Development Director where it can be shown to be in compliance with the purpose and intent of the Outdoor Lighting section of the Zoning Code.

27. Prior to issuance of the certificate of occupancy or final of building permits, the applicant shall schedule an evening inspection by the Code and Water Quality Enforcement Division to confirm control of light and glare.

28. 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.

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

30. 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

31. Prior to the issuance of the certificate of occupancy or final of building permits, the future homeowners association shall enter into an agreement with the property owner of the commercial property to allow the use of the trash enclosure and to establish the terms of use and refuse collection.

32. The exterior of the businesses 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.

33. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Community Development Director, and may require an amendment to the Conditional Use Permit.

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

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

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

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

38. All exits shall remain free of obstructions and available for ingress and egress at all times.

39. No building permits may be issued until the appeal period has expired, unless otherwise approved by the Planning Division. Building permits for structures located

across the existing property lines shall not be issued until the tract map has been recorded.

40. A copy of these conditions of approval shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.

41. 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 Plaza Corona Del Mar including, but not limited to, the Conditional Use Permit No. UP2012-011, Modification Permit No. MD2012-011, Site Development Review No. SD2012-001, Tentative Tract Map No. NT2012-001, and Variance No. VA2012-002 (PA2012-061). 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

42. Fire flow shall be provided in accordance with Guideline B.01 "Determination of Required Fire Flow." The fire flow will determine the number of fire hydrants required for the project.

43. Structures shall meet the requirements of Chapter 7A of the California Building Code, as amended by the City of Newport Beach.

44. New and existing structures in the project will be required to have fire sprinklers. The sprinkler system shall be monitored by a UL certified alarm service company.

45. The end of the drive aisle of the shared parking lot shall be identified as a fire lane and marked as per N.B.F.D. Guideline C.01.

46. Trash enclosures shall be located at least five feet from structures, unless, fire sprinklers are provided in the trash enclosure/structure.

47. A fuel modification plan shall be required for all landscape and must be submitted to the Fire Department. All requirements from N.B.F.D. Guideline G.02 "Fuel Modification Plans and Maintenance Standard" must be met. As per Guideline G.02. tree species are not allowed within 10 feet of combustible structures.

Building Division Conditions

48. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. 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 proposed residential dwelling units do not meet the definition of "townhouse" per CBC 202.

49. Full access compliance shall be demonstrated and provided in accordance with the February 8, 2012, Building Division letter, CBC 11A and CBC 11B at the time of permit application. The floor and seating plans submitted with the Project Review plans are for reference only. Subsequent plan changes may be required due to code changes prior to submittal for plan review and permitting. This project review does not constitute approval of the floor plans, parking, or other access compliance issues.

50. All sides of both the commercial and residential structures shall fully comply with the Special Fire Protection Area requirements at the time of permit submittal. These requirements may be found in CBC 7A, Newport Beach Municipal Code and related codes.

51. Prior to the issuance of building permits, a preliminary plan review meeting shall be scheduled with the Building Division.

52. The applicant shall employ the following best available control measures ("BACMs") to reduce construction-related air quality impacts:

Dust Control

- Water all active construction areas at least twice daily.
- Cover all haul trucks or maintain at least two feet of freeboard.
- Pave or apply water four times daily to all unpaved parking or staging areas.
- Sweep or wash any site access points within two hours of any visible dirt deposits on any public roadway.
- Cover or water twice daily any on-site stockpiles of debris, dirt or other dusty material.
- Suspend all operations on any unpaved surface if winds exceed 25 mph.

Emissions

- Require 90-day low-NOx tune-ups for off road equipment.
- Limit allowable idling to 30 minutes for trucks and heavy equipment

Off-Site Impacts

- Encourage car pooling for construction workers.
- Limit lane closures to off-peak travel periods.
- Park construction vehicles off traveled roadways.
- Wet down or cover dirt hauled off-site.
- Sweep access points daily.
- Encourage receipt of materials during non-peak traffic hours.
- Sandbag construction sites for erosion control.

Fill Placement

- The number and type of equipment for dirt pushing will be limited on any day to ensure that SCAQMD significance thresholds are not exceeded.
- Maintain and utilize a continuous water application system during earth placement and compaction to achieve a 10 percent soil moisture content in the top six-inch surface layer, subject to review/discretion of the geotechnical engineer.

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

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

55. The construction and equipment staging area shall be located in the least visually prominent area on the site, or another site approved by the Community Development Director, and shall be properly maintained and/or screened to minimize potential unsightly conditions.

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

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

Public Works Conditions

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

59. The parking lot layout shall comply with City Standard F#805-L-A&B and shall be approved by the Public Works Department prior to the issuance of building permits.

60. All improvements adjacent to the proposed driveway approaches shall comply with the City's sight distance requirement, City Standard 110-L.

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

62. County Sanitation District fees shall be paid prior to the issuance of any building permits.

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

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

65. Each unit shall have a dedicated water service installed per STD-502-L or STD-503-L, depending on the size.

66. New and existing fire services, when required by Fire Department shall be protected by a City approved double check detector assembly and installed per STD-517-L.

67. New and existing commercial water meter(s) shall be protected by a City approved reduced pressure backflow assembly and installed per STD-520_L-A.

68. Landscaping lines shall have a dedicated meter and shall be protected by a dedicated City approved reduced pressure backflow assembly per STD-520-L-A.

69. The proposed driveway to the underground parking garage shall have a maximum slope of 15 percent and a maximum change of grade of 11 percent per City Standard #160-L-C.

70. Prior to the issuance of a Certificate of Occupancy for the proposed structures, all public improvements shall be constructed as required by Ordinance and these conditions of approval.

Tract Map Conditions

71. A Final Tract Map shall be recorded. The Map shall be prepared on the California coordinate system (NAD83). Prior to recordation of the Map, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach, a digital-graphic file of said map in a manner described in Section 7-9-330 and 7-9-

337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. The Map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.

72. Prior to recordation of the Final Tract Map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. Monuments (one inch iron pipe with tag) shall be set on each corner unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.

73. Prior to recordation of the Final Tract Map, the applicant shall provide a bond/surety in order to guarantee completion of all required public improvements. The bond/surety shall be reviewed and approved by the Public Works Department.

74. The existing concrete curb, gutter, and sidewalk along the East Coast Highway frontage shall be reconstructed, per City Standards.

75. The unused driveway approaches shall be abandoned and reconstructed with full height curb, gutter, and sidewalk per City Standard #165-L.

76. Proposed driveway approaches shall be constructed per City Standard #162-L.

77. The proposed storm drain relocation shall be subject to review and approval by the Public Works Department.

78. A variable width storm drain easement measured 5-feet from the westerly side of the centerline of the proposed new storm drain location to the easterly property line shall be granted to the City.

79. New 36-inch box street trees will be required to be planted on East Coast Highway. The designated street tree for this segment of East Coast Highway is the King Palm (Archontophoenix Cunningham). The number and location of these street trees are subject to approval by the Public Works Department and the Parks and Trees Division of the Municipal Operations Department.

80. Prior to or concurrently with the recordation of the Final Tract Map, an approximately 15-foot wide access and utilities easement through the site adjacent to the eastern property line of 3928 East Coast Highway shall be vacated.

81. Prior to or concurrently with the recordation of the Final Tract Map, an existing slope and drainage easement at the southeast portion of the subject property will be realigned so that it will not conflict with the location of proposed structures.

82. Applicant is responsible for all upgrades to the City's utilities as required to fulfill the project's demand; a new 8-inch VCP sewer main shall be installed from the manhole

at the Seaward Road/Coast Highway Intersection to the property's frontage. A new sewer main terminal cleanout shall be installed at the end of the new 8-inch BCP main per STD-400-L. Each unit shall have a dedicated sewer lateral with cleanouts installed per STD-406-L.

83. Prior to the recordation of the Final Tract Map, a park dedication fee for six dwelling units (currently $26,125.00 per new additional dwelling unit) shall be paid in accordance with Chapter 19.52 of the Newport Beach Municipal Code. This fee shall be paid upon submittal of the map to the Public Works Department for plan check and deposited into the appropriate Service Area account as identified in the Recreation and Open Space Element of the General Plan.

84. The easterly property line of the proposed Lot 2 shall be revised on the Final Tract Map such that the prolongation of the easterly property line directly intersects with the rear property line (i.e. the approximately 82-square-foot notched area illustrated at the northeasterly corner of Lot 2 shall be made a part of Lot 2 and removed from Lot 1).

Attachment No. PC 2

Draft Resolution for Denial

RESOLUTION NO. ####

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH DENYING WITHOUT PREJUDICE CONDITIONAL USE PERMIT NO. UP2012-011, MODIFICATION PERMIT NO. MD2012-011, SITE DEVELOPMENT REVIEW NO. SD2012-001, TENTATIVE TRACT MAP NO. NT2012-001, AND VARIANCE NO. VA2012-002 FOR THE CONSTRUCTION OF A 2,160-SQUARE-FOOT COMMERCIAL OFFICE ADDITION AND SIX DWELLING UNITS LOCATED AT 3900 AND 3928 EAST COAST HIGHWAY (PA2010-061)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Marcelo E. Lische, the architect representing property owner, Magdi Hanna, with respect to property located at 3900 and 3928 East Coast Highway, and legally described as Lots 54, 55, 56, 57, 58, and portions of abandoned alley, Block B, Tract No. 673 requesting approval of a site development review, conditional use permit, modification permit, tentative tract map, and variance.

2. The project includes a horizontal mixed-use development with six detached dwelling units above a common subterranean parking structure, a 2,160-square-foot office addition above an existing 535-square-foot delicatessen (Gallo's Deli), and a 10-space shared surface parking lot. The following approvals are requested or required in order to implement the project as proposed:

   a. A site development review to ensure compatibility with the site and surrounding land uses.

   b. A conditional use permit to allow parking for nonresidential uses in a residential zoning district and to allow off-site parking.

   c. A modification permit to allow a retaining wall up to 17 feet 2 inches in height, where the Zoning Code limits the height to 8 feet.

   d. A variance for the residential structures to establish a 15-foot front setback and corresponding buildable area where a 20-foot setback is currently required.

   e. A tentative tract map for condominium purposes and to consolidate five lots and portions of a vacated alley into two lots.

3. The subject property at 3900 East Coast Highway 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 at 3928 East Coast Highway is located within the Multiple Residential (RM) Zoning District and the General Plan Land Use Element category is Multiple-Unit Residential (RM).

5. The subject properties are not located within the coastal zone.

6. A public hearing was held on December 6, 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

1. Pursuant to Section 15270 of the California Environmental Quality Act (CEQA) Guidelines, projects which a public agency rejects or disapproves are not subject to CEQA review.

SECTION 3. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach does hereby deny without prejudice Site Development Review No. SD2012-001, Conditional Use Permit No. UP2012-011, Modification Permit No. MD2012-011, Variance No. VA2012-002, and Tentative Tract Map No. NT2012-001(PA2012-061).

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.

PASSED, APPROVED AND ADOPTED THIS 6TH DAY OF DECEMBER, 2012.

AYES:
NOES:
ABSTAIN:
ABSENT:

BY:_____
Michael Toerge, Chairman

BY:_____
Fred Ameri, Secretary

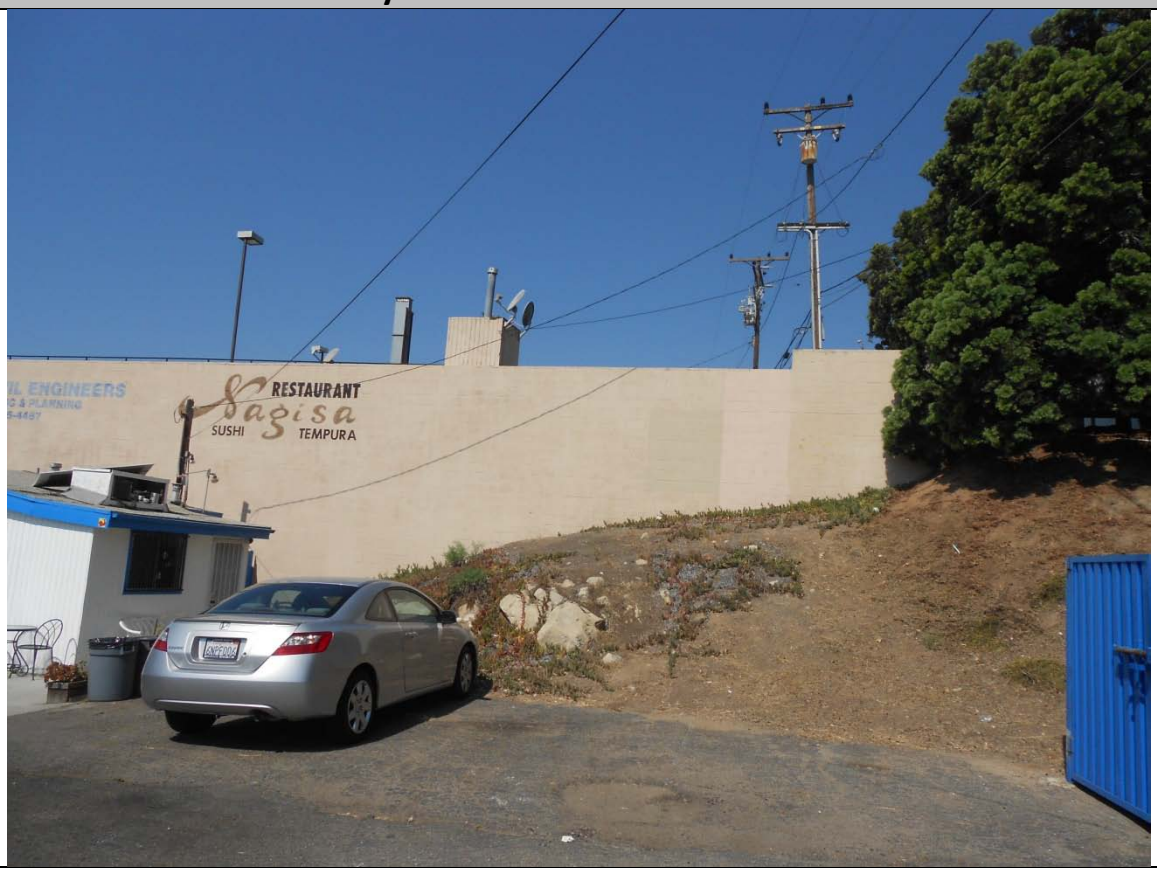
Attachment No. PC 3

Site Photos

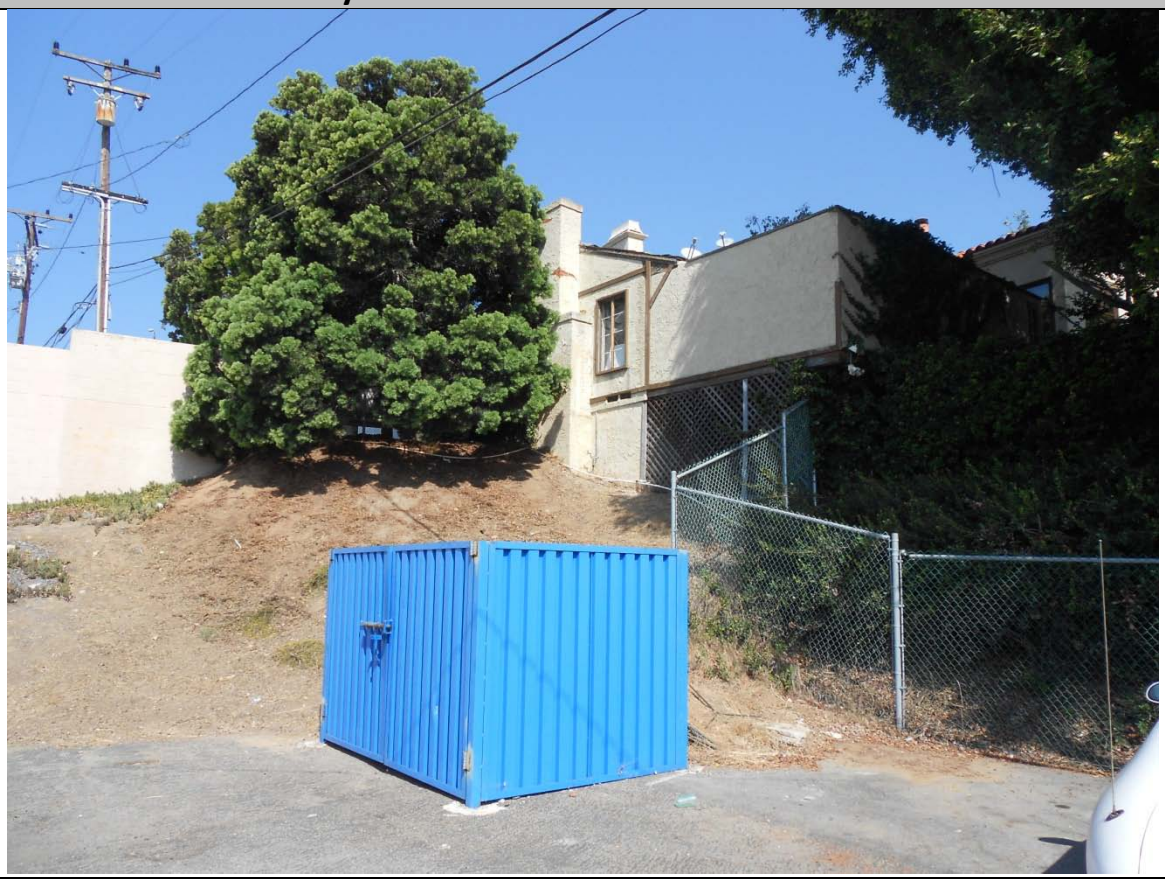
Existing Site – View to East

Existing Site – View to West

Northwesterly Corner of Commercial Lot- View West



Northwesterly Corner of Commercial Lot- View Northwest



Bulk Gully Canyon- View North

View South of SIte

Gallo's Deli- View from Sidewalk

Gallo's Deli- View from Rear

Attachment No. PC 4

Project Plans

LIST OF ABBREVIATIONS

Abbrev.	Meaning
AB	anchor bolt
ABV	above
A/C	air conditioning
ACC	access
ACOUS	accoustical
ACR	acrylic plastic
ACT	accoustic tile
AD	area drain
ADD	addendum
ADH	adhesive
ADJ	adjacent
ADJUST	adjustable
AFF	above finished floor
AGG	aggregate
ALUM	aluminum
ALT	alternate
ANCH	anchor
ANOD	anodized
AP	access panel
APPROX	approximate
ARCH	architect
ASB	asbestus
ASC	above susp. ceiling
ASPH	asphalt
ASSY	assembly
AT	asphalt tile
AUTO	automatic
BC	bottom of concrete
BD	board
BEL	below
BET	between
BLDG	building
BLK	block
BLKG	blocking
BM	beam
BOCA	bldg ofc & code admin
BOT	bottom
BRK	brick
BRZ	bronze
BS	both sides
BVL	bevel
BW	both ways
CAB	cabinet
CB	catch basin
CEM	cement
CER	ceramic
CFL	counter flasing
CFT	cubic foot
CG	corner guard
CHAM	chamfer
CHT	ceiling height
CI	cast iron
CIPC	cast-in-place conc
CIR	circle
CIRC	circumference
CJ	ceiling joist
CL	center line
CLG	ceiling
CLK	caulk
CLL	contract line limit
CLR	clear
CLS	close, closure
CM	centimeter
CMU	conc masonry unit
CO	cased opening
COL	column
COMB	combination
COMPO	composition
CONC	concrete
CONN	connector
CONST	construction
CONT	continuous
CONTR	contractor
CORR	corridor
CPR	copper
CPT	carpet
CSMT	casement
CST	cast stone
CT	ceramic tile
CTR	counter
CTSK	countersink
CYD	cubic yard
D	drain
DA	double acting
DEM	demolition
DEP	depressed
DEPT	department
DET	detail
DF	drinking fountain
DIA	diameter
DIAG	diagonal
DIM	dimension
DISP	dispenser
DIV	division
DL	dead load
DN	down
DP	dampproofing
DPR	damper
DR	door
DRWR	drawer
DS	downspout
DW	dumbwaiter
E	east
(E)	existing
EA	each
EB	expansion bolt
EL	elevation
ELEC	electrical
ELEV	elevator
EMER	emergency
ENC	enclosure
EQ	equal
EQUIP	equipment
ESC	escalator
EST	estimate
EXH	exhaust
EXP	exposed
EXT	exterior
FA	fire alarm
FAS	fastener
FB	face brick
FBD	fiberboard
FBRK	fire brick
FD	floor drain
FE	fire extinguisher
FEC	fire extinguisher cab
FF	finished floor
FGL	flashing
FHS	fire hose station
FIN	finish
FIXT	fixture
FLG	flashing
FLR	floor
FLRG	flooring
FLUOR	fluorescent
FLX	flexible
FN	fence
FND	foundation
FO	finished opening
FOC	face of concrete
FOF	face of finish
FOM	face of masonry
FOS	face of stud
FP	fireproof
FPL	floor plate
FPLC	fireplace
FR	frame
FRC	fire resist coating
FRT	fire retardant
FS	full size
FTG	footing
FUR	furring
GA	guage
GALV	galvanized
GC	general contractor
GD	grade
GI	galvanized iron
GR	grain
GRVL	gravel
GT	grout
GYPBD	gypsum board
HB	hose bib
HC	hollow core
HDR	header
HDW	hardware
HM	hollow metal
HORIZ	horizontal
HT	height
HTG	heating
HVAC	htg. vent. air cond
HWD	hardwood
ID	inside diameter
INCL	included
INS	insulation
INT	interior
INV	invert
J	joist
J BOX	junction box
JT	joint
KIT	kitchen
KO	knock out
KPL	kick plate
L	length
LAB	laboratory
LAD	ladder
LAM	laminate
LAV	lavatory
LB	lag bolt
LBL	label
LC	light control
LL	live load
LPT	low point
LT	light
LTL	lintel
LVR	louver
LW	light weight
LWC	light weight conc
M	meter
MAS	masonry
MAX	maximum
MB	machine bolt
MBR	member
MC	medicine cabinet
MECH	mechanical
MED	medium
MEM	membrane
MET	metal
MFR	manufacturer
MH	manhole
MIN	minimum
MIR	mirror
MISC	miscellaneous
MLDG	moulding
MM	millimeter
MO	masonry opening
MOD	modular
MT	mounted
MTL	material
MULL	mullion
MWK	millwork
N	north
NAT	natural
NIC	not in contract
NOM	nominal
NR	noise reduction
NRC	noise reduction coefficient
NTS	not to scale
O/	over
OA	overall
OC	on center
OD	outside diameter
OFC	office
OH	overhead
OPG	opening
OPP	opposite
OWJ	open web joist
R	riser
RA	return air
RAD	radius
RB	rubber base
RBT	rabbet
RCP	reflected ceilg plan
RD	roof drain
REF	reference
REFR	refrigerator
REG	register
REM	remove
RES	resilient
RET	return
REV	revision
RFG	roofing
RFL	reflector
RH	right hand
RM	room
RO	rough opening
ROW	right of way
RVS	reverse
RVT	rivet
S	south
SBCCI	s bldg code congress
SC	solid core
SCH	schedule
SCN	screen
SD	storm drain
SECT	section
SF	square foot
SH	shelving
SHT	sheet
SHTG	sheathing
SHTGL	sheet glass
SIM	similar
SKL	skylight
SL	sleeve
SPC	spacer
SPEC	specification
SPK	speaker
SQ	square
SS	stainless steel
ST	steel
STA	station
STD	standard
STG	seating
STO	storage
STR	structural
SUS	suspended
SYM	symetrical
SYN	synthetic
SYS	system
T	tread
TC	terra cotta
TEL	telephone
T&G	tongue & groove
THK	thickness
THR	threshold
TOS	top of slab
TOW	top of wall
TR	transom
TV	television
TYP	typical
TZ	terrazzo
UBC	uniform bldg code
UNO	unless noted otherwise
VAR	varnish
VB	vapor barrier
VERT	vertical
VG	vertical grain
VIN	vinyl
VNR	veneer
VRM	vermiculite
VT	vinyl tile
W	west
W	width
W/	with
WB	wood base
WC	water closet
WD	wood
WG	wired glass
WH	wall hung
WI	wrought iron
WIN	window
WM	wire mesh
WO	without
WP	waterproofing
WR	water repellant
WS	water stop
WSCT	wainscot
WTW	wall to wall
WWF	welded wire fabric

PROJECT DATA OFFICE BUILDING - LOT 2

ZONE: CC   OCCUPANCY: B   CONSTRUCTION TYPE: V-B FULLY SPRINKLERED

SETBACKS:
FRONT: 0 FT.
SIDES: 0'
REAR: 5 FT. ADJACENT TO RESIDENTIAL

HEIGHT LIMIT:
32' FOR FLAT ROOF

OFFICE: 1/250   2,160 SF / 250 = 9 SPACES
GALLO'S DELI: NONE (SPECIALTY FOOD PERMIT # 38, 06-15-1995)
PROVIDED: 9 SPACES, INCLUDING 1 HANDICAP VAN ACCESSIBLE

F.A.R.: 0.75
PROPERTY: 3,594 SF
MAXIMUM BUILDABLE: 3,594 SF x 0.75 = 2,695 SF
PROPOSED BUILDING AREA: 2,695 SF

PROPOSED COVERED TRASH ENCLOSURE AREA: 56 SF

PROJECT DATA DETACHED CONDOMINIUMS - LOT 1

ZONE: RM
DWELLINGS OCCUPANCY R-2, CONSTRUCTION TYPE: V-B FULLY SPRINKLERED
BASEMENT GARAGE: OCCUPANCY S-2, CONSTRUCTION TYPE: I-A FULLY SPRINKLERED

SETBACKS:
PROPOSED FRONT: 15 FT.
SIDE: 8% OF AVERAGE LOT WIDTH (146 + 195)/2 = 170.5 X .08 = 13' - 8"
REAR: 10 FT.

HEIGHT LIMIT:
28 FT. FOR FLAT ROOFS, 33 FT. FOR SLOPED ROOFS (MIN. 3:12)

REQUIRED PARKING:
UNITS REQUIRED: 2 PER UNIT
PROVIDED: 12
(200 SQ. FT. AREA CREDIT FOR EACH ENCLOSED
REQUIRED PARKING SPACE: 200 X 11 = 2,200 SQ. FT CREDIT.)

GUEST REQUIRED: 0.5 PER UNIT X 6 = 3
GUEST PARKING PROVIDED: 2 STD. SUBTERRANEAN
PLUS 1 HC VAN ACCESSIBLE AT GROUND FLOOR

AREAS:

PROPERTY:	15,577 S.F.
SET BACKS:	- 6,402 S.F.
BUILDABLE:	9,175 S.F.

ALLOWABLE AREA: 1.50 X 9,175 = 13,762 S.F.

PROPOSED:

UNIT A:	
1st FLOOR	955 SF
2nd FLOOR	902 SF
THIRD FLOOR	800 SF
TOTAL LIVING:	2,657 SF
GARAGE (- 400 S.F.)	115 SF
TOTAL:	2,772 SF
UNIT B:	
1st FLOOR	743 SF
2nd FLOOR	650 SF
THIRD FLOOR	626 SF
TOTAL LIVING:	2,019 SF
GARAGE (- 400 S.F.)	115 SF
TOTAL:	2,134 SF
UNIT C: (HANDICAP ACCESIBLE)	
1st FLOOR	731 SF
2nd FLOOR	726 SF
THIRD FLOOR	731 SF
TOTAL LIVING:	2,188 SF
GARAGE (- 200 S.F.)	315 SF
TOTAL:	2,503 SF
UNIT D:	
1st FLOOR	710 SF
2nd FLOOR	641 SF
THIRD FLOOR	642 SF
TOTAL LIVING:	1,993 SF
GARAGE (- 400 S.F.)	115 SF
TOTAL:	2,108 SF
UNIT E:	
1st FLOOR	672 SF
2nd FLOOR	568 SF
THIRD FLOOR	568 SF
TOTAL LIVING:	1,808 SF
GARAGE (- 400 S.F.)	115 SF
TOTAL:	1,923 SF
UNIT F:	
1st FLOOR	654 SF
2nd FLOOR	683 SF
THIRD FLOOR	683 SF
TOTAL LIVING:	2,020 SF
GARAGE (-400 S.F.)	115 SF
TOTAL:	2,135 SF
TOTAL UNITS AREA:	13,575 SF
GARAGE STAIRS	128 SF
TOTAL AREA:	13,703 SF

BASEMENT AREA: 6,649 SF
NOTE: 3,311 S.F. GUEST PARKING AND VEHICULAR AISLES NOT INCLUDED.

COMMON OPEN SPACE REQUIRED: 75 SF PER UNIT
6 X 75 = 450 SF
COMMON OPEN SPACE PROVIDED: 533 SF (OUTSIDE SETBACK AREAS)

PRIVATE OPEN SPACE REQUIRED: 5% OF UNIT GROSS FLOOR AREA
INDIVIDUAL OPEN SPACE PROVIDED: SEE TABULATION, SHEET A-1

PROPOSED COVERED TRASH ENCLOSURE AREA: 56 SF

CODES

GOVERNING AGENCIES & CODES

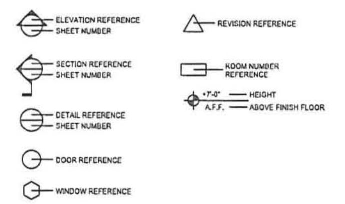
COMPLY FULLY WITH 2010 CRC, 2010 CPC, 2010 CEC, 2010 CMC, 2008 BUILDING ENERGY EFFICIENCY STANDARS (BEES), & 2010 CALIFORNIA GREEN BUILDING STANDARDS CODE (CAL GREEN)

GENERAL NOTES

GENERAL REQUIREMENTS:

1. NO CHANGES ARE TO BE MADE TO THESE PLANS WITHOUT THE KNOWLEDGE AND/OR WRITTEN CONSENT OF THE ARCHITECT
2. DIMENSIONS AS INDICATED ARE THE DIMENSIONS TO BE USED FOR CONSTRUCTION, DO NOT SCALE DRAWINGS
3. IN THE EVENT THAT THE OWNER SHOULD DECIDE NOT TO EMPLOY THE SERVICES OF A GENERAL CONTRACTOR, THE OWNER THEN ACCEPTS ALL OF THE RESPONSIBILITIES OF THE GENERAL CONTRACTOR AND THE IMPLEMENTATION OF THE WORK AS SPECIFIED IN THE FOLLOWING NOTES AND IN THE CONSTRUCTION DOCUMENTS.
4. GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR PROVIDING ALL WORK AND MATERIALS IN ACCORDANCE WITH ALL LOCAL AND/OR CITY BUILDING CODES.
5. GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAING ALL REQUIRED BUILDING PERMITS.
6. ALL WORK, CONSTRUCTION AND MATERIALS SHALL COMPLY WITH ALL PROVISIONS OF THE BUILDING CODE AND WITH OTHER RULES, REGULATIONS AND ORDINANCES GOVERNING THE PLACE OF CONSTRUCTION. IT IS THE RESPONSIBILITY OF ANYONE SUPPLYING LABOR OR MATERIAL OR BOTH TO BRING TO THE ATTENTION OF THE ARCHITECT AND THE OWNER ANY DISCREPANCIES OR CONFLICT BETWEEN THE CODE AND THE DRAWINGS.
7. THESE DRAWINGS DO NOT CONTAIN THE NECESSARY COMPONENTS FOR CONSTRUCTION SAFETY.
8. ALL RUBBISH AND DEBRIS RESULTING FROM DEMOLITION AND/OR NEW CONSTRUCTION SHALL BE DISPOSED OF OFF SITE AND SHALL NOT BE ALLOWED TO ACCUMULATE.
9. ALL DIMENSIONS TO NEW CONSTRUCTION ARE TO FACE OF CONCRETE, FACE OF CMU, CENTERLINE OF COLUMNS AND BEAMS OR FACE OF STUDS, UNLESS NOTED OTHERWISE. ALL DIMENSIONS TO EXISTING CONSTRUCTION ARE TO FACE OF FINISHED SURFACE, UNLESS NOTED OTHERWISE. FINISH FLOOR ELEVATIONS ARE TO TOP OF CONCRETE SLAB OR TOP OF INTERIOR PAVING, UNLESS NOTED OTHERWISE. CEILING HEIGHT DIMENSIONS ARE TO FINISHED SURFACES, UNLESS NOTED OTHERWISE.
10. WOOD FRAMING MAY BE USED IN LIEU OF METAL FRAMING WHERE CODE ALLOWS.
11. DIMENSIONS AND CONDITIONS AT THE JOB SITE SHALL BE VERIFIED BY ALL CONTRACTORS. IT IS THE RESPONSIBILITY OF EACH CONTRACTOR TO EXAMINE THE EXISTING CONDITIONS PRIOR TO SUBMITTING BIDS TO THE OWNER. PROPOSALS MUST TAKE INTO CONSIDERATION ALL SUCH CONDITIONS THAT MAY AFFECT THE WORK. DISCREPANCIES IN THE DRAWINGS OR BETWEEN THE DRAWINGS AND ACTUAL FIELD CONDITIONS SHALL BE REPORTED TO THE ARCHITECT AND TO THE OWNER PRIOR TO THE COMMENCEMENT OR CONTINUATION OF ANY PHASE OR INSTALLATION OF THIS PROJECT. ALL DIMENSIONS ARE TO BE ROUGH UNLESS NOTED OTHERWISE.
12. THE CIVIL, STRUCTURAL, MECHANICAL, PLUMBING AND ELECTRICAL DRAWINGS ARE SUPPLEMENTARY TO THE ARCHITECTURAL DRAWINGS. ANY DISCREPANCY BETWEEN THE ARCHITECT'S DRAWINGS AND THE CONSULTING ENGINEER'S DRAWINGS AND SPECIFICATIONS THAT CAUSES A CONFLICT, IT SHALL BE BROUGHT TO THE ARCHITECT'S ATTENTION FOR CLARIFICATION PRIOR TO THE INSTALLATION OF SAID WORK.
13. CONTRACTOR SHALL VERIFY SIZES AND LOCATIONS OF ALL MECHANICAL AND ELECTRICAL PADS AND BASES AS WELL AS POWER, WATER AND DRAIN INSTALLATIONS WITH THE EQUIPMENT MANUFACTURER'S BEFORE PROCEEDING WITH WORK. CHANGES TO ACCOMODATE FIELD CONDITIONS OR SUBSTITUTIONS SHALL BE MADE WITHOUT ADDITIONAL CHARGE TO THE OWNER.
14. CONTRACTOR SHALL PROVIDE AND INSTALL ALL CONCRETE HOUSEKEEPING PADS AND PLATFORMS FOR MECHANICAL AND ELECTRICAL EQUIPMENT AS REQUIRED.
15. CONTRACTOR SHALL PROVIDE AND INSTALL ALL STIFFENERS, BRACING, BACK-UP PLATES AND SUPPORTING BRACKETS REQUIRED FOR THE INSTALLATION OF ALL CASEWORK, STAIR RAILINGS, TOILET ROOM ACCESSORIES AND PARTITIONS, AND ALL WALL MOUNTED OR SUSPENDED MECHANICAL, ELECTRICAL OR MISCELLANEOUS EQUIPMENT.
16. REFERENCE TO ANY DETAIL OR DRAWING ARE FOR CONVENIENCE ONLY AND DOES NOT LIMIT THE APPLICATION OF SUCH DETAIL OR DRAWING.
17. ALL SYMBOLS AND ABBREVIATIONS USED ON THE DRAWINGS ARE CONSIDERED TO BE CONSTRUCTION STANDARDS. IF THE CONTRACTOR HAS QUESTIONS REGARDING ABBREVIATIONS OR THEIR EXACT MEANING, THE ARCHITECT SHALL BE NOTIFIED FOR CLARIFICATION.
18. ALL METAL FRAMING MEMBERS SHALL BE SO ARRANGED AND SPACED AS TO PERMIT INSTALLATIONS BY OTHER TRADES WITH A MINIMUM OF CUTTING.
19. OFFSET STUDS WHERE REQUIRED TO ACHIEVE A FLUSH FINISH WALL SURFACE.
20. INSTALL METAL CORNER GUARDS AT ALL EXPOSED WALL BOARD EDGES, INSTALL CASING BEADS WHEREVER WALLBOARD, PLASTER, ETC. ABUTS A DISSIMILAR FINISH MATERIAL AND PROVIDE SEALANT AS REQUIRED.
21. CONTACT BETWEEN DISSIMILAR METALS SHALL BE PROTECTED.

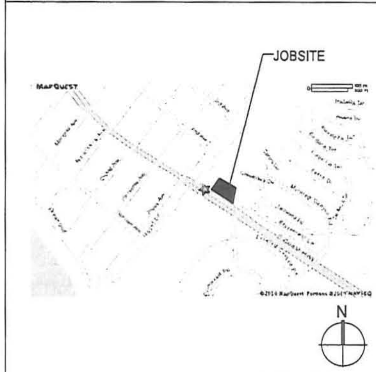
SYMBOLS



LEGAL DESCRIPTION

LOTS 54, 55, 56, 57 & 58 IN BLOCK "B"
OF TRACT NO. 673, CORONA DEL MAR,
PER MAP RECORDED IN BOOK 20, PAGES 17 & 18
OF MISC. MAPS
COUNTY OF ORANGE
STATE OF CALIFORNIA
A.P.N. 459-123-04 & 459-123-05

VICINITY MAP



CONSULTANTS

SOILS ENGENEERING
NORCAL ENGINEERING
10641 HUMBOLT STREET
LOS ALAMITOS, CA. 92720
PH: (562) 799-9469 FAX: (562) 799-9459
CONTACT: KEITH D. TUCKER, R.G.E.

CIVIL ENGENEERING
JRV ENGINEERING
22650 LA CADENA DRIVE
LAGUNA HILLS, CA. 92653
PH: (714) 734-0728 FAX: (949) 215-5551
CONTACT: JUSTO R. VILLAR, R.C.E.

ACOUSTICAL ENGENEERING
WIELAND ACOUSTICS
2691 RITCHER AVE., SUITE 114
IRVINE, CA. 92606
PH: (949) 474-1222 FAX: (949) 474-9122
CONTACT: DAVID L. WIELAND

LANDSCAPE DESIGN
ROBERT CLARK GRAVES, INC.
2192 DUPONT DRIVE, SUITE 203
IRVINE, CA. 92612
PH: (949) 474-0890 FAX: (949) 955-1424
CONTACT: ROBERT C. GRAVES, ALSA

TOPOGRAPHIC SURVEY SURVEY
DUCA - McCOY
3840 E. COAST HIGHWAY
CORONA DEL MAR, CA. 92625
PH: (949) 675-4487
CONTACT: PETE J. DUCA, R.C.E.

SHEET INDEX

SHEET	DESCRIPTION
ARCHITECTURAL	
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SU-1	TOPOGRAPHIC SURVEY
SU-2	WETLAND DISTANCES TO BUILDINGS
TTM	TENTATIVE TRACT MAP
G-1	PRELIMINARY GRADING PLAN GENERAL NOTES
G-2	PRELIMINARY GRADING & DRAINAGE PLAN, STREET LEVEL
G-3	PRELIMINARY GRADING & DRAINAGE PLAN, BASEMENT LEVEL
SDRL1	EXISTING STORM DRAIN RELOCATION PLAN
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A-2	BASEMENT GARAGE / CONDOMINIUMS FIRST FLOOR
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L-1	PRELIMINARY LANDSCAPE PLAN

MARCELO E. LISCHE Architect A.I.A.

CLIENT:
MR. MAGDI HANNA
3345 NEWPORT BLVD.
NEWPORT BEACH, CA. 92663

PROJECT:
PLAZA CORONA DEL MAR
MIXED USE PROJECT
3918 E. COAST HIGHWAY
CORONA DEL MAR, CA. 92625

SHEET TITLE:
COVER SHEET

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JOB #:
DRAWN BY:
CHECKED BY:
SCALE:
DATE:

REVISIONS:

T-1

"PLAZA CORONA DEL MAR"

MIXED USE: COMMERCIAL / MULTI-FAMILY RESIDENTIAL

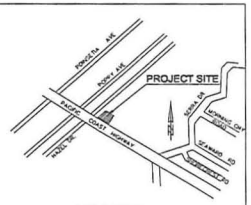
3900 / 3918 E. COAST HIGHWAY
CORONA DEL MAR, CA. 92625

TENTATIVE TRACT MAP NO. 17386

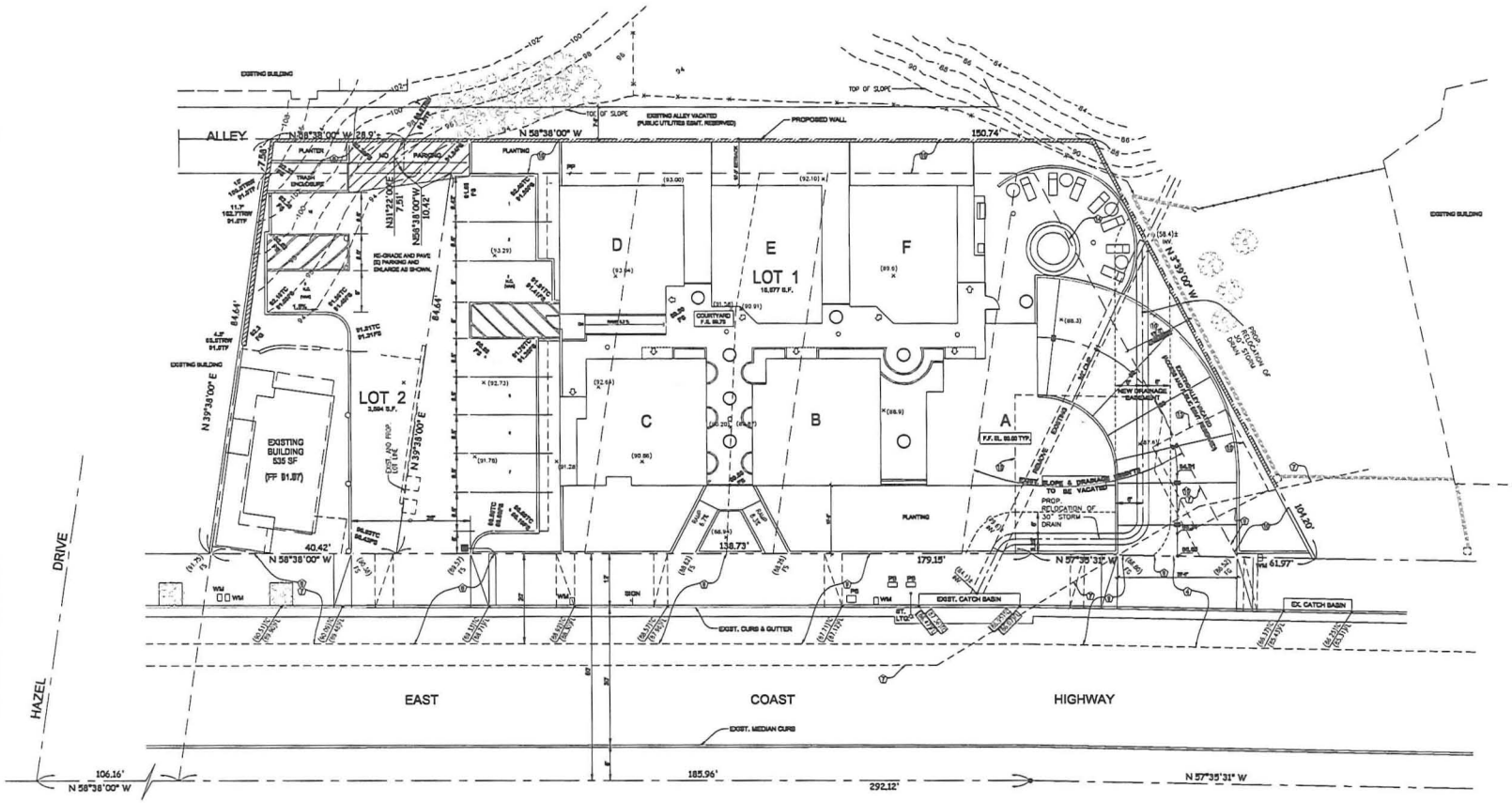
BEING A SUBDIVISION OF LOTS 54, 55, 56, 57 AND 58 IN BLOCK "B" OF TRACT NO. 673, IN THE CITY OF NEWPORT BEACH, IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 20, PAGES 17 & 18 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

LOT 1 IS FOR CONDOMINIUM PURPOSES

OCTOBER , 2012



VICINITY MAP
N.T.S.



NOTES:

USE:
LOT 54 IS OCCUPIED BY A RESTAURANT
LOTS 55, 56, 57 AND 58 ARE VACANT

EXISTING ZONING:
LOT 54 IS ZONED CC (COMMERCIAL CORRIDOR)
LOTS 55, 56, 57 AND 58 ARE ZONED RM (MULTI UNIT RESIDENTIAL)

PROPOSED ZONING:
SAME AS EXISTING

FLOOD AREA: "X"
AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOOD PLAIN

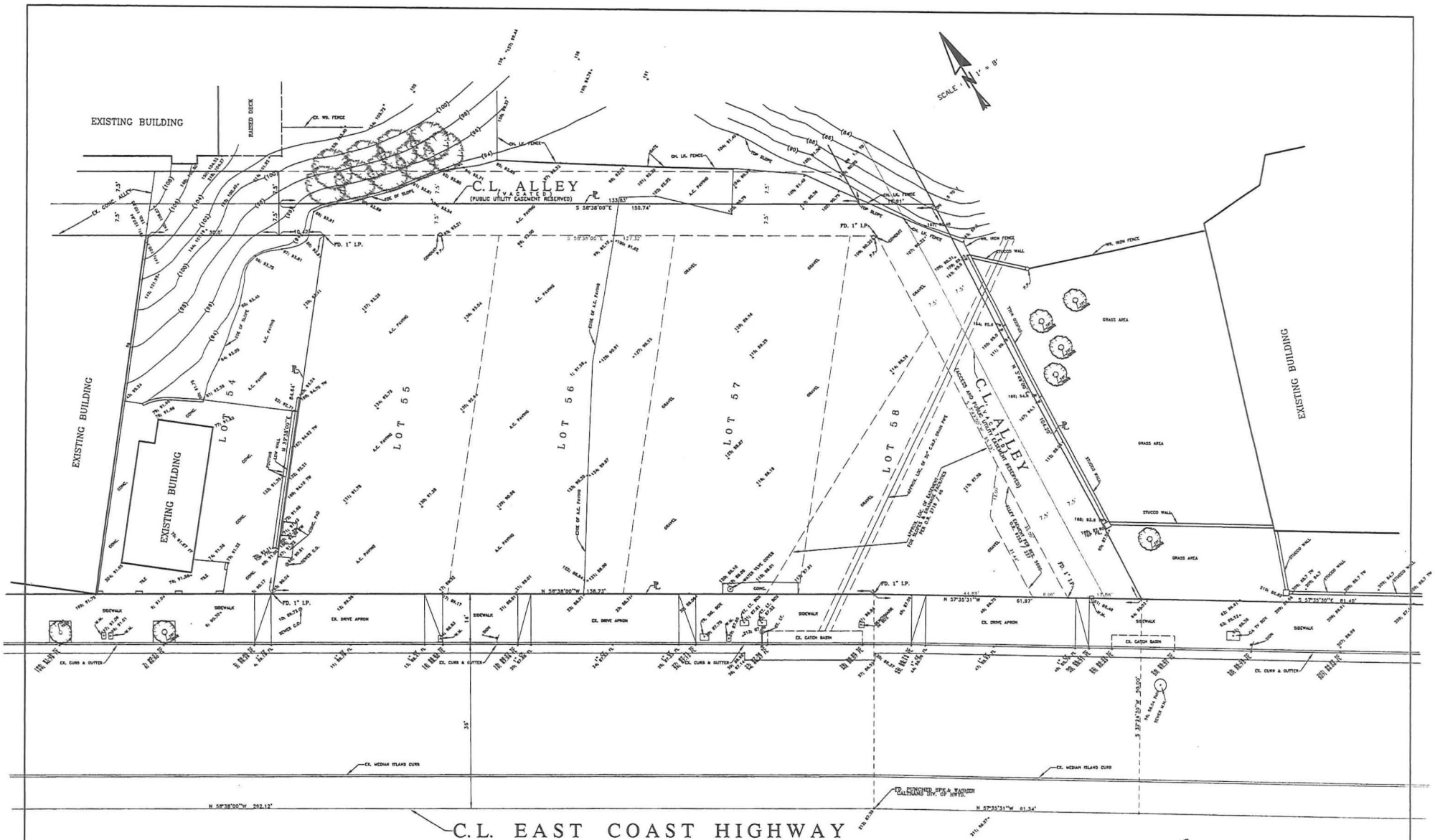
FIRE AREA: VHFHSZ
VERY HIGH FIRE HAZARD SAFETY ZONE

OWNER / SUBDIVIDER:
MAGDI HANNA
3348 NEWPORT BLVD.
NEWPORT BEACH, CA 92663
PHONE (949) 723-2000

MAP PREPARER:
JRV ENGINEERING
23822 LA CADENA DR.
LAGUNA HILLS, CA. 92653
(714) 734 - 0728

JUSTO N. VILLAR RCE 26651

LOT 54
(4) — EASEMENT FOR THE PURPOSES OF EITHER OR BOTH POLE LINES, CONDUITS AND INCIDENTAL PURPOSES FOR LOT 54, RECORDED IN BOOK 34 PAGE 304, ON MARCH 16, 1927 OF OFFICIAL RECORDS.
(5) — THE RIGHT OF THE STATE OF CALIFORNIA FOR THE PURPOSES OF PUBLIC HIGHWAY AND INCIDENTAL PURPOSES FOR LOT 54, RECORDED IN BOOK 977 PAGE 591, ON FEBRUARY 07, 1939 OF OFFICIAL RECORDS.
(6) — THE RIGHT OF THE STATE OF CALIFORNIA FOR THE PURPOSES OF PUBLIC HIGHWAY AND INCIDENTAL PURPOSES, RECORDED IN BOOK 889 PAGE 102, ON JANUARY 13, 1939 OF OFFICIAL RECORDS.
(7) — EASEMENT FOR THE IRVINE COMPANY FOR THE PURPOSES OF PIPELINE AND INCIDENTAL PURPOSES FOR LOT 58, RECORDED IN BOOK 89 PAGE 46, ON MAY 27, 1927 OF OFFICIAL RECORDS.
(8) — THE RIGHT OF THE STATE OF CALIFORNIA FOR THE PURPOSES OF PUBLIC HIGHWAY AND INCIDENTAL PURPOSES, IN BOOK 975 PAGE 446 IN BOOK 975 PAGE 641, ON JANUARY 18, 1939 ALL OF OFFICIAL RECORDS.
(9) — THE RIGHT OF THE STATE OF CALIFORNIA TO EXTEND OVER RIGHT OF WAY FOR THE PURPOSES OF SLOPE, DRAINAGE AND INCIDENTAL PURPOSES LOTS 57 AND 58, RECORDED IN BOOK 2716 PAGE 46, ON APRIL 30, 1964 OF OFFICIAL RECORDS.
(10) — EASEMENT FOR THE LAGUNA BEACH COUNTY WATER DISTRICT FOR THE PURPOSES OF PIPELINE AND INCIDENTAL PURPOSES, RECORDED IN BOOK 3882 PAGE 216, ON NOVEMBER 06, 1984 OF OFFICIAL RECORDS.
(11) — EASEMENT FOR THE CITY OF NEWPORT BEACH FOR THE PURPOSES OF PUBLIC ALLEY AND INCIDENTAL PURPOSES FOR LOT 58, RECORDED IN BOOK 6388 PAGE 287, ON SEPTEMBER 18, 1992 OF OFFICIAL RECORDS.
(12) — QUITCLAIM DEED EASEMENT RIGHTS TO AUTO SPA OF CORONA DEL MAR INC., AS INSTRUMENT No. 97-32163, ON JANUARY 17, 1997 OF OFFICIAL RECORDS.
(13) — RESOLUTION No. 99-46, EXECUTED BY CITY OF NEWPORT BEACH AS INSTRUMENT No. 647992, ON SEPTEMBER 30, 1999 OF OFFICIAL RECORDS - FOR THE VACATION OF ALLEYS ON LOTS 55, 56, 57 AND 58.



LEGEND:

	— P.C.C. CONCRETE	T.W.	— TOP OF WALL
	— BLOCK RETAINING WALL	T.S.W.	— TOP OF STEM WALL
	— DIRECTION OF FLOW	T.F.C.	— TOP OF FOUND CURB
	— EXISTING ELEVATION	F.L.	— FLOW LINE
	— PROPOSED ELEVATION	G.B.	— GRADE BREAK
F.S.	— FINISH SURFACE ELEV.	F.F.	— FINISH FLOOR
F.G.	— FINISH GRADE ELEV.	G.F.	— GARAGE FLOOR
T.C.	— TOP OF CURB	T.F.	— TOP OF FOOTING
		INV.	— PIPE INVERT ELEV.

BASIS OF BEARINGS:
THE CENTERLINE OF COAST HIGHWAY BEARING N 58°38'00" W AS SHOWN ON THE MAP OF TRACT NO. 673, M.M. 20 / 17 & 18 WAS USED AS THE BASIS OF BEARINGS FOR THIS TOPO. SURVEY.

LEGAL DESCR.:
LOTS 55, 56, 57, AND 58 IN BLOCK "B" OF TRACT NO. 673, CORONA DEL MAR, PER MAP RECORDED IN BOOK 20, PAGES 17 AND 18 OF MISC. MAPS.

PROPERTY OWNER:
MAO HANNA
3900 E. COAST HWY.
CORONA DEL MAR, CA 92625

BENCHMARK:
USED ORANGE COUNTY BENCHMARK:
OCS "T 167 R54"
229.7 FT NORTHWEST OF INT. OF STATE HWY. AND SEAWARD RD. AT EAST CORNER OF THE CATCH BASIN IN FRONT OF THIS PROPERTY.
ELEVATION = 86.81 M.S.L.

PREPARED BY:
DUCA-McCOY
3940 E. COAST HIGHWAY
CORONA DEL MAR, CA 92625
(949) 675-4457
PETE J. DUCA R.C.E. 24668
DATE

TOPOGRAPHIC SURVEY
OF
3900-3934 E. COAST HIGHWAY
CORONA DEL MAR, CA

SHEET 1 OF 1

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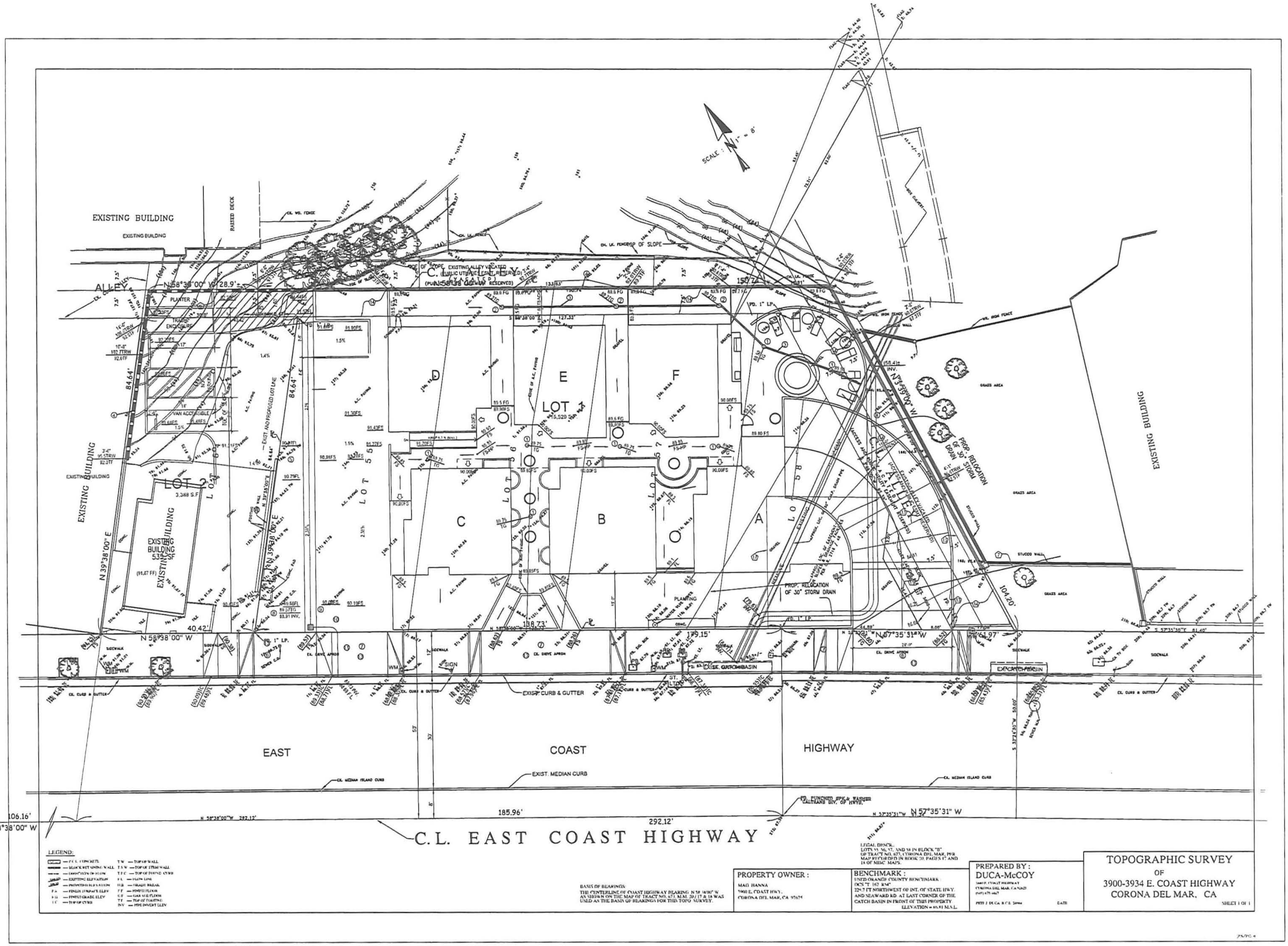
73



EXISTING BUILDING
ALLEY
C.L. EXISTING ALLEY
LOT 1
LOT 2
D
E
F
C
B
A
EXISTING BUILDING 535 SF
PROP. RELOCATION OF 30" STORM DRAIN
EXIST. CURB & GUTTER
EXIST. MEDIAN CURB
EAST
COAST
HIGHWAY
HAZEL
DRIVE
N 58°38'00" W
N 57°35'31" W
N 39°38'00" E
185.96'
292.12'
106.16'
C.L. EAST COAST HIGHWAY
LEGEND:
LEGAL DESCR.
LOTS 55, 56, 57, AND 58 IN BLOCK "B" OF TRACT NO. 673, CORONA DEL MAR, PER MAP RECORDED IN BOOK 20, PAGES 17 AND 18 OF MISC. MAPS.
BASIS OF BEARINGS:
THE CENTERLINE OF COAST HIGHWAY BEARING N 58°38'00" W AS SHOWN ON THE MAP OF TRACT NO. 673, M.M. 20/17 & 18 WAS USED AS THE BASIS OF BEARINGS FOR THIS TOPO SURVEY.
PROPERTY OWNER :
MAG HANNA
3900 E. COAST HWY.
CORONA DEL MAR, CA 92625
BENCHMARK :
USED ORANGE COUNTY BENCHMARK
OCS "T 167 RM"
229.7 FT NORTHWEST OF INT. OF STATE HWY. AND SEAWARD RD. AT EAST CORNER OF THE CATCH BASIN IN FRONT OF THIS PROPERTY
ELEVATION = 86.81 M.S.L.
PREPARED BY :
DUCA-McCOY
TOPOGRAPHIC SURVEY
OF
3900-3934 E. COAST HIGHWAY
CORONA DEL MAR, CA
SHEET 1 OF 1

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PRELIMINARY GRADING & DRAINAGE PLAN
FOR
3900 E. COAST HIGHWAY

VICINITY MAP
N.T.S.

GENERAL GRADING SPECIFICATION

GENERAL

1. ALL WORK SHALL CONFORM TO CHAPTER 15 OF THE NEWPORT BEACH MUNICIPAL CODE (NBMC), THE PROJECT SOILS REPORT AND SPECIAL REQUIREMENTS OF THE PERMIT.
2. DUST SHALL BE CONTROLLED BY WATERING AND/OR DUST PALLIATIVE.
3. SANITARY FACILITIES SHALL BE MAINTAINED ON THE SITE DURING THE CONSTRUCTION PERIOD.
4. WORK HOURS ARE LIMITED FROM 7:00AM TO 6:30PM MONDAY THROUGH FRIDAY; 8:00AM TO 6:00PM SATURDAYS; AND NO WORK ON SUNDAYS AND HOLIDAYS PER SECTION 10-28 OF THE NBMC.
5. NOISE, EXCAVATION, DELIVERY AND REMOVAL SHALL BE CONTROLLED PER SECTION 10-28 OF THE NBMC.
6. THE STAMPED SET OF APPROVED PLANS SHALL BE ON THE JOB SITE AT ALL TIMES.
7. PERMITEE AND CONTRACTOR ARE RESPONSIBLE FOR LOCATING AND PROTECTING UTILITES.
8. APPROVED SHORING, DRAINAGE PROVISIONS AND PROTECTIVE MEASURES MUST BE USED TO PROTECT ADJOINING PROPERTIES DURING THE GRADING OPERATION.
9. CESSPOOLS AND SEPTIC TANKS SHALL BE ABANDONED IN COMPLIANCE WITH THE UNIFORM PLUMBING CODE AND APPROVED BY THE BUILDING OFFICIAL.
10. HAUL ROUTES FOR IMPORT OR EXPORT OF MATERIALS SHALL BE APPROVED BY THE CITY TRAFFIC ENGINEER AND PROCEDURES SHALL CONFORM WITH CHAPTER 15 OF THE NBMC.
11. POSITIVE DRAINAGE SHALL BE MAINTAINED AWAY FROM ALL BUILDING AND SLOPE AREAS.
12. FAILURE TO REQUEST INSPECTIONS AND/OR HAVE REMOVABLE EROSION CONTROL DEVICES ON-SITE AT THE APPROPRIATE TIMES SHALL RESULT IN A "STOP WORK" ORDER.
13. ALL PLASTIC DRAINAGE PIPES SHALL CONSIST OF PVC OR ABS PLASTIC SCHEDULE 40 OR SDR 35 OR ADS 3000 WITH GLUED JOINTS.
14. NO PAINT, PLASTER, CEMENT, SOIL, MORTAR OR OTHER RESIDUE SHALL BE ALLOWED TO ENTER STREETS, CURBS, GUTTERS OR STORM DRAINS. ALL MATERIAL AND WASTE SHALL BE REMOVED FROM THE SITE.

EROSION CONTROL

1. TEMPORARY EROSION CONTROL PLANS ARE REQUIRED FROM OCTOBER 15 TO MAY 15.
2. EROSION CONTROL DEVICES SHALL BE AVAILABLE ON-SITE BETWEEN OCTOBER 15 AND MAY 15.
3. BETWEEN OCTOBER 15 AND MAY 15, EROSION CONTROL MEASURES SHALL BE IN PLACE AT THE END OF EACH WORKING DAY WHENEVER THE FIVE-DAY PROBABILITY OF RAIN EXCEEDS 30 PERCENT. DURING THE REMAINDER OF THE YEAR, THEY SHALL BE IN PLACE AT THE END OF THE WORKING DAY, WHENEVER THE DAILY RAINFALL PROBABILITY EXCEEDS 50 PERCENT.
4. TEMPORARY DESILTING BASINS, WHEN REQUIRED, SHALL BE INSTALLED AND MAINTAINED FOR THE DURATION OF THE PROJECT.

REQUIRED INSPECTIONS

1. A PRE-GRADING MEETING SHALL BE SCHEDULED 48 HOURS PRIOR TO START OF GRADING WITH THE FOLLOWING PEOPLE PRESENT: OWNER, GRADING CONTRACTOR, DESIGN CIVIL ENGINEER, SOILS ENGINEER, GEOLOGIST, CITY BUILDING INSPECTOR OR THEIR REPRESENTATIVES. REQUIRED FIELD INSPECTIONS WILL BE OUTLINED AT THE MEETING.
2. A PRE-PAVING MEETING SHALL BE SCHEDULED 48 HOURS PRIOR TO START OF THE SUB-GRADE PREPARATION FOR THE PAVING WITH THE FOLLOWING PEOPLE PRESENT: OWNER, PAVING CONTRACTORS, DESIGN CIVIL ENGINEER, SOILS ENGINEER, CITY BUILDING INSPECTOR OR THEIR REPRESENTATIVES. REQUIRED FIELD INSPECTIONS WILL BE OUTLINED AT THE MEETING.

GRADING FILLS/CUTS

1. GRADED SLOPES SHALL BE NO STEEPER THAN 2 HORIZONTAL TO 1 VERTICAL.
2. FILL SLOPES SHALL BE COMPACTED TO NO LESS THAN 90 PERCENT RELATIVE COMPACTION OUT TO THE FINISHED SURFACE.
3. ALL FILLS SHALL BE COMPACTED THROUGHOUT TO A MINIMUM OF 90 PERCENT RELATIVE COMPACTION AS DETERMINED BY ASTM TEST METHOD 1557, AND APPROVED BY THE SOILS ENGINEER. COMPACTION TESTS SHALL BE PERFORMED APPROXIMATELY EVERY TWO FEET IN VERTICAL HEIGHT AND OF SUFFICIENT QUANTITY TO ATTEST TO THE OVERALL COMPACTION EFFORT APPLIED TO THE FILL AREAS.
4. AREA TO RECEIVE FILL SHALL BE CLEARED OF ALL VEGETATION AND DEBRIS, SCARIFIED AND APPROVED BY THE SOILS ENGINEER PRIOR TO PLACING OF THE FILL.
5. FILLS SHALL BE KEYED OR BENCHED INTO COMPETENT MATERIAL.
6. ALL EXISTING FILLS SHALL BE APPROVED BY THE SOILS ENGINEER OR REMOVED BEFORE ANY ADDITIONAL FILLS ARE ADDED.
7. ANY EXISTING IRRIGATION LINES AND CISTERNS SHALL BE REMOVED OR CRUSHED IN PLACE AND BACKFILLED AND APPROVED BY THE SOILS ENGINEER.
8. THE ENGINEERING GEOLOGIST AND SOILS ENGINEER SHALL, AFTER CLEARING AND PRIOR TO THE PLACEMENT OF FILL IN CANYONS, INSPECT EACH CANYON FOR AREAS OF ADVERSE STABILITY AND DETERMINE THE PRESENCE OF, OR POSSIBILITY OF FUTURE ACCUMULATION OF, SUBSURFACE WATER OR SPRING FLOW. IF NEEDED, DRAINS WILL BE DESIGNED AND CONSTRUCTED PRIOR TO THE PLACEMENT OF FILL IN EACH RESPECTIVE CANYON.
9. THE EXACT LOCATION OF THE SUBDRAINS SHALL BE SURVEYED IN THE FIELD FOR LINE AND GRADE.
10. ALL TRENCH BACKFILLS SHALL BE COMPACTED THROUGHOUT TO A MINIMUM OF 90 PERCENT RELATIVE COMPACTION, AND APPROVED BY THE SOILS ENGINEER. SHOULD EXCAVATION DISCLOSE ANY GEOLOGICAL HAZARDS OR POTENTIAL GEOLOGICAL HAZARDS, THE ENGINEERING GEOLOGIST SHALL RECOMMEND AND SUBMIT NECESSARY TREATMENT TO THE BUILDING DEPARTMENT FOR APPROVAL.
11. THE STOCKPILING OF EXCESS MATERIAL SHALL BE APPROVED BY THE BUILDING DEPARTMENT.
12. LANDSCAPING OF ALL SLOPES AND PADS SHALL BE IN ACCORDANCE WITH CHAPTER 15 OF THE NBMC.
13. ALL CUT SLOPES SHALL BE INVESTIGATED BOTH DURING AND AFTER GRADING BY AN ENGINEERING GEOLOGIST TO DETERMINE IF ANY STABILITY PROBLEM EXISTS. SHOULD EXCAVATION DISCLOSE ANY GEOLOGICAL HAZARDS OR POTENTIAL GEOLOGICAL HAZARDS, THE ENGINEERING GEOLOGIST SHALL RECOMMEND AND SUBMIT NECESSARY TREATMENT TO THE BUILDING DEPARTMENT FOR APPROVAL.
14. WHERE SUPPORT OR BUTTRESSING OF CUT AND NATURAL SLOPES IS DETERMINED TO BE NECESSARY BY THE ENGINEERING GEOLOGIST AND SOILS ENGINEER, THE SOILS ENGINEER WILL OBTAIN APPROVAL OF DESIGN, LOCATION AND CALCULATIONS FROM THE BUILDING DEPARTMENT PRIOR TO CONSTRUCTION.
15. THE ENGINEERING GEOLOGIST AND SOILS ENGINEER SHALL INSPECT AND TEST THE THE CONSTRUCTION OF ALL BUTTRESS FILLS AND ATTEST TO THE STABILITY OF THE SLOPE AND ADJACENT STRUCTURES UPON COMPLETION.
16. WHEN CUT PADS ARE BROUGHT TO NEAR GRADE THE ENGINEERING GEOLOGIST SHALL DETERMINE IF THE BEDROCK IS EXTENSIVELY FRACTURED OR FAULTED AND WILL READILY TRANSMIT WATER. IF CONSIDERED NECESSARY BY THE ENGINEERING GEOLOGIST AND SOILS ENGINEER, A COMPACTED FILL BLANKET WILL BE PLACED.
17. THE ENGINEERING GEOLOGIST SHALL PERFORM PERIODIC INSPECTIONS DURING GRADING.
18. NOTIFICATIONS OF NONCOMPLIANCE: IF, IN THE COURSE OF FULFILLING THEIR RESPONSIBILITY, THE CIVIL ENGINEER, THE SOILS ENGINEER, THE ENGINEERING GEOLOGIST OR THE TESTING AGENCY FINDS THAT THE WORK IS NOT BEING DONE IN CONFORMANCE WITH THE APPROVED GRADING PLANS, THE DISCREPANCIES SHALL BE REPORTED IMMEDIATELY IN WRITING TO THE PERSON IN CHARGE OF THE GRADING WORK AND TO THE BUILDING INSPECTOR. RECOMMENDATIONS FOR CORRECTIVE MEASURES, IF NECESSARY, SHALL BE SUBMITTED TO THE BUILDING DEPARTMENT FOR APPROVAL.

DOCUMENTATION

1. AN AS-BUILT GRADING PLAN SHALL BE PREPARED BY THE CIVIL ENGINEER INCLUDING ORIGINAL GROUND SURFACE ELEVATIONS, LOT DRAINAGE PATTERNS AND LOCATIONS, AND ELEVATIONS OF ALL SURFACE AND SUBSURFACE DRAINAGE FACILITIES. HE/SHE SHALL PROVIDE WRITTEN APPROVAL THAT THE WORK WAS DONE IN ACCORDANCE WITH THE FINAL PROVED GRADING PLAN AND STATE THE NUMBER OF YARDS OF CUT AND/OR FILL MOVED DURING THE OPERATION.
2. A SOILS GRADING REPORT PREPARED BY THE SOILS ENGINEER, INCLUDING LOCATIONS AND ELEVATION OF FIELD DENSITY TESTS, SUMMARIES OF FIELD AND LABORATORY RESULTS AND OTHER SUBSTANTIATED DATA AND COMMENTS ON ANY CHANGES MADE DURING GRADING AND THEIR EFFECT ON THE RECOMMENDATIONS MADE IN THE SOILS ENGINEERING INVESTIGATION REPORT. HE SHALL PROVIDE WRITTEN APPROVAL AS TO THE ADEQUACY OF THE SITE FOR THE INTENDED USE AND COMPLETION OF WORK IN ACCORDANCE WITH THE JOB SPECIFICATIONS.
3. A GEOLOGIC GRADING REPORT PREPARED BY THE ENGINEERING GEOLOGIST, INCLUDING A FINAL DESCRIPTION OF THE GEOLOGY OF THE SITE, INCLUDING ANY NEW INFORMATION DISCLOSED DURING AND THE EFFECT OF SAME ON RECOMMENDATIONS INCORPORATED IN THE APPROVED GRADING PLAN. HE/SHE SHALL PROVIDE WRITTEN APPROVAL AS TO THE ADEQUACY OF THE SITE FOR THE INTENDED USE AS AFFECTED BY GEOLOGIC FACTORS.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

1. IN THE CASE OF EMERGENCY, CALL ______________________
2. SEDIMENT FROM AREAS DISTURBED BY CONSTRUCTION SHALL BE RETAINED ON SITE USING STRUCTURAL CONTROLS TO THE MAXIMUM EXTENT PRACTICABLE.
3. STOCKPILES OF SOIL SHALL BE PROPERLY CONTAINED TO MINIMIZE SEDIMENT TRANSPORT FROM THE SITE TO STREETS, DRAINAGE FACILITIES OR ADJACENT PROPERTIES VIA RUNOFF, VEHICLE TRACKING, OR WIND.
4. APPROPRIATE BMPs FOR CONSTRUCTION-RELATED MATERIALS, WASTES, SPILLS SHALL BE IMPLEMENTED TO MINIMIZE TRANSPORT FROM THE SITE TO STREETS, DRAINAGE FACILITIES, OR ADJOINING PROPERTIES BY WIND OR RUNOFF.
5. RUNOFF FROM EQUIPMENT AND VEHICLE WASHING SHALL BE CONTAINED AT CONSTRUCTION SITES UNLESS TREATED TO REDUCE OR REMOVE SEDIMENT AND OTHER POLLUTANTS.
6. ALL CONSTRUCTION CONTRACTOR AND SUBCONTRACTOR PERSONNEL ARE TO BE MADE AWARE OF THE REQUIRED BEST MANAGEMENT PRACTICES AND GOOD HOUSEKEEPING MEASURES FOR THE PROJECT SITE AND ANY ASSOCIATED CONSTRUCTION STAGING AREAS.
7. AT THE END OF EACH DAY OF CONSTRUCTION ACTIVITY ALL CONSTRUCTION DEBRIS AND WASTE MATERIALS SHALL BE COLLECTED AND PROPERLY DISPOSED IN TRASH OR RECYCLE BINS.
8. CONSTRUCTION SITES SHALL BE MAINTAINED IN SUCH A CONDITION THAT AN ANTICIPATED STORM DOES NOT CARRY WASTES OR POLLUTANTS OFF THE SITE. DISCHARGES OF MATERIAL OTHER THAN STORM-WATER ONLY WHEN NECESSARY FOR PERFORMANCE AND COMPLETION OF CONSTRUCTION PRACTICES AND WHERE THEY DO NOT: CAUSE OR CONTRIBUTE TO A VIOLATION OF ANY WATER QUALITY STANDARD; CAUSE OR THREATEN TO CAUSE OR THREATEN TO CAUSE POLLUTION, CONTAMINATION, OR NUISANCE; OR CONTAIN A HAZARDOUS SUBSTANCE IN A QUANTITY REPORTABLE UNDER FEDERAL REGULATIONS 40 CFR PARTS 117 AND 302.
9. POTENTIAL POLLUTANTS INCLUDE BUT ARE NOT LIMITED TO: SOLID OR LIQUID CHEMICAL SPILLS; WASTES FROM PAINTS, STAINS, SEALANTS, GLUES, LIMES, PESTICIDES, HERBICIDES, WOOD PRESERVATIVES AND SOLVENTS; ASBESTOS FIBERS, PAINT FLAKES OR STUCCO FRAGMENTS; FUELS, OILS, LUBRICANTS, AND HYDRAULIC RADIATOR OR BATTERY FLUIDS; FERTILIZERS, VEHICLE/EQUIPMENT WASH WATER AND CONCRETE WASH WATER; CONCRETE, DETERGENT OR FLOATABLE WASTES; WASTES FROM ANY ENGINE/EQUIPMENT STEAM CLEANING OR CHEMICAL DEGREASING AND SUPERCHLORINATED POTABLE WATER LINE FLUSHING.

DURING CONSTRUCTION, PERMITTEE SHALL DISPOSE OF SUCH MATERIALS IN A SPECIFIED AND CONTROLLED TEMPORARY AREA ON-SITE, PHYSICALLY SEPARATED FROM POTENTIAL STORM-WATER RUNOFF, WITH ULTIMATE DISPOSAL IN ACCORDANCE WITH LOCAL, STATE AND FEDERAL REQUIREMENTS.
DEWATERING OF CONTAMINATED GROUNDWATER, OR DISCHARGING CONTAMINATED SOILS VIA SURFACE EROSION IS PROHIBITED. DEWATERING OF NON-CONTAMINATED GROUNDWATER REQUIRES A NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT FROM THE RESPECTIVE STATE REGIONAL WATER QUALITY CONTROL BOARD.
GRADED AREAS ON THE PERMITTED AREA PERIMETER MUST DRAIN AWAY FROM THE FACE OF SLOPES AT THE CONCLUSION OF EACH WORKING DAY. DRAINAGE IS TO BE DIRECTED TOWARD DESILTING FACILITIES.
THE PERMITTEE AND CONTRACTOR SHALL BE RESPONSIBLE AND SHALL TAKE NECESSARY PRECAUTIONS TO PREVENT PUBLIC TRESPASS ONTO AREAS WHERE IMPOUNDED WATER CREATES A HAZARDOUS CONDITION.
THE PERMITTEE AND CONTRACTOR SHALL INSPECT THE EROSION CONTROL WORK AND INSURE THAT THE WORK IS IN ACCORDANCE WITH THE APPROVED PLAN.
THE PERMITTEE SHALL NOTIFY ALL GENERAL CONTRACTORS, SUBCONTRACTORS, MATERIAL SUPPLIERS, LESSEES, AND PROPERTY OWNERS THAT DUMPING OF CHEMICALS INTO THE STORM DRAIN SYSTEM OR THE WATERSHED IS PROHIBITED.
EQUIPMENT AND WORKERS FOR EMERGENCY WORK SHALL BE MADE AVAILABLE AT ALL TIMES DURING THE RAINY SEASON. NECESSARY MATERIALS SHALL BE AVAILABLE ON SITE AND STOCKPILED AT CONVENIENT LOCATIONS TO FACILITATE RAPID CONSTRUCTIO OF TEMPORARY DEVICES WHEN RAIN IS IMMINENT.
ALL REMOVABLE EROSION PROTECTIVE DEVICES SHALL BE IN PLACE AT THE END OF EACH WORKING DAY WHEN THE 5-DAY PROBABILITY FORECAST EXCEEDS 40%.

EROSION CONTROL

46. IN CASE OF AN EMERGENCY CALL PUBLIC WORKS AT PHONE (949) 644-3311.

47. EQUIPMENT AND WORKERS FOR EMERGENCY WORK SHALL BE MADE AVAILABLE AT ALL TIMES DURING THE RAINY SEASON. NECESSARY MATERIALS SHALL BE AVAILABLE ON SITE AND STOCKPILED AT CONVENIENT LOCATIONS TO FACILITATE RAPID CONSTRUCTION OF TEMPORARY DEVICES WHEN RAIN IS IMMINENT.

48. EROSION CONTROL DEVICES SHALL NOT BE MOVED OR MODIFIED WITHOUT THE APPROVAL OF THE BUILDING OFFICIAL.

49. ALL REMOVABLE EROSION PROTECTIVE DEVICES SHALL BE IN PLACE AT THE END OF EACH WORKING DAY WHEN THE 5-DAY PROBABILITY FORECAST EXCEEDS 40%.

50. AFTER A RAINSTORM ALL SILT AND DEBRIS SHALL BE REMOVED FROM STREETS, CHECK BERMS AND BASINS.

51. GRADED AREAS ON THE PERMITTED AREA PERIMETER MUST DRAIN AWAY FROM THE FACE OF SLOPES AT THE CONCLUSION OF EACH WORKING DAY. DRAINAGE IS TO BE DIRECTED TOWARD DESILTING FACILITIES.

52. THE PERMITTEE AND CONTRACTOR SHALL BE RESPONSIBLE AND SHALL TAKE NECESSARY PRECAUTIONS TO PREVENT PUBLIC TRESPASS ONTO AREAS WHERE IMPOUNDED WATER CREATES A HAZARDOUS CONDITION.

53. THE PERMITTEE AND CONTRACTOR SHALL INSPECT THE EROSION CONTROL WORK AND INSURE THAT THE WORK IS IN ACCORDANCE WITH THE APPROVED PLANS.

ENVIRONMENTAL NOTES

54. THE PERMITTEE SHALL NOTIFY ALL GENERAL CONTRACTORS, SUBCONTRACTORS, MATERIAL SUPPLIERS, LESSEES, AND PROPERTY OWNERS THAT DUMPING OF CHEMICALS INTO THE STORM DRAIN SYSTEM OR THE WATERSHED IS PROHIBITED.

55. PERMITTEE SHALL MAINTAIN CONSTRUCTION SITE IN SUCH A CONDITION THAT AN ANTICIPATED STORM DOES NOT CARRY WASTES OR POLLUTANTS OFF THE SITE. POTENTIAL POLLUTANTS INCLUDE BUT ARE NOT LIMITED TO: SOLID OR LIQUID CHEMICAL SPILLS; WASTES FROM PAINTS, STAINS, SEALANTS, GLUES, LIMES, PESTICIDES, HERBICIDES, WOOD PRESERVATIVES AND SOLVENTS; ASBESTOS FIBERS, PAINT FLAKES OR STUCCO FRAGMENTS; FUELS, OILS, LUBRICANTS, AND HYDRAULIC RADIATOR OR BATTERY FLUIDS; FERTILIZERS, VEHICLE/EQUIPMENT WASH WATER AND CONCRETE WASH WATER; CONCRETE, DETERGENT OR FLOATABLE WASTES; WASTES FROM ANY ENGINE/EQUIPMENT STEAM CLEANING OR CHEMICAL DEGREASING AND SUPERCHLORINATED POTABLE WATER LINE FLUSHING.

DURING CONSTRUCTION, PERMITTEE SHALL DISPOSE OF SUCH MATERIALS IN A SPECIFIED AND CONTROLLED TEMPORARY AREA ON-SITE, PHYSICALLY SEPARATED FROM POTENTIAL STORMWATER RUNOFF, WITH ULTIMATE DISPOSAL IN ACCORDANCE WITH LOCAL, STATE AND FEDERAL REQUIREMENTS.

56. PERMITTEE MAY DISCHARGE MATERIAL OTHER THAN STORMWATER ONLY WHEN NECESSARY FOR PERFORMANCE AND COMPLETION OF CONSTRUCTION PRACTICES AND WHERE THEY DO NOT CAUSE OR CONTRIBUTE TO A VIOLATION OF ANY WATER QUALITY STANDARD; CAUSE OR THREATEN TO CAUSE POLLUTION, CONTAMINATION, OR NUISANCE; OR CONTAIN A HAZARDOUS SUBSTANCE IN A QUANTITY REPORTABLE UNDER FEDERAL REGULATIONS 40 CFR PARTS 117 AND 302.

57. DEWATERING OF CONTAMINATED GROUNDWATER, OR DISCHARGING CONTAMINATED SOILS VIA SURFACE EROSION IS PROHIBITED. DEWATERING OF NON-CONTAMINATED GROUNDWATER REQUIRES A NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT FROM THE RESPECTIVE STATE REGIONAL WATER QUALITY CONTROL BOARD.

58. SPECIAL NOTE

"SURVEY MONUMENTS SHALL BE PRESERVED AND REFERENCED BEFORE CONSTRUCTION AND REPLACED AFTER CONSTRUCTION PURSUANT TO SECTION 8771 OF THE BUSINESS AND PROFESSIONS CODE."

PRIVATE ENGINEER'S NOTICE TO CONTRACTOR

THE CONTRACTOR SHALL VERIFY LOCATION AND ELEVATION OF EXISTING UTILITIES PRIOR TO THE START OF CONSTRUCTION. THE CONTRACTOR ASSUMES THE LIABILITY AND RESPONSIBILITY FOR THE PROTECTION OF THE UTILITY PIPES, CONDUITS OR STRUCTURES, SHOWN OR NOT SHOWN ON THESE PLANS.

THE CIVIL ENGINEER SHALL NOT BE RESPONSIBLE IN ANY WAY FOR THE CONTRACTORS' AND SUBCONTRACTORS' COMPLIANCE WITH "OCCUPATIONAL SAFETY AND HEALTH REGULATIONS" OF THE U.S. DEPARTMENT OF INDUSTRIAL RELATIONS "CONSTRUCTION SAFETY ORDERS".

CONTRACTOR FURTHER AGREES THAT HE SHALL ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THIS PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY, THAT THIS REQUIREMENT SHALL APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND THAT THE CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD THE OWNER, THE CITY AND/OR COUNTY, AND THE CIVIL ENGINEER HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPTING FOR LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE OWNER OR THE ENGINEER.

THE EARTHWORK QUANTITIES SHOWN ON THESE PLANS ARE FOR CITY AND/OR COUNTY PLAN CHECK PURPOSES AND THE CONTRACTOR PRIOR TO SIGNING ANY CONTRACT SHALL DO HIS OWN EARTHWORK QUANTITIES ESTIMATE.

EARTHWORK QUANTITIES:

AREA: 19,171 S.F.
0.44 AC.

EXCAVATION 2,810 CU. YD.
EMBANKMENT 85 CU. YD.

SUBSIDENCE 45 CU. YD.

SHRINKAGE IS 10% OF EXCAVATION
572 CU. YD.

EXCAVATION	2,810 CU. YD.
SUBSIDENCE + SHRINKAGE	617 CU. YD.
TOTAL EXCAVATION	3,185 CU. YD.

NET EXPORT 3,100 CU. YD.

EARTHWORK QUANTITIES ARE FOR CITY PLAN CHECK PURPOSES ONLY. CONTRACTOR TO PREPARE HIS OWN QUANTITIES ESTIMATE.

OWNER:
MR. MAGDI HANNA
3345 NEWPORT BLVD., #203
NEWPORT BEACH, CA. 92663
PHONE: (949) 723-2000

JRV ENGINEERING, INC.
22930 LA CADENA DRIVE
LAGUNA HILLS, CA. 92653
(714) 734-0728

JUSTO R. VILLAR, R.C.E. 25601 DATE

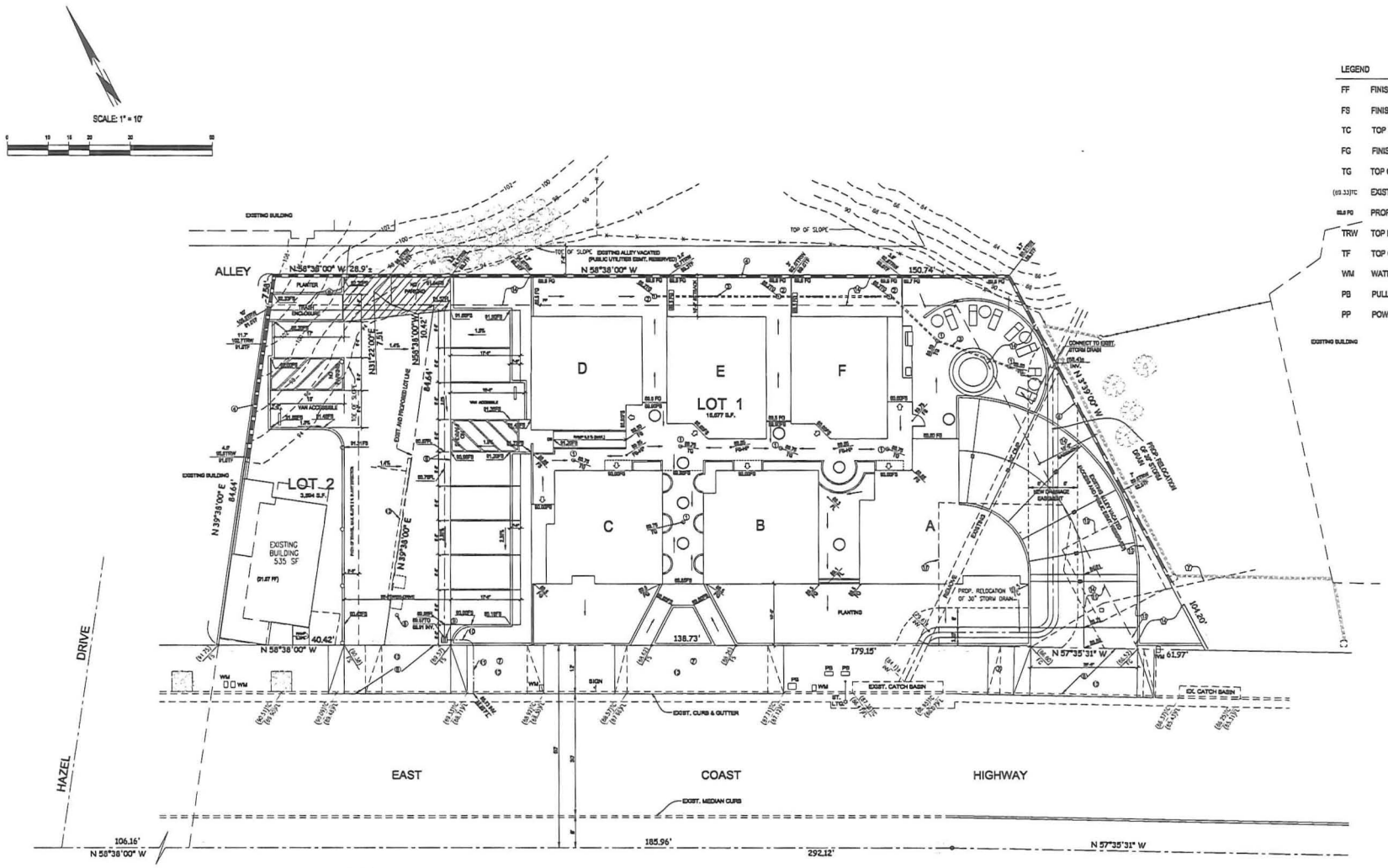
TENTATIVE TRACT MAP NO. 17386

SITE ADDRESS: 3900 E. COAST HIGHWAY
CORONA DEL MAR, CA. [illegible]

PRELIMINARY
GRADING & DRAINAGE PLAN
TITLE SHEET

DRAWN BY: LK CHKD BY: JRV SCALE: 1" = 10'
DRAWING NUMBER G-1
SHEET 1 OF 3

75



CONSTRUCTION NOTES:

1. INSTALL 6" DIA. AREA DRAIN AND ADAPTER PER NDS NO. 940 OR APPROVED EQUIVALENT.
2. INSTALL 12"x12" CATCH BASIN PER BROOKS PRODUCTS NO. 1212 SERIES OR APPROVED EQUIVALENT.
3. INSTALL 4" SCH. 40 PVC PIPE.
4. CONSTRUCT RETAINING WALLS.
5. CONST. CONC. "V" DITCH 2' WIDE
6. CONST. DRIVEWAY PER CITY OF NEWPORT BEACH STANDARDS
7. CONST. CONC. SIDEWALK PER CITY OF NEWPORT BEACH STANDARDS
8. EXIST. SEWER CLEANOUT, PROTECT IN PLACE
9. CONST. 12" x 12" CATCH BASIN
10. CONST. 4"Ø PVC, SCH. 40 OR APPROVED EQUAL
11. CONST. PARKWAY DRAIN PER CITY OF NEWPORT BEACH STANDARDS
12. EXIST. WALL TO BE REMOVED
13. REMOVE EXIST. DRIVEWAY

17 — EASEMENT FOR THE IRVINE COMPANY FOR THE PURPOSES OF PIPELINE AND INCIDENTAL PURPOSES PER LOT 88, RECORDED IN BOOK 99 PAGE 88, ON MAY 27, 1957 OF OFFICIAL RECORDS.

18 — EASEMENT FOR THE CITY OF NEWPORT BEACH FOR THE PURPOSES OF PUBLIC ALLEY AND INCIDENTAL PURPOSES PER LOT 89, RECORDED IN BOOK 6355 PAGE 237, ON SEPTEMBER 16, 1966 OF OFFICIAL RECORDS.

19 — QUITCLAIM DEED EASEMENT RIGHTS TO AUTO SPA OF CORONA DEL MAR INC., AS INSTRUMENT No. 87-38795, ON JANUARY 17, 1987 OF OFFICIAL RECORDS.

20 — RESOLUTION No. 99-84, EXECUTED BY CITY OF NEWPORT BEACH AS INSTRUMENT No. 1999-0000, ON SEPTEMBER 20, 1999 OF OFFICIAL RECORDS - FOR THE VACATION OF ALLEYS ON LOTS 85, 86, 87 AND 88.

OWNER:
MR. MAGDI HANNA
3348 NEWPORT BLVD., #203
NEWPORT BEACH, CA. 92663
(949) 723-3500

JRV ENGINEERING, INC.
22882 LA CADENA DRIVE
LAGUNA HILLS, CA. 92653
(714) 734-0728
JUSTO R. VILLAR, R.C.E. 35801 DATE

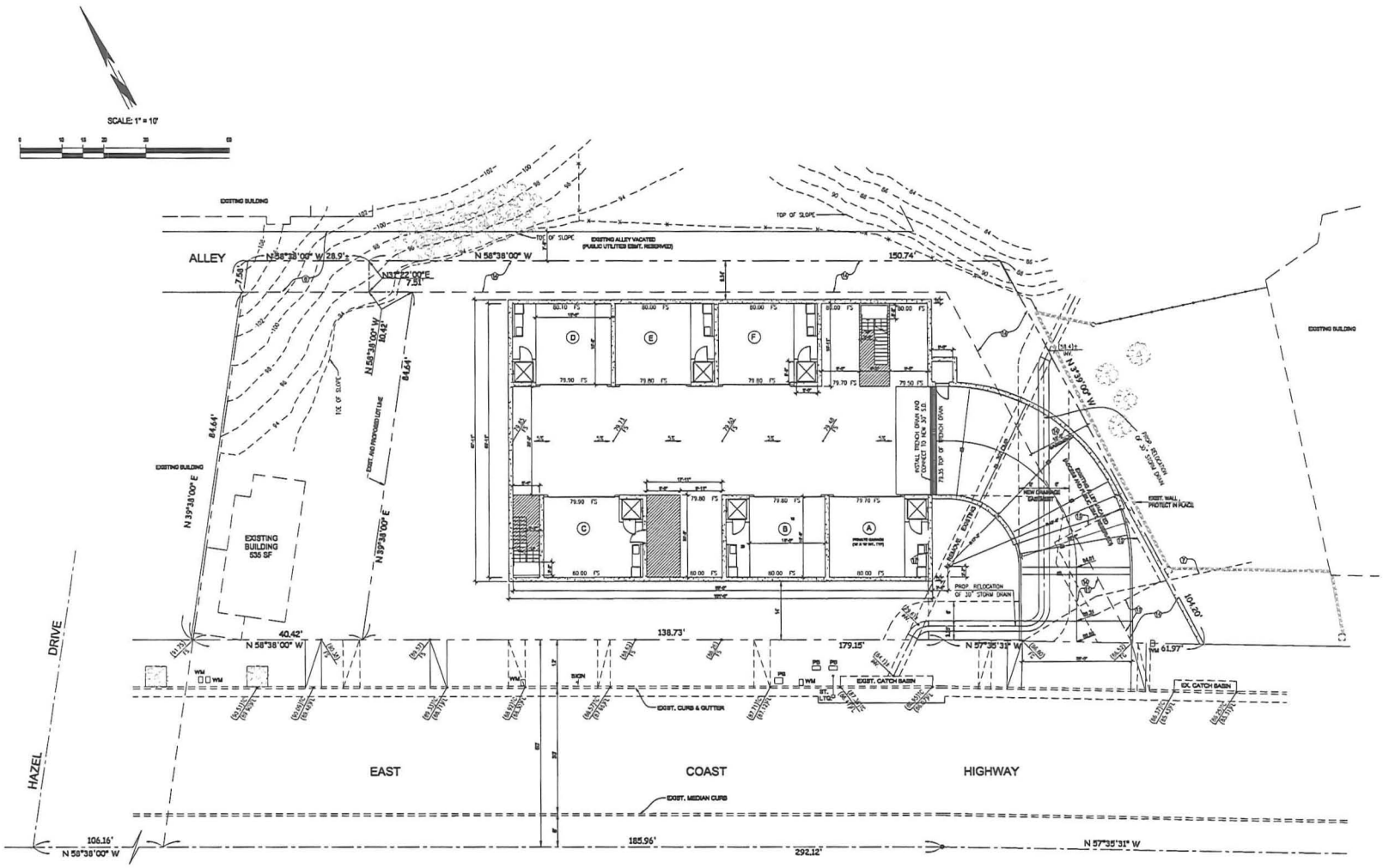
TENTATIVE TRACT MAP NO. 17386

SITE ADDRESS: 3300 E. COAST HIGHWAY
CORONA DEL MAR, CA. 92625

PRELIMINARY
GRADING & DRAINAGE PLAN

DRAWN BY: LC CHKD BY: JRV SCALE: 1" = 10' DRAWING NUMBER C-2 SHEET 2 OF 3

76



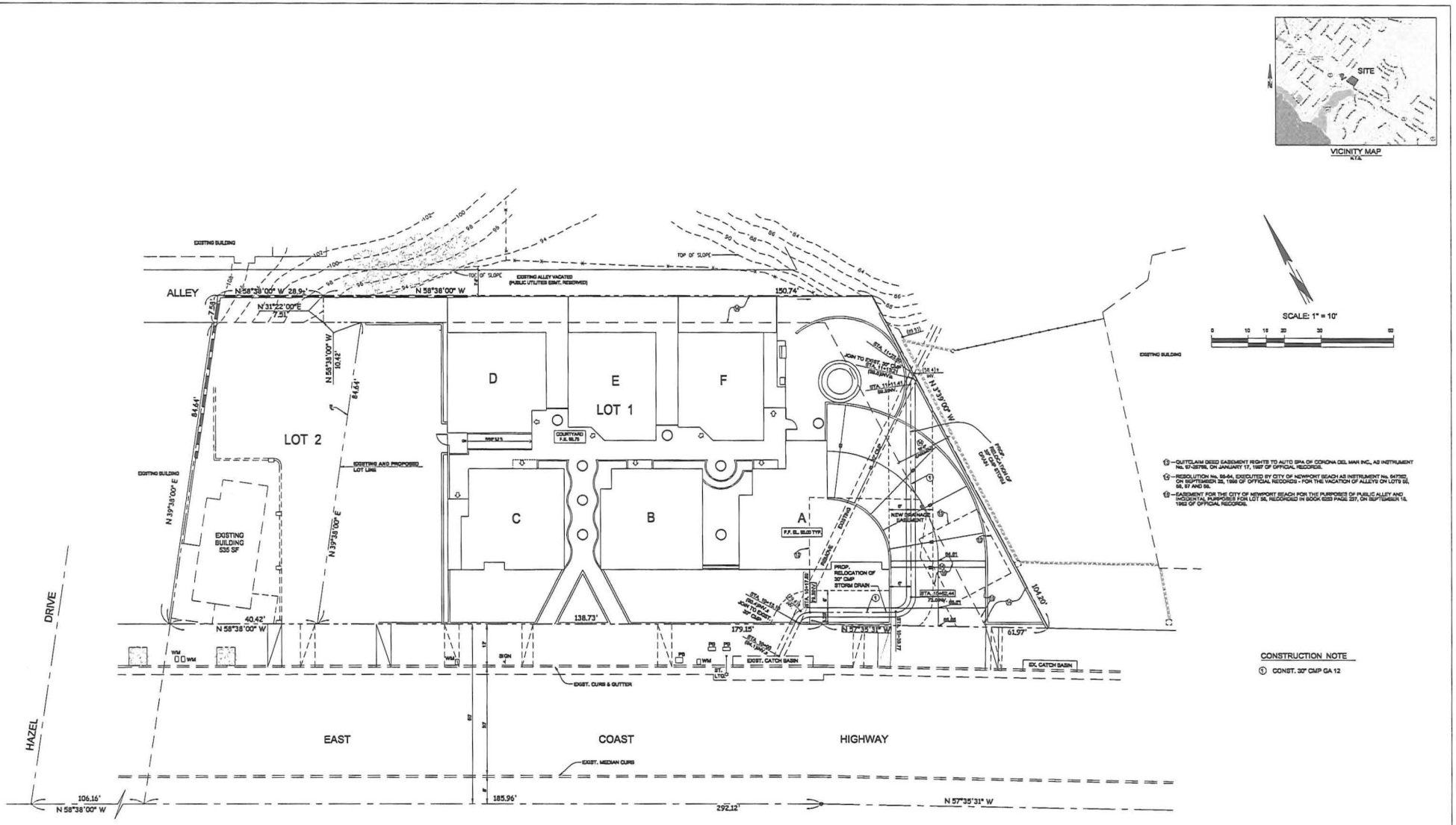
(7) — EASEMENT FOR THE IRVINE COMPANY FOR THE PURPOSES OF PIPELINE AND INCIDENTAL PURPOSES FOR LOT 55, RECORDED IN BOOK 69 PAGE 65, ON MAY 27, 1927 OF OFFICIAL RECORDS.

(11) — EASEMENT FOR THE CITY OF NEWPORT BEACH FOR THE PURPOSES OF PUBLIC ALLEY AND INCIDENTAL PURPOSES FOR LOT 55, RECORDED IN BOOK 6569 PAGE 207, ON SEPTEMBER 18, 1962 OF OFFICIAL RECORDS.

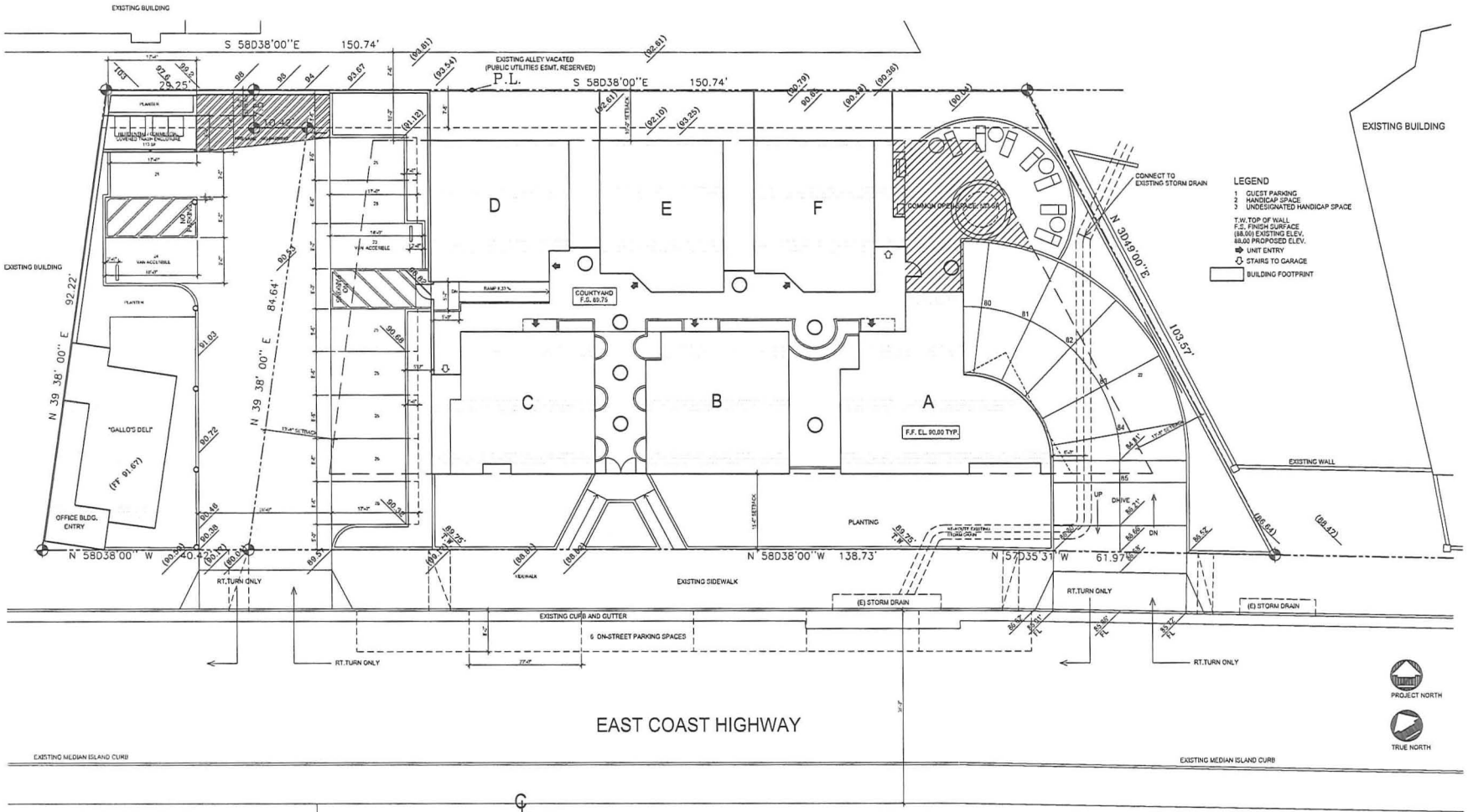
(13) — GUTTLEAN DEED EASEMENT RIGHTS TO AUTO SPA OF CORONA DEL MAR INC., AS INSTRUMENT No. 87-8878, ON JANUARY 17, 1987 OF OFFICIAL RECORDS.

(14) — RESOLUTION No. 95-64, EXECUTED BY CITY OF NEWPORT BEACH AS INSTRUMENT No. 94766, ON SEPTEMBER 28, 1995 OF OFFICIAL RECORDS - FOR THE VACATION OF ALLEYS ON LOTS 55, 56, 57 AND 58.

OWNER: MR. MAGDI HANNA, 3345 NEWPORT BLVD., #203, NEWPORT BEACH, CA. 92663, (949) 723-2000	JRV ENGINEERING, INC., 22959 LA CADENA DRIVE, LAGUNA HILLS, CA. 92653, (714) 734-0729	TENTATIVE TRACT MAP NO. 17386	
	JUSTO R. VILLAR, R.C.E. 28601 DATE	SITE ADDRESS: 3320 E. COAST HIGHWAY, CORONA DEL MAR, CA. 92625	
		PRELIMINARY GRADING & DRAINAGE PLAN	
		DRAWN BY: LK CHK'D BY: JRV SCALE: 1" = 10'	DRAWING NUMBER C-3 SHEET 3 OF 3



OWNER: MR. MAGDI HANNA, 3345 NEWPORT BLVD., #203, NEWPORT BEACH, CA. 92663, PHONE: (949) 723-2000		JRV ENGINEERING, INC., 22959 LA CADENA DRIVE, LAGUNA HILLS, CA. 92653, (714) 734-0728	TENTATIVE TRACT MAP NO. 17386
			SITE ADDRESS: 3600 E. COAST HIGHWAY, CORONA DEL MAR, CA. 92625
		JUSTO R. VILLAR, R.C.E. 39601 DATE	PRELIMINARY STORM DRAIN RELOCATION PLAN
			DRAWN BY: LE CHKD BY: JRV SCALE: 1" = 10' DRAWING NUMBER: SDR-1 SHEET 1 OF 1



OFFICE BUILDING - LOT 2

ZONE: CC OCCUPANCY TYPE B CONSTRUCTION TYPE V-B FULLY SPRINKLERED

SETBACKS:
FRONT: 0 FT.
SIDES: 0 FT.
REAR: 9' FT. ADJACENT TO RESIDENTIAL

HEIGHT LIMIT:
32' FOR FLAT ROOF

OFFICE: 1/250 2,160 SF / 250 = 9 SPACES
GALLO'S DELI: NONE (SPECIALTY FOOD PERMIT # 38, 05-08-1995)
PROVIDED: 9 SPACES, INCLUDING 1 HANDICAP VAN ACCESSIBLE

F.A.R.: 0.75
PROPERTY: 3,594 SF
MAXIMUM BUILDABLE: 3,594 SF x 0.75 = 2,695 SF
PROPOSED BUILDING AREA: 2,695 SF

PROPOSED COVERED TRASH ENCLOSURE AREA: 56 SF

DETACHED CONDOMINIUMS - LOT 1

ZONE: RM

DWELLINGS: OCCUPANCY R-2 CONSTRUCTION TYPE: V-B FULLY SPRINKLERED
GARAGE: OCCUPANCY TYPE S-2 CONSTRUCTION TYPE I-A FULLY SPRINKLERED

SETBACKS:
PROPOSED FRONT: 15 FT.
SIDE: 8% OF AVERAGE LOT WIDTH (146 + 195)/2 = 170.5 X .08 = 13' - 8"
REAR: 10 FT.

HEIGHT LIMIT:
28 FT. FOR FLAT ROOFS. 33 FT. FOR SLOPED ROOFS (MIN. 3:12)

REQUIRED PARKING:
UNITS REQUIRED: 2 PER UNIT
PROVIDED: 12
(200 SQ. FT. AREA CREDIT FOR EACH ENCLOSED
REQUIRED PARKING SPACE; 200 X 11 = 2,200 SQ. FT CREDIT.)

GUEST REQUIRED: 0.5 PER UNIT X 6= 3
GUEST PARKING PROVIDED: 2 STD. SUBTERRANEAN
PLUS 1 HC VAN ACCESSIBLE AT GROUND FLOOR

AREAS:

PROPERTY:	15,577 S.F.
SET BACKS:	- 6,402 S.F.
BUILDABLE:	9,175 S.F.

ALLOWABLE AREA: 1.50 X 9,175 = 13,762 S.F.

UNIT A:

1st FLOOR	955 SF
2nd FLOOR	902 SF
THIRD FLOOR	800 SF
TOTAL LIVING:	2,657 SF
GARAGE (- 400 S.F.)	115 SF
TOTAL:	2,772 SF
PRIVATE OPEN SPACE:	315 SF (11.85 %)

UNIT B:

1st FLOOR	743 SF
2nd FLOOR	650 SF
THIRD FLOOR	626 SF
TOTAL LIVING:	2,019 SF
GARAGE (- 400 S.F.)	115 SF
TOTAL:	2,134 SF
PRIVATE OPEN SPACE:	158 SF (7.82 %)

UNIT C: (HANDICAP ACCESIBLE)

1st FLOOR	731 SF
2nd FLOOR	726 SF
THIRD FLOOR	731 SF
TOTAL LIVING:	2,188 SF
GARAGE (- 200 S.F.)	315 SF
TOTAL:	2,503 SF
PRIVATE OPEN SPACE:	158 SF (7.22 %)

UNIT D:

1st FLOOR	710 SF
2nd FLOOR	641 SF
THIRD FLOOR	642 SF
TOTAL LIVING:	1,993 SF
GARAGE (- 400 S.F.)	115 SF
TOTAL:	2,108 SF
PRIVATE OPEN SPACE:	458 SF (22.98 %)

UNIT E:

1st FLOOR	672 SF
2nd FLOOR	568 SF
THIRD FLOOR	568 SF
TOTAL LIVING:	1,808 SF
GARAGE (- 400 S.F.)	115 SF
TOTAL:	1,923 SF
PRIVATE OPEN SPACE:	456 SF (25.22 %)

UNIT F:

1st FLOOR	654 SF
2nd FLOOR	683 SF
THIRD FLOOR	683 SF
TOTAL LIVING:	2,020 SF
GARAGE (-400 S.F.)	115 SF
TOTAL:	2,135 SF
PRIVATE OPEN SPACE:	272 SF (13.46 %)

TOTAL UNIT AREA:	13,575 SF
GARAGE STAIRS	128 SF
TOTAL AREA:	13,703 SF

BASEMENT AREA: 6,649 SF
NOTE: 3,311 S.F. GUEST PARKING AND VEHICULAR AISLES NOT INCLUDED.

COMMON OPEN SPACE REQUIRED: 75 SF PER UNIT
6 X 75 = 450 SF
COMMON OPEN SPACE PROVIDED: 533 SF (OUTSIDE SETBACK AREAS)

PRIVATE OPEN SPACE REQUIRED: 5% OF UNIT GROSS FLOOR AREA

PROPOSED COVERED TRASH ENCLOSURE AREA: 56 SF

HORIZONTAL ASSEMBLY BETWEEN BASEMENT: GARAGE (TYPE I-A) AND CONDOMINIUMS ABOVE (TYPE V-B). SHALL BE MINIMUM 3 HR. AND COMPLY CBC 508.4, 509.2, 509.4 AND TABLE 601

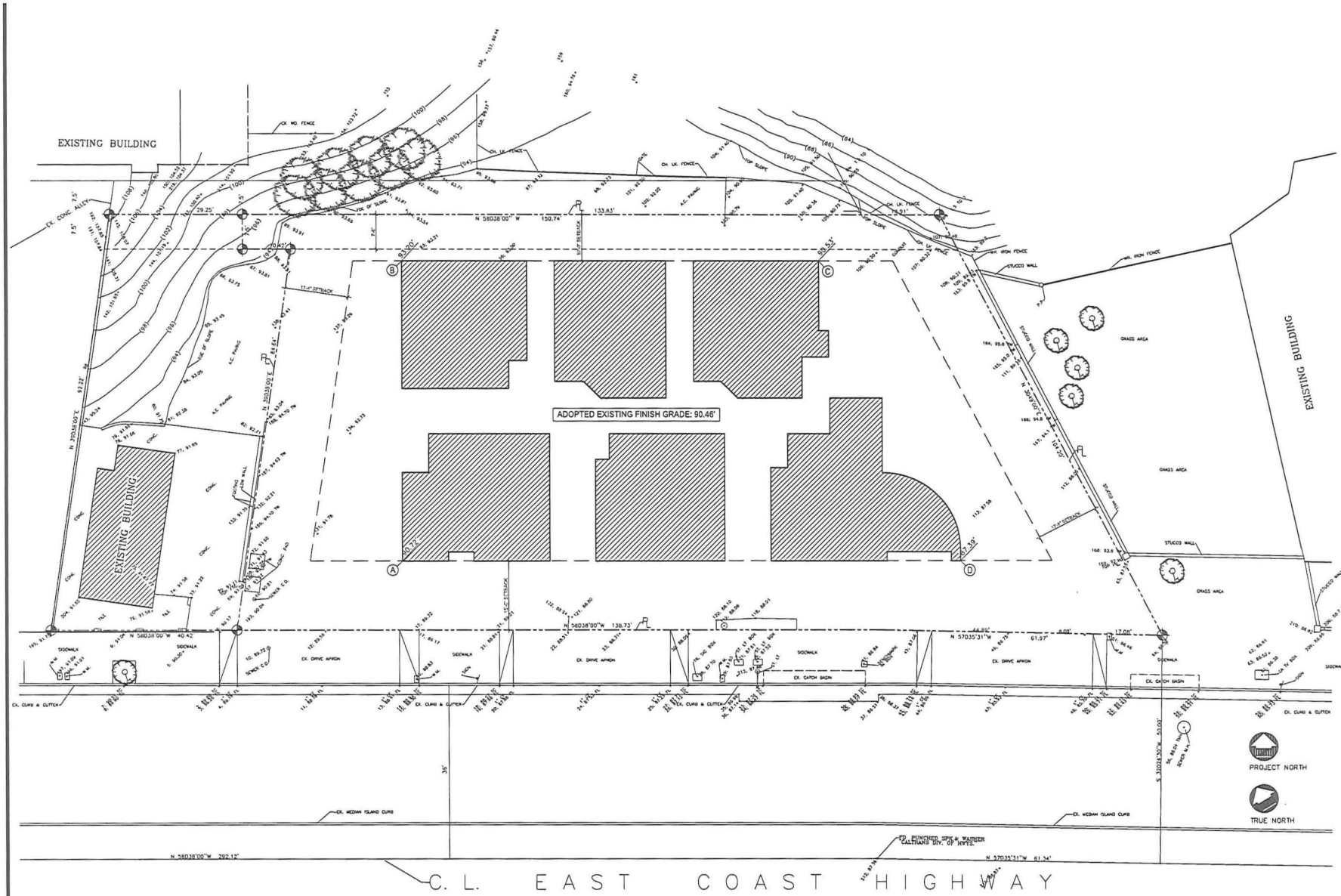
MARCELO
E. LISCHE
Architect
A.I.A.

CLIENT:
MR. MAGDI HANNA
3345 NEWPORT BLVD.
NEWPORT BEACH, CA. 92663

PROJECT:
PLAZA CORONA DEL MAR
MIXED USE PROJECT
3918 E. COAST HIGHWAY
CORONA DEL MAR, CA. 92625

SHEET TITLE:
SITE PLAN

A-1



ESTABLISHED GRADE, PER NBMC 20.30.050.B.2

$$\frac{A+B+C+D}{4} = \frac{90.72'+93.20'+90.53'+87.39'}{4} = \frac{361.84'}{4} = \text{F.G. } 90.46'$$

MAXIMUM HEIGHT 28' FOR FLAT ROOF:
90.46' + 28' = 118.46'

MAXIMUM HEIGHT 33' FOR SLOPED ROOF, (MIN. 3:12):
90.46' + 33' = 123.46'

LEGEND

117.69 EXISTING GRADE PER TOPO SURVEY

88.96 EXISTING GRADE PER INTERPOLATION BETWEEN GRADES SHOWN ON TOPO SURVEY

MARCELO E. LISCHE
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A.I.A.

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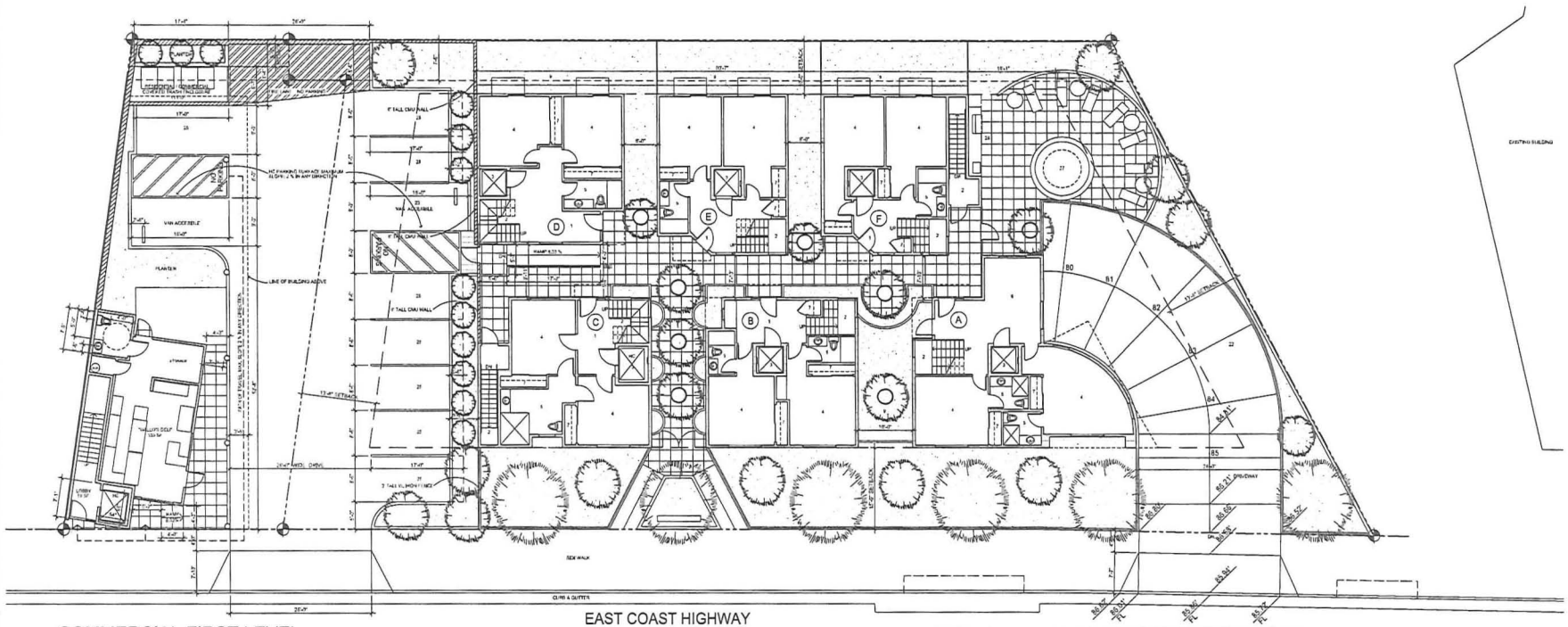
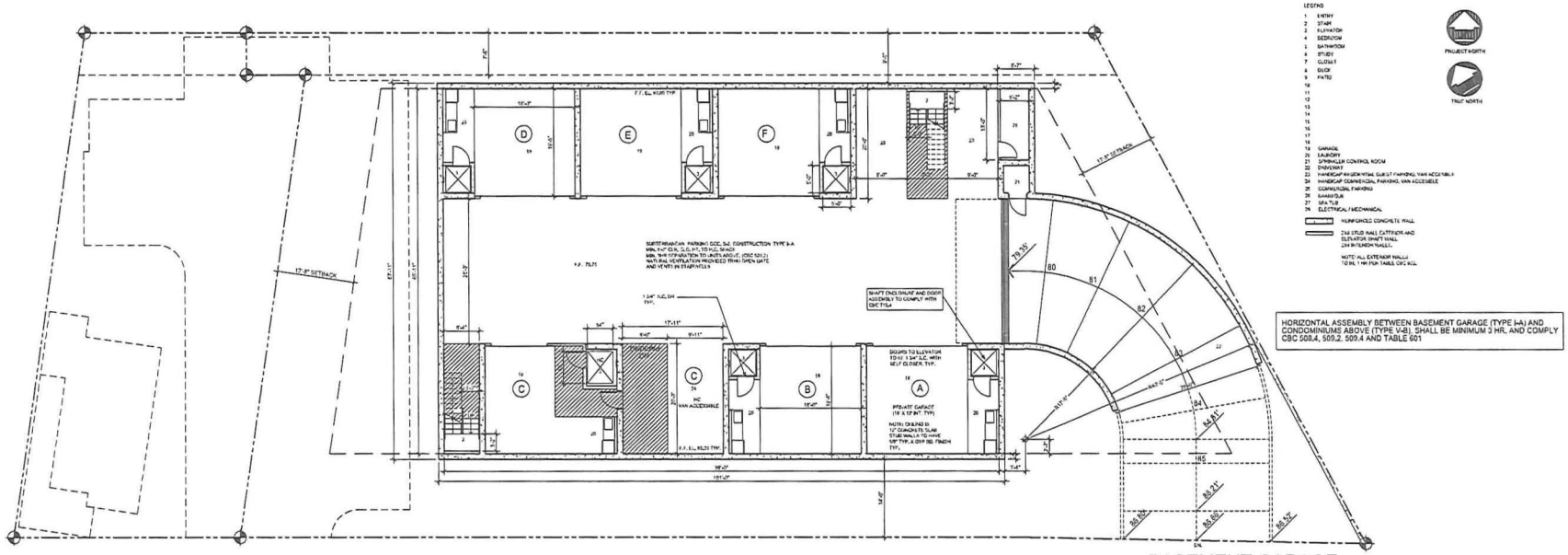
MR. MAGDI HANNA
3345 NEWPORT BLVD.
NEWPORT BEACH, CA. 92663

PROJECT:
PLAZA CORONA DEL MAR
MIXED USE PROJECT
3918 E. COAST HIGHWAY
CORONA DEL MAR, CA. 92625

SHEET TITLE:
ASSUMED EXISTING GRADE

A-1.1





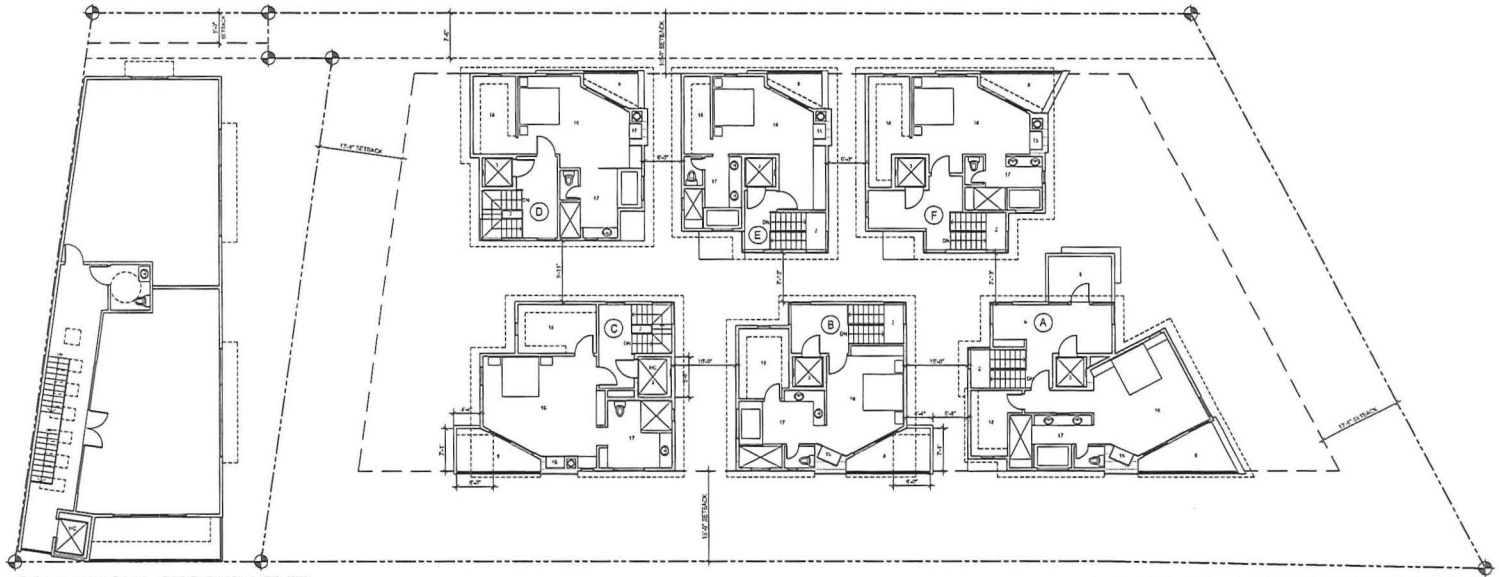
MARCELO E. LISCHE Architect A.I.A.

CLIENT:
MR. MAGDI HANNA
3345 NEWPORT BLVD.
NEWPORT BEACH, CA. 92663

PROJECT:
PLAZA CORONA DEL MAR
MIXED USE PROJECT
3918 E. COAST HIGHWAY
CORONA DEL MAR, CA. 92625

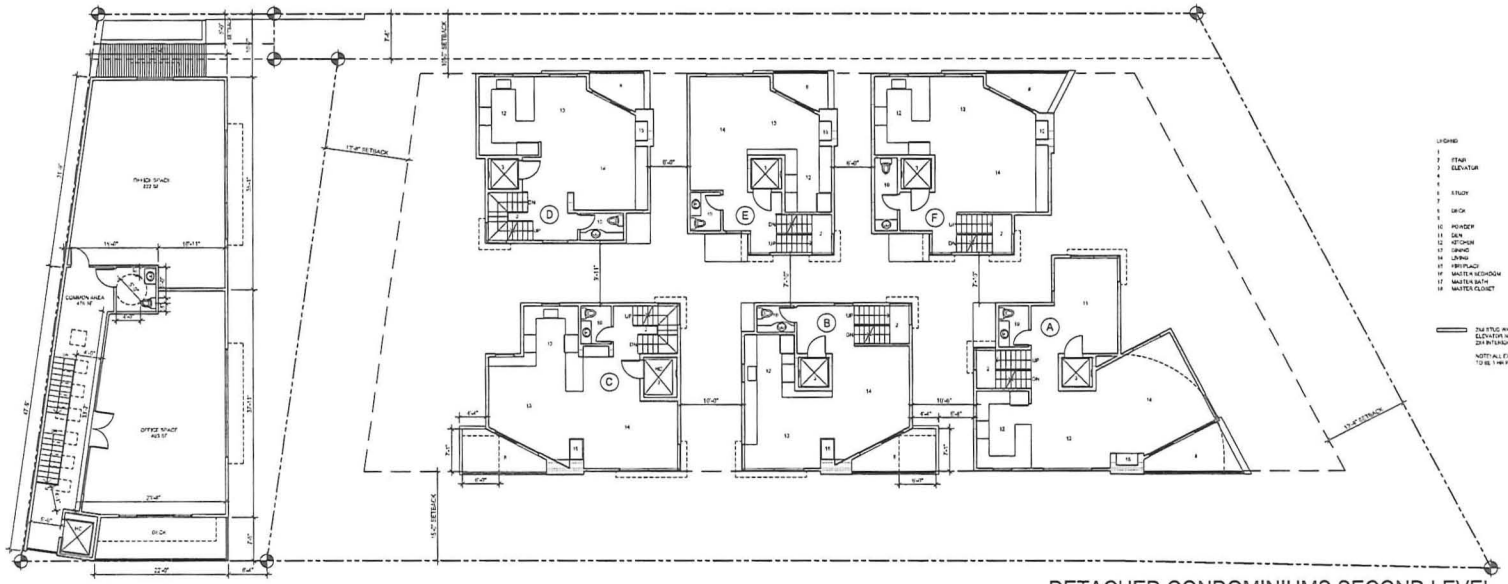
SHEET TITLE:
BASEMENT GARAGE &
FIRST FLOOR PLAN

A-2



COMMERCIAL SECOND LEVEL

DETACHED CONDOMINIUMS THIRD LEVEL



COMMERCIAL SECOND LEVEL

DETACHED CONDOMINIUMS SECOND LEVEL

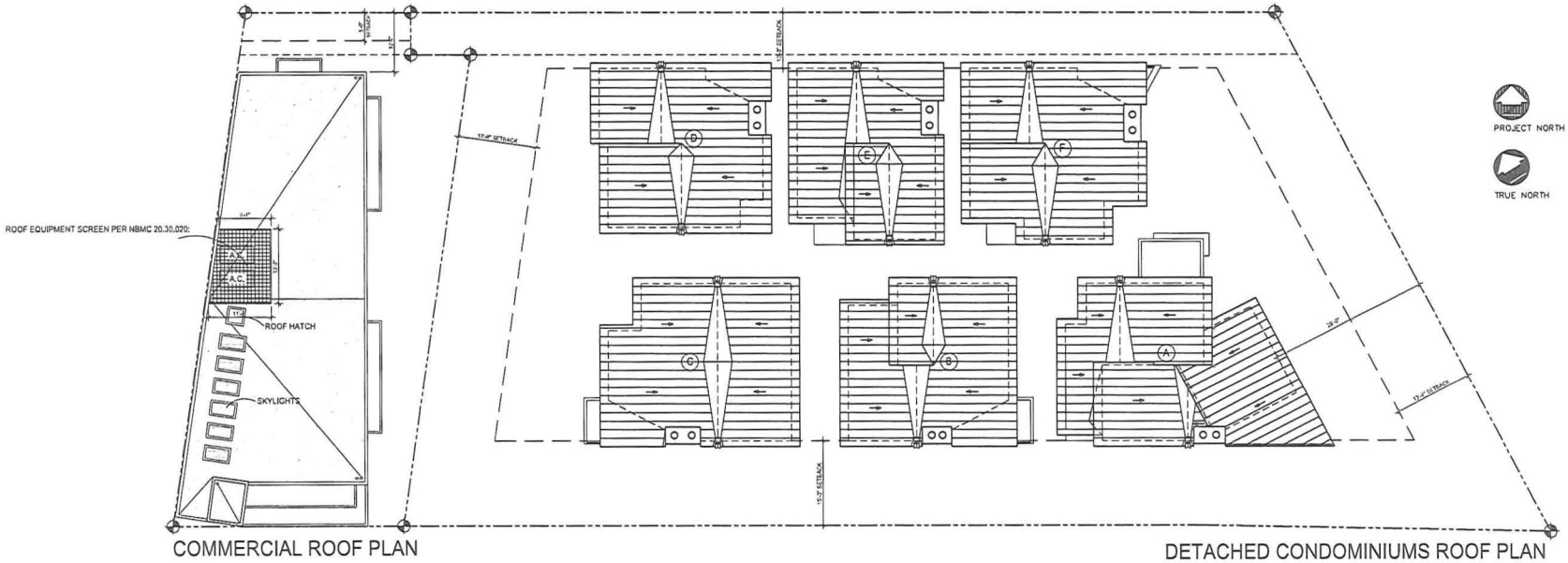
MARCELO E. LISCHE
Architect
A.I.A.

CLIENT:
MR. MAGDI HANNA
3345 NEWPORT BLVD.
NEWPORT BEACH, CA. 92663

PROJECT:
PLAZA CORONA DEL MAR
MIXED USE PROJECT
3918 E. COAST HIGHWAY
CORONA DEL MAR, CA. 92625

SHEET TITLE:
SECOND & THIRD FLOOR PLAN

A-3



COMMERCIAL ROOF PLAN

DETACHED CONDOMINIUMS ROOF PLAN

NOTE:
ROOFING MATERIALS:
CLASS "A" STANDING SEAM METAL ROOF @ TOWNHOMES, SLOPE 3:12
FLAT ROOF: CLASS "A" BUILT-UP ROOF @ COMMERCIAL BUILDING, SLOPE 1/4:12

NOTE:
SEE EXTERIOR ELEVATIONS FOR COMPLIANCE WITH MAX. BUILDING HEIGHT

MARCELO E. LISCHE
Architect
A.I.A.

CLIENT:
MR. MAGDI HANNA
3345 NEWPORT BLVD.
NEWPORT BEACH, CA. 92663

PROJECT:
PLAZA CORONA DEL MAR
MIXED USE PROJECT
3918 E. COAST HIGHWAY
CORONA DEL MAR, CA. 92625

SHEET TITLE:
ROOF PLAN

JOB #:
DRAWN BY: F.L.
CHECKED BY: M.L.
SCALE:
DATE:

REVISIONS:

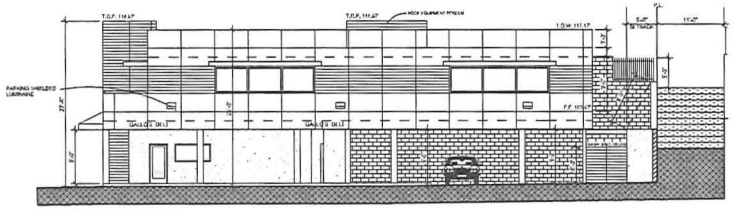
A-4

SOUTH ELEVATION (street front)

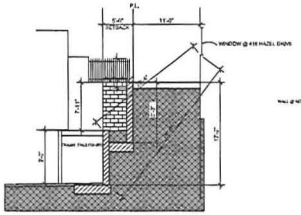
NORTH ELEVATION

BUILDINGS EXPOSED TO SPECIAL FIRE HAZARD ZONE
NOTE: ALL EXTERIOR WALLS, DOORS AND WINDOWS TO BE 1HR ASSEMBLY
BUILDINGS ARE FULLY SPRINKLERED

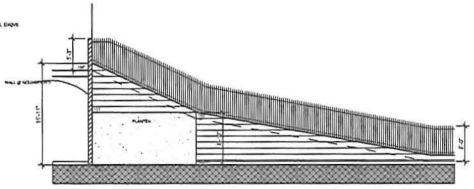
EXTERIOR MATERIALS:
7/8" SMOOTH STUCCO, COLOR TO BE DETERMINED
CLASS "A" STANDING SEAM METAL ROOFING
DUAL GLAZE ALUMINUM WINDOWS AND DOORS
STEEL AND TEMPERED GLASS RAILINGS



OFFICE BUILDING EAST ELEVATION



RETAINING WALL SECTION AT ALLEY



RETAINING WALL ELEVATION AT ALLEY

MARCELO E. LISCHE
Architect
A.I.A.

CLIENT:
MR. MAGDI HANNA
3345 NEWPORT BLVD.
NEWPORT BEACH, CA. 92663

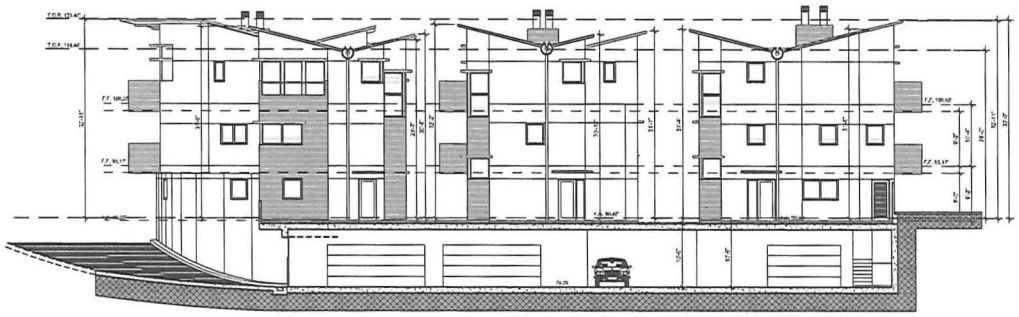
PROJECT:
PLAZA CORONA DEL MAR
MIXED USE PROJECT
3918 E. COAST HIGHWAY
CORONA DEL MAR, CA. 92625

SHEET TITLE:
EXTERIOR ELEVATIONS

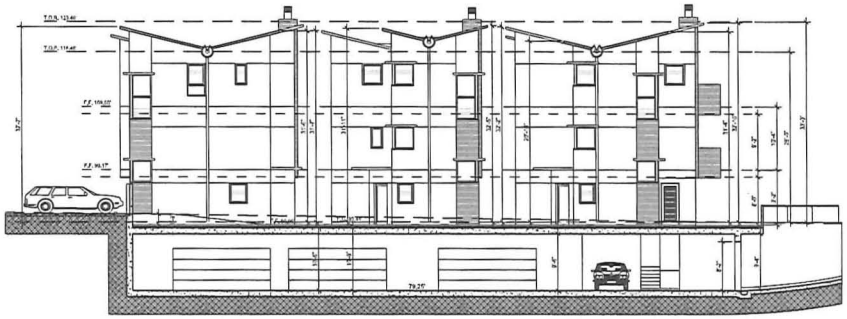
JOB #:
DRAWN BY:
CHECKED BY:
SCALE:
DATE:

REVISIONS:

A-5



"A" NORTH "B" NORTH "C" NORTH



"D" SOUTH "E" SOUTH "F" SOUTH

BUILDINGS EXPOSED TO SPECIAL FIRE HAZARD ZONE
NOTE: ALL EXTERIOR WALLS, DOORS AND WINDOWS TO BE 1HR ASSEMBLY
BUILDINGS ARE FULLY SPRINKLERED

EXTERIOR MATERIALS:
7/8" SMOOTH STUCCO, COLOR TO BE DETERMINED
CLASS "A" STANDING SEAM METAL ROOFING
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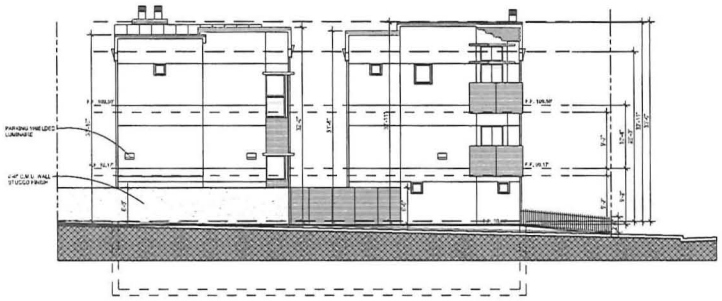
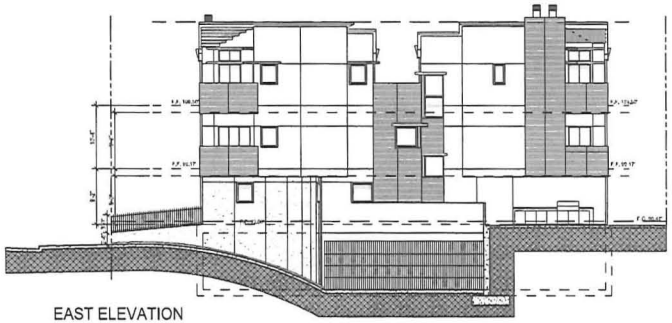


WEST ELEVATION



EAST ELEVATION

MARCELO E. LISCHE Architect A.I.A.

CLIENT:
MR. MAGDI HANNA
3345 NEWPORT BLVD.
NEWPORT BEACH, CA. 92663

PROJECT:
PLAZA CORONA DEL MAR
MIXED USE PROJECT
3918 E. COAST HIGHWAY
CORONA DEL MAR, CA. 92625

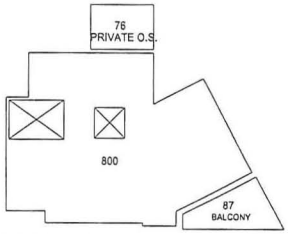
SHEET TITLE:
EXTERIOR ELEVATIONS

JOB #:
DRAWN BY:
APPROVED BY:
SCALE:
DATE:

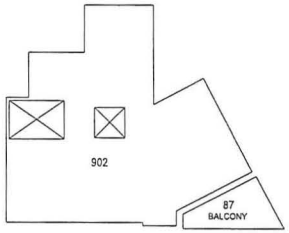
REVISIONS:

A-6

UNIT "A" FLOOR AREA



THIRD FLOOR



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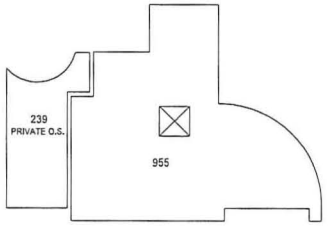
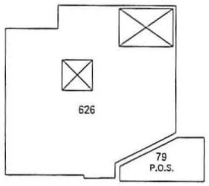


FIRST FLOOR

UNIT "B" FLOOR AREA



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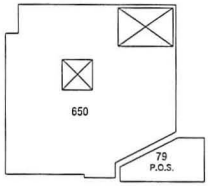

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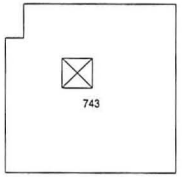
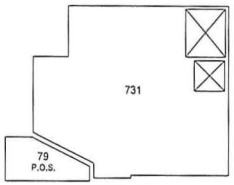


FIRST FLOOR

UNIT "C" FLOOR AREA



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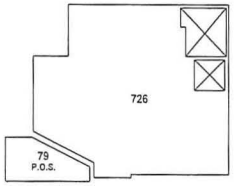

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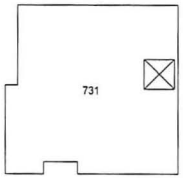
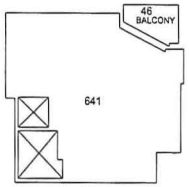


FIRST FLOOR

UNIT "D" FLOOR AREA

THIRD FLOOR



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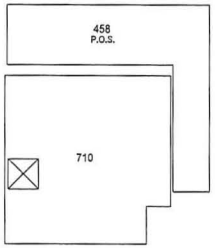
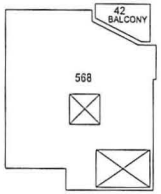


FIRST FLOOR

UNIT "E" FLOOR AREA



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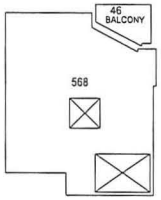

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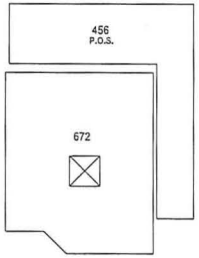
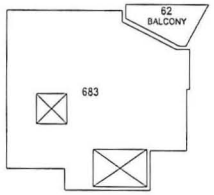


FIRST FLOOR

UNIT "F" FLOOR AREA



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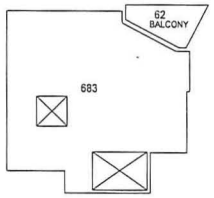

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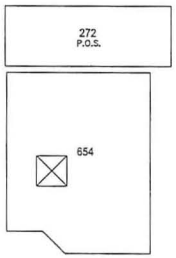
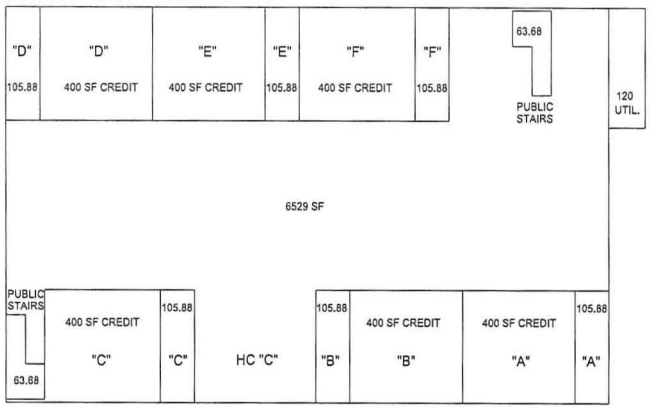


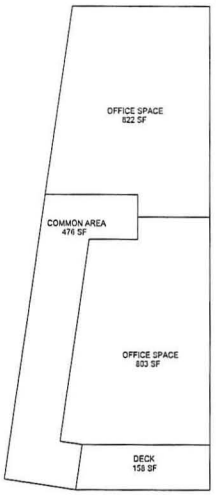
FIRST FLOOR

NOTE: ELEVATOR AREA IS COUNTED AT BASEMENT ONLY, PRIVATE STAIR AREA IS COUNTED ONLY AT FIRST FLOOR



SUBTERRANEAN PARKING

FIRST FLOOR



SECOND FLOOR COMMERCIAL

TOTAL CONVERTED SPACE 2,101 SF

NOTE: ELEVATOR STAIR AREA IS COUNTED AT 2ND FLOOR ONLY
OFFICE LOBBY AREA IS COUNTED AT 1ST. FLOOR ONLY

FIRST FLOOR COMMERCIAL

MARCELO E. LISCHE
Architect
A.I.A.

CLIENT:
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3345 NEWPORT BLVD.
NEWPORT BEACH, CA. 92663

PROJECT:
PLAZA CORONA DEL MAR
MIXED USE PROJECT
3918 E. COAST HIGHWAY
CORONA DEL MAR, CA. 92625

SHEET TITLE:
FLOOR AREA CALCULATION

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JOB #: 92-01-116
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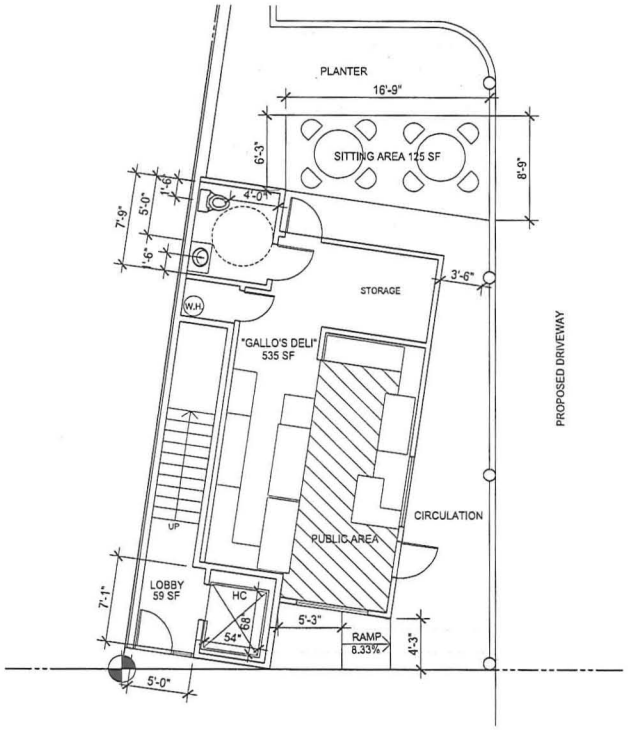
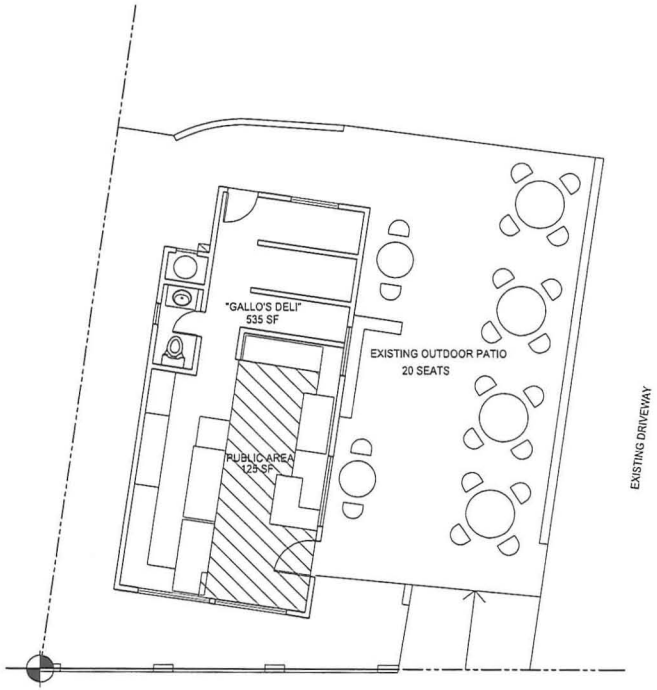
CHECKED BY: ML
SCALE: 1/16"=1'-0"
DATE: 03-04-11

REVISIONS:

A-F.A.



PROPOSED GALLO'S SEATING



EXISTING GALLO'S SEATING

MARCELO
E. LISCHE
Architect
A.I.A.

CLIENT:
MR. MAGDI HANNA
3345 NEWPORT BLVD.
NEWPORT BEACH, CA. 92663

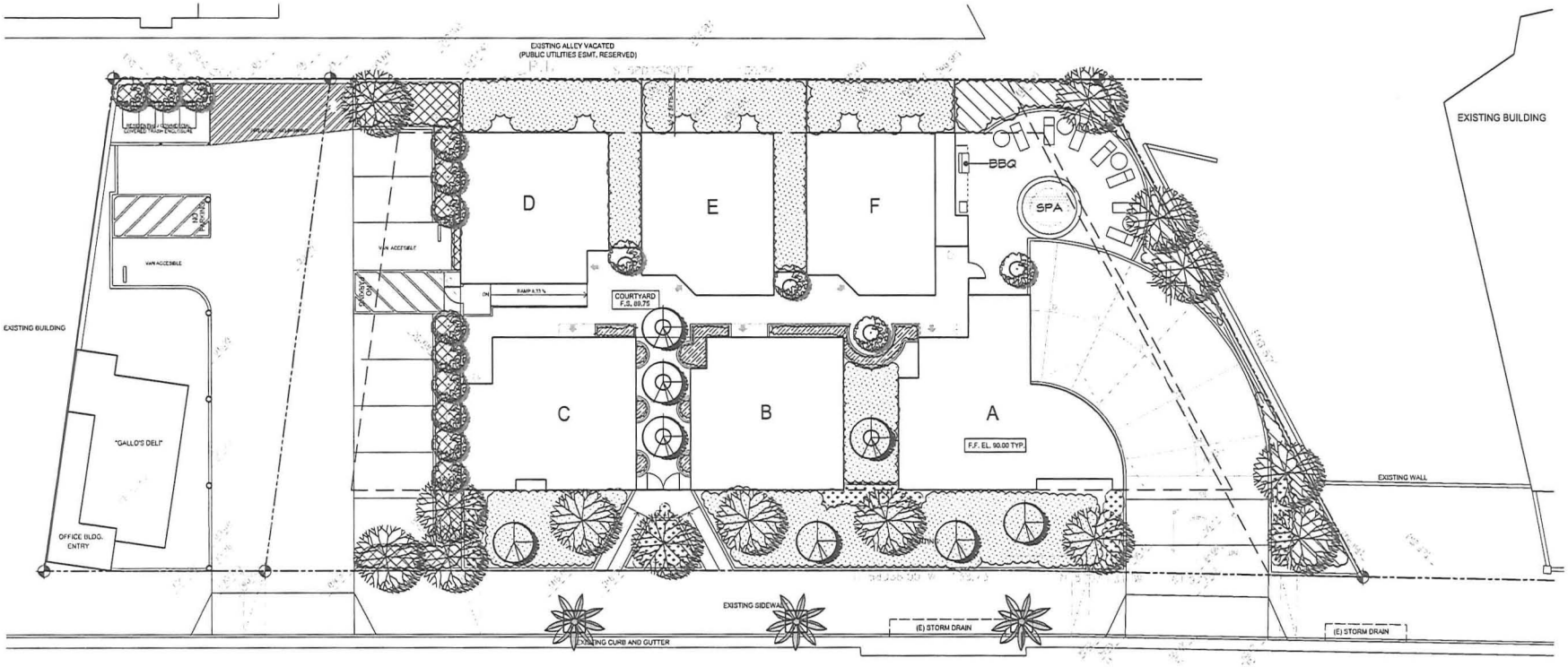
PROJECT:
PLAZA CORONA DEL MAR
MIXED UGE PROJECT
3918 E. COAST HIGHWAY
CORONA DEL MAR, CA. 92625

SHEET TITLE:
EXISTING AND PROPOSED
GALLO'S SEATING
ARRANGEMENT

JOB #:
DRAWN BY:
CHECKED BY:
SCALE:
DATE:

REVISIONS:

A-GS



PLANTING LEGEND

TREES

SYM.	BOTANICAL NAME	COMMON NAME	SIZE
	ARBUTUS x 'MARINA'	STRAWBERRY TREE (MATCHED STANDARDS)	24" BOX (MIN.)
	MAGNOLIA GRANDIFLORA "LITTLE GEM"	DWARF SOUTHERN MAGNOLIA LOW-BRANCHING - MATCHED	24" BOX (MIN.)
	PITTOSPORUM TENUIFOLIUM "SILVER SHEEN"	MATCHED COLUMNAR FORM	24" BOX (MIN.)
	ARCHONTOPHOENIX CUNNINGHAMIANA *	KING PALM	36" BOX*

*CITY OF N.B.-REQUIRED TREES TO BE PLANTED IN 4' SQ. CUT-OUTS IN SIDEWALK 8' MINIMUM BTF (BROWN TRUNK FOOT), IRRIGATED VIA BUBBLERS (2/TREE), CONNECTED TO PRIVATE IRRIGATION SYSTEM.

SHADE PLANTINGS

(INDICATES PROTECTED AREAS TO RECEIVE SHADE PLANTINGs. SPECIFIC VARIETIES & LOCATIONS TO BE COORDINATED, BASED UPON SHADE / EXPOSURE).

CAMPANULA POSCHARSKYANA	SERBIAN BELLFLOWER	FLATS / 1 GAL.
CYRTOMIUM FALCATUM	HOLLY FERN	1 GAL. / 5 GAL.
DIANELLA TASMANICA 'VARIEGATA'	VARIEGATED FLAX LILY	5 GAL.
NEPHROLEPIS CORDIFOLIA	SWORD FERN	1 GAL. / 5 GAL.
PHILODENDRON x "XANADU"	XANADU CUT-LEAF PHILODENDRON	1 GAL. / 5 GAL.

SHRUB / GROUNDCOVERS

(COMPRISED OF THE PRIMARY GROUNDCOVER, MIXED W/ GROUPINGS & ACCENT PLANTINGS OF THE ADDITIONAL SHRUB PLANTINGS LISTED)

TRACHELOSPERMUM JASMINOIDES	STAR JASMINE	1 GAL.@ 24" O.C.
PHORMIUM SPECIES	NEW ZEALAND FLAX	5 GAL. / 15 GAL.
PELARGONIUM PELTATUM "BLIZZARD BLUE"	"BLIZZARD BLUE" IVY GERANIUM	4" POTS @ 8" O.C.
PENNISETUM SPATHEOLATUM	RYE PUFFS (ORNAMENTAL GRASS)	1 GAL. / 5 GAL.
STRELITZIA REGINAE	BIRD OF PARADISE	5 GAL. / 15 GAL.
CEANOTHUS G. HORIZONTALIS "YANKEE POINT"	YANKEE POINT CEANOTHUS	5 GAL.@ 48" O.C.
ARCTOSTAPHYLOS "JOHN DOULEY"	JOHN DOULEY MANZANITA	5 GAL.@ 48" O.C.
PLUMBAGO AURITULATA	CAPE PLUMBAGO	5 GAL.

SHRUBS-MISC.

BOUGAINVILLEA SPECIES	BOUGAINVILLEA (SHRUB FORM/CASCADE)	5 GAL. @ 48" O.C.
RHAPHIOLEPIS UMBELLATA "MINOR"	INDIA HAWTHORN	5 GAL. @ 30" O.C.

NOTE:
LANDSCAPING LINES SHALL HAVE A DEDICATED METER & SHALL BE PROTECTED BY A DEDICATED USC APPROVED REDUCED BACKFLOW ASSEMBLY PER STD-520-L-A.

Robert Clark Graves Inc.
LANDSCAPE ARCHITECTS
2102 Dupont Drive
Suite 203
Irvine, California 92612
Fax (949) 474-0800
Voice (949) 955-1424

PRELIMINARY LANDSCAPE PLAN
PLAZA CORONA del MAR
3918 E. COAST HIGHWAY
Corona del Mar, CA

PRELIMINARY LANDSCAPE PLAN

REVISIONS

SCALE 1/8"=1'-0"
DATE 7/2011
DRAWN R.C.G.
CHECKED

SHEET
L-1
OF

JOB Plaza CDM

Attachment No. PC 5

Specialty Food Permit No. 38

CITY OF NEWPORT BEACH

P.O. BOX 1768, NEWPORT BEACH, CA 92658-8915

PLANNING DEPARTMENT (714) 644-3200

SPECIALTY FOOD SERVICE PERMIT

August 15, 1995

Application No: 38

Applicant: Magdi Hanna/ Gallo's of Corona del Mar

Address of Property Involved: 3900 East Coast Highway

Legal Description: Lot 54, Tract No. 673

Request to permit the establishment of a specialty food service use on property located in the RSC District.

The Planning Department on August 9, 1995, approved the application subject to the following conditions:

1. That development shall be in substantial conformance with the approved site plan except as noted in the following conditions.

2. That the outdoor dining shall be limited to a maximum area of 125 sq.ft.

3. That maximum seating and/or stand-up counter space for no more than 20 customers shall be maintained inside (and/or outside) the subject specialty food use. Any further increase in the number of seating and/or stand-up counter space for customers shall be subject to the approval of a use permit.

4. That trash receptacles for patrons shall be conveniently located both inside and outside of the proposed facility.

5. That trash generated by the business shall be screened from view from adjoining properties except when placed for pick-up by refuse collection agencies.

6. That the hours of operation shall be limited between the hours of 7:00 a.m. and 9:00 p.m.

7. That no outside paging system shall be utilized in conjunction with this specialty food establishment.

8. That should this business 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 owner or the leasing company.

9. That no on-sale alcoholic beverages shall be permitted on the premises.

10. That no live entertainment or dancing shall be permitted in conjunction with the permitted use.

11. That no temporary "sandwich" signs or similar temporary signs shall be permitted, either on-site or off-site, to advertise the specialty food establishment.

12. That kitchen exhaust fans shall be designed to control smoke and odor to the satisfaction of the Building Department.

13. That where grease may be introduced into the drainage systems, grease interceptors shall be installed on all fixtures as required by the Uniform Plumbing Code, unless otherwise approved by the Building Department and the Utilities Department.

14. That the Planning Department may add to or modify conditions of approval to this specialty food service permit, or recommend to the Planning Commission or City Council the revocation of this permit upon a determination that the operation which is the subject of this approval causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.

The Planning Department determined in this case that the proposal would not be detrimental to persons, property or improvements in the neighborhood and that the specialty food services permit as approved would be consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code, and made the following findings:

1. That the proposed specialty food service is retail in nature, serving mainly persons residing or working in the neighborhood, maintains a gross floor area of 2,000 sq.ft. or less, and is not necessarily a destination point. It is anticipated that the proposed use will have parking demand characteristics similar to a retail use.

2. That the proposed development is consistent with the Land Use Element of the General and is compatible with the surrounding land uses.

3. That the approval of Specialty Food Service Permit No. 38 will not, under the circumstances of this case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of the city.

NOTE: This approval shall expire unless exercised within 24 months from the end of the appeal period, and cannot be extended.

The decision of the Planning Department may be appealed by the applicant to the Planning Commission within 14 days of the date of the decision. Any appeal filed shall be accompanied by a filing fee of $399.00.

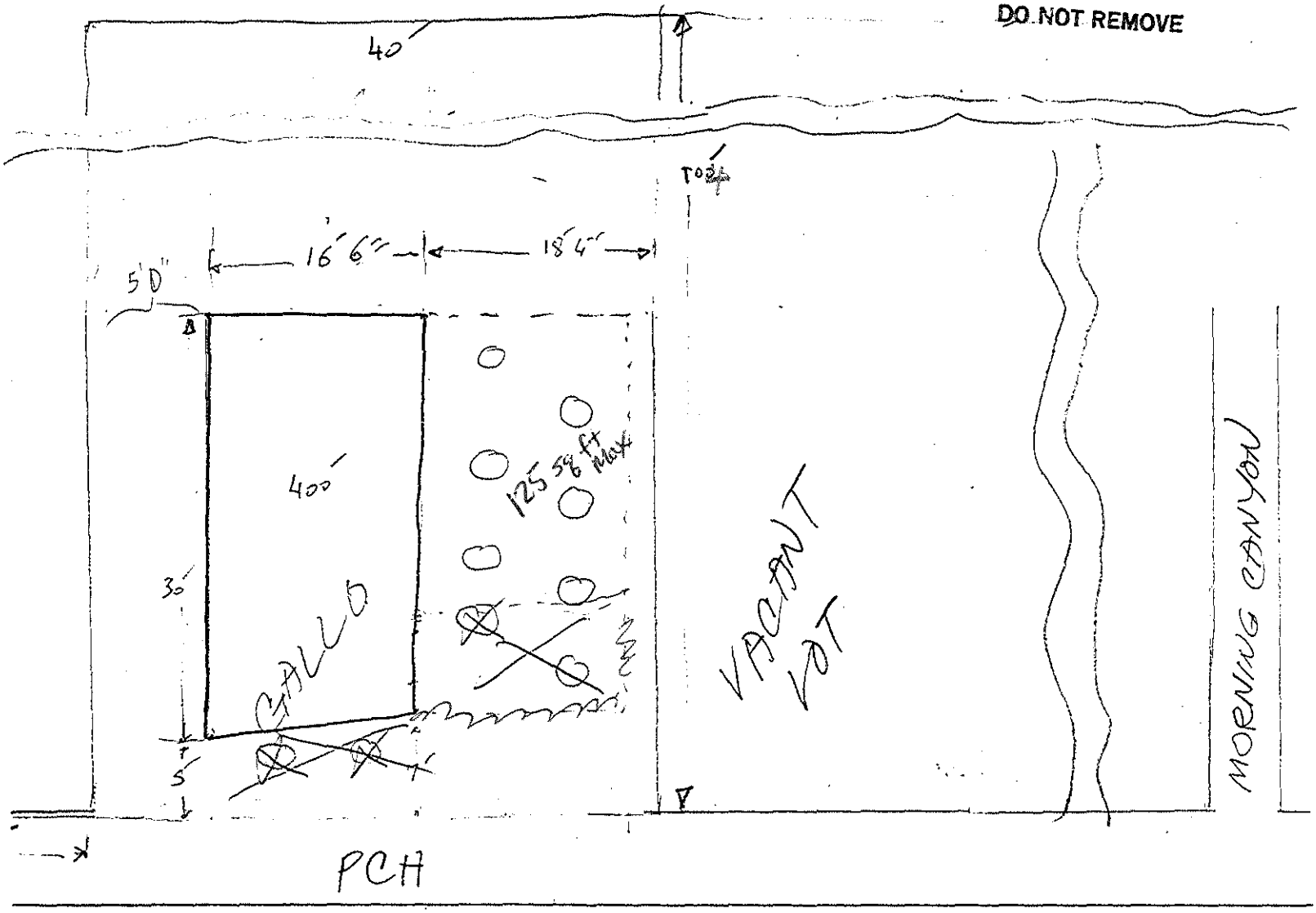
PLANNING DEPARTMENT

By Dana O. Aslami
Dana O. Aslami
Associate Planner

DOA:dk

MEETING DATE 8-9-95
AGENDA ITEM
APPLICATION SF-38

FILE COPY
DO NOT REMOVE



GALLO OF CORONA DEL MAR, INC.
3900 E. Coast Hwy, CDM

Attachment No. PC 6

CEQA Exemption Determination

Exemption Determination

Plaza Corona Del Mar
Newport Beach, CA

CEQA Section 15332. In-Fill Development Projects

Class 32 exemptions for in-fill development projects are required to meet the following conditions:

(a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.

3900 East Coast Highway (Commercial Component): The General Plan Land Use Element designates the site as Corridor Commercial (CC), 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. Development of the site will be consistent with General Plan policies as indicated below.

Policy LU 1.3: Protect the natural setting that contributes to the character and identify of Newport Beach and the sense of place it provides for its residents and visitors. Preserve open space resources, beaches, harbor, parks, bluffs, preserves, and estuaries as visual, recreational and habitat resources.

As indicated above, the proposed project provides for new office space above an existing small delicatessen. The existing delicatessen will continue to serve the neighborhood, and the new office space will complement the existing development.

Policy LU 2.8: Accommodate the types, densities, and mix of land uses that can be adequately supported by transportation and utility infrastructure (water, sewer, storm drainage, energy, and so on) and public services (schools, parks, libraries, seniors, youth, police, fire, and so on).

The proposed project represents “infill” development that can be served by the existing infrastructure. There is adequate capacity in the sewer and water facilities, circulation, and other public services and facilities to provide an adequate level of service to the proposed development.

Policy LU 3.2 Enhance existing neighborhoods, districts, and corridors, allowing for re-use and infill with uses that are complementary in type, form, scale, and character. Changes in use and/or density/intensity should be considered only in those areas that are economically underperforming, are necessary to accommodate Newport Beach’s

share of projected regional population growth, improve the relationship and reduce commuting distance between home and jobs, or enhance the values that distinguish Newport Beach as a special place to live for its residents. The scale of growth and new development shall be coordinated with the provision of adequate infrastructure and public services, including standards for acceptable traffic level of service.

The proposed commercial component of the project (i.e., office) represents "in fill" development that complements the existing type and character of the nearby development, which includes a variety of retail, commercial and residential development.

Policy LU 5.3.2 Require that commercial uses adjoining residential neighborhoods be designed to be compatible and minimize impacts through such techniques as:

- Incorporation of landscape, decorative walls, enclosed trash containers, downward focused lighting fixtures, and/or comparable buffering elements;
- Attractive architectural treatment of elevations facing the residential neighborhood;
- Location of automobile and truck access to prevent impacts on neighborhood traffic and privacy.

The proposed commercial component of this project incorporates a variety of features, including sensitive architectural treatment adjacent to the proposed residential component to the east. In addition, vehicular access to the commercial component is separate from the proposed residential dwelling units and will not conflict with that use.

The zoning designation for the site is Commercial Corridor (CC), 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. The project will comply with the development standards and regulations for the CC zoning district with approval of a conditional use permit to allow the required nonresidential off-street parking on the adjacent parcel at 3928 East Coast Highway which is zoned for residential uses, and approval of a modification permit to allow a retaining wall to exceed the 8-foot height limit (up to approximately 17 feet in height).

<u>3928 East Coast Highway (Residential Component)</u>: The General Plan Land Use Element designates the site as Multiple Residential (RM, 8 DU), which is intended to provide primarily for multi-family residential development containing attached or detached dwelling units. The site is limited to a maximum of eight dwelling units. The proposed project consists of the development of six detached dwelling units, which is consistent with the land use designation of the site. The project will be consistent with General Plan policies related to residential development, including but not limited to the following policies.

Policy LU 1.3 Protect the natural setting that contributes to the character and identity of Newport Beach and the sense of place it provides for its residents and visitors. Preserve open space resources, beaches, harbor, parks, bluffs, preserves, and estuaries as visual, recreational and habitat resources.

Adequate setback has been incorporated into the project design to ensure that the wetlands within Buck Gully to the north are preserved. A minimum 72.3-foot setback has been provided between the wetlands and the proposed residential dwelling units. Given the urban character of the area, including the predominance of non-native species that already dominate the banks of the stream and the adjacent slopes, as well as the setback from existing residential structures, which is as little as 70 feet in some areas, the proposed setback is sufficient to maintain the conditions as they currently exist. As a result, with provision of a 72.3-foot buffer, there would be no significant indirect impacts to wetland ESHA associated with the project.

Policy LU 2.3 Provide opportunities for the development of residential units that respond to community and regional needs in terms of density, size, location, and cost. Implement goals, policies, programs, and objectives identified within the City's Housing Element.

The size, density and character of the proposed residential dwelling units complement the existing land uses in the project environs and are consistent with the goals and objectives articulated in the Newport Beach Housing Element, including the development of appropriate, mixed residential and commercial use developments that improve the balance between housing and jobs (Policy H 2.3), among others.

Policy LU 3.2 Refer to the discussion above.

Policy LU 4.1 Accommodate land use development consistent with the Land Use Plan. Figure LU1 depicts the general distribution of uses throughout the City and Figure LU2 through Figure LU15 depict specific use categories for each parcel within defined Statistical Areas. Table LU1 (Land Use Plan Categories) specifies the primary land use categories, types of uses, and, for certain categories, the densities/intensities to be permitted. The permitted densities/intensities or amount of development for land use categories for which this is not included in Table LU1, are specified on the Land Use Plan, Figure LU4 through Figure LU15. These are intended to convey maximum and, in some cases, minimums that may be permitted on any parcel within the designation or as otherwise specified by Table LU2 (Anomaly Locations).

The proposed project is consistent with the land use designation for the subject property. The proposed residential type and density fall within the permitted density range prescribed by the Land Use Element, consistent with this policy.

Policy LU 5.1.2 Require that the height of development in nonresidential and higher-density residential areas transition as it nears lower-density residential areas to minimize conflicts at the interface between the different types of development.

The zoning designation for the site is Multiple Residential (RM, 8 DU), which is intended to provide for areas appropriate for multi-unit residential developments containing attached or detached dwelling units. The site is limited to a maximum of eight dwelling units. The proposed project consists of the development of six detached dwelling units, which is consistent with the zoning designation of the site. With approval of a variance to establish a 15-foot front yard setback, the project will comply with the zoning regulations for the RM zoning district.

The proposed project complies with the height limit established for the subject site, which is located in a mixed use area. Neither the type and density or the building height of the proposed residential development will conflict with the nearby single-family detached residential dwelling units and open space (i.e., Buck Gully) located to the north.

Implementation of the proposed project will require approval of a Site Development Review. The Site Development Review provides a process for review of specific development projects to ensure consistency and compliance with the General Plan and Zoning Code. The proposed project also includes the processing of a tentative tract map to consolidate the residential lots into a single parcel, and for condominium purposes.

(b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.

The combined project site is within city limits, and consists of 19,971 square feet or 0.44-acre of land area. While the project site is bounded on the northeast by Buck Gully, an undeveloped canyon, it is surrounded by commercial uses to the west, and residential uses to the north and east of the site, and private institutional uses across East Coast Highway to the south of the project site.

(c) The project site has no value, as habitat for endangered, rare or threatened species.

No native vegetation and/or habitat exists on the subject property. The project site is currently developed with a small delicatessen and surrounding asphalt pavement on the western and southern portions of the site. The eastern portion of the site is currently undeveloped and covered with gravel. The eastern portion of the site was previously developed with a service station which was demolished and remediated in the early 1990's.

The project site is bounded on the northeast by Buck Gully, an area designated as an Environmental Study Area in the Natural Resources Element of the General Plan. However, the subject property is not located within the City's coastal zone and is not subject to a coastal development permit. A preliminary jurisdictional delineation was prepared by a qualified regulatory specialist to determine potential areas of U.S. Army Corps of Engineers (Corps) and/or California Department of Fish and Game (CDFG) jurisdiction, and suspected areas were field-checked for the presence of definable channels and/or wetland vegetation, soils and hydrology. The preliminary study determined project implementation would not encroach into any jurisdictional waters or areas that support native and/or sensitive habitat. As a result, implementation of the proposed project would not result in potentially significant impacts to the Buck Gully drainage. During the site visit, it was also determined that there is no potential for special-status plants or animals to exist on the slopes or to exist within the areas that are potentially affected by fuel modification required with implementation of the proposed project.

The biological assessment and jurisdictional delineation (Exhibit A) determined that the subject property does not support any important and/or sensitive species of vegetation or wildlife. As indicated in that assessment, the Buck Gully drainage is located north of the subject property. The project as proposed provides a setback of 72.3 feet from the 0.005-acre wetland area and fully complies with current City policy (Coastal Land Use Policy 4.2.2.3). Additionally, given the urban character of the area, including the predominance of non-native species that already dominate the banks of the stream and the adjacent slopes, as well as the setback from existing residential structures, which is as little as 70 feet, the proposed setback is more than sufficient to maintain the conditions as they currently exist. As a result, with provision of a 72.3-foot buffer, there would be no significant indirect impacts to wetland ESHA associated with the project. Therefore, no significant impacts to biological resources would occur.

For these reasons, the project site has no value as habitat for endangered, rare or threatened species, and there would no impacts to the adjacent Buck Gully drainage as a result of the proposed project.

(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

Traffic generated by up to eight residential dwelling units on the project site, and up to 0.75 FAR was evaluated in the General Plan Update EIR. The project proposes six (6) residential unmits and 0.69 floor area ratio (FAR) for commercial development, which is below the maximum development limits permitted by the General Plan. The project is forecast to generate 59 new average daily trips, which is less than that previously analyzed in the General Plan EIR. As such, the project-related traffic would not cause or contribute to an unacceptable level of service with the circulation network adjacent to the project site. The project will provide adequate, convenient parking for residents, guests, business patrons, and visitors. Approval of the project would not result in any significant effect related to traffic or circulation.

The primary source of noise impacting the project site is the traffic generated on East Coast Highway. All multi-family projects must comply with the State of California's noise standards that specify that the intrusion of noise from exterior sources (such as traffic) shall not exceed a CNEL of 45 dB within the interior of any habitable space. This is also consistent with the City's interior noise standards established in the General Plan Noise Element, including Policy N1.1, N1.2, and N1.5. A preliminary Acoustical Study (Exhibit B) has been prepared to identify the noise standards applied to the project. It is estimated that future traffic noise exposure will be 72.5 dB CNEL to the nearest facades to East Coast Highway. With appropriate noise control measures incorporated into the design of the proposed project (e.g., ventilation and air conditioning, weather stripping, increased sound-rated doors, windows, and wall finishes, etc.), no significant noise impacts will occur and the interior noise levels would comply with the City and State interior noise standard of 45 dB CNEL for residential units. With regard to noise impacts to surrounding uses, the proposed project will comply with all applicable provisions of the City's Noise Ordinance, which allows for construction between specific hours as set forth in Chapter 10.28 of the NBMC.

Neither short-term nor long-term air pollutant emissions will exceed significance thresholds established by the SCAQMD. Nonetheless, the proposed project is required to comply with applicable SCAQMD regulations. Therefore, approval of the project would not result in any significant effects relating to air quality.

Water quality will also be required to comply with all applicable Municipal Separate Storm Systems (MS4) requirements to ensure that impacts to surface and ground water quality do not occur. Water quality objectives will be achieved through the incorporation of best management practices (BMPs) identified in the Water Quality Management Plan (WQMP) during construction and post-project implementation. Project implementation will not change the general drainage pattern of the project site. Site drainage will be collected in a series of filtered area drains and filtered at collector catch basin before being conveyed to the on-site storm drain system. Approval of the project would not result in any significant effect related to water quality. Furthermore, the existing drainage facilities have adequate capacity to accommodate the increase in surface runoff generated by the proposed project

(e) The site can be adequately served by all required utilities and public services.

All required utilities, including sewer, water, energy, telephone, etc., exist within the project site. Although project implementation would require the extension of existing facilities to the subject property to accommodate the small, incremental increase in raw sewage and the additional demand for domestic water, no backbone facilities (i.e., master-planned roads and/or utilities) will be required to accommodate the proposed project. Furthermore, all of the public services, including police and fire protection, schools and parks and recreation, etc., are adequate to accommodate the proposed project. Thus, the site can be adequately served by all required utilities and public services.

Determination

CEQA Class 32 consists of projects characterized as in-fill development meeting the conditions described above. The proposed project consists of the development of new commercial office space with required off-street parking and six detached dwelling units and is consistent with the City's General Plan land use designations (Corridor Commercial and Multiple Residential) and zoning designations. Potential development of the project site was considered and analyzed in the City's 2006 General Plan EIR for potential environmental impacts. Based on that analysis, there is no reasonable probability that the proposed project will have a significant effect on the environment due to unusual circumstances, nor will the project result in any short-term or long-term impacts that were not previously considered in the Newport Beach General Plan and General Plan EIR. As described above, implementation of the proposed project will not result in any adverse effects on sensitive biological resources, traffic, air quality, noise or water quality. Therefore, the proposed project meets all of the conditions described above for in-fill development and qualifies for a Class 32 exemption.

Exhibit A

Biological Assessment and Jurisdictional Delineation

GLENN LUKOS ASSOCIATES
Regulatory Services

February 24, 2011 [Revised September 13, 2012]

Keeton K. Kreitzer
Keeton Kreitzer Consulting
180 South Prospect Avenue
Suite 140A
Tustin, California 92780

SUBJECT: Jurisdictional Delineation for Buck Gully, a Creek Associated with the Plaza Corona Del Mar Project, a 0.25-Acre Property Located in Newport Beach, Orange County, California.

Dear Mr. Kreitzer:

This letter report summarizes our preliminary findings of U.S. Army Corps of Engineers (Corps), California Department of Fish and Game (CDFG), and California Coastal Commission jurisdiction for the above-referenced property.[1] The Plaza Corona Del Mar Project site in Orange County [Exhibit 1], comprises approximately 0.25 acre and contains one blue-line drainage (as depicted on the U.S. Geological Survey (USGS) topographic map Laguna Beach, California [dated 1965 and photorevised in 1981]) [Exhibit 2]. The site is bounded by Pacific Coast Highway on the south, existing residential and commercial development on the east and west, and open space and adjacent residential development on the north. On February 24, 2011 and August 13, 2012, regulatory specialists of Glenn Lukos Associates, Inc. (GLA) examined the project site to determine the limits of (1) Corps jurisdiction pursuant to Section 404 of the Clean Water Act, (2) CDFG jurisdiction pursuant to Division 2, Chapter 6, Section 1600 of the Fish and Game Code, and (3) Wetlands as defined by the California Coastal Act. Enclosed is a 60-scale map [Exhibit 3] that depicts the areas of Corps, CDFG and CCC jurisdiction. Photographs to document the topography, vegetative communities, and general widths of each of the waters are provided as Exhibit 4. A map depicting soils is provided as Exhibit 5.

[1] This report presents our best effort at estimating the subject jurisdictional boundaries using the most up-to-date regulations and written policy and guidance from the regulatory agencies. Only the regulatory agencies can make a final determination of jurisdictional boundaries. If a final jurisdictional determination is required, GLA can assist in getting written confirmation of jurisdictional boundaries from the agencies.

29 Orchard ▪ Lake Forest ▪ California 92630-8300
Telephone: (949) 837-0404 Facsimile: (949) 837-5834

Corps jurisdiction associated with Buck Gully, within 200 feet of the subject property totals approximately 0.026 acre of Waters of the U.S, of which, 0.005 acre consist of vegetated waters.

CDFG jurisdiction associated with Buck Gully, within 200 feet of the subject property totals approximately 0.026 acre of Waters of the State, of which, 0.005 acre consist of emergent marsh habitat.

CCC jurisdiction associated with Buck Gully, within 200 feet of the subject property totals approximately 0.026 acre of Stream Channel, of which, 0.005 acre supports emergent marsh habitat.

I. METHODOLOGY

Prior to beginning the field delineation a 200-scale color aerial photograph, a 200-scale topographic base map of the property, and the previously cited USGS topographic map were examined to determine the locations of potential areas of Corps/CDFG/CCC jurisdiction. Suspected jurisdictional areas were field checked for the presence of definable channels[2] and/or wetland vegetation, soils and hydrology. Suspected wetland habitats on the site were evaluated using the methodology set forth in the U.S. Army Corps of Engineers 1987 Wetland Delineation Manual[3] (Wetland Manual) and the 2008 Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (Version 2.0).[4]. While in the field the limits of Corps/CDFG/ jurisdiction were recorded using sub-meter GPS technology. Other data were recorded onto wetland data sheets.

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[2] U.S. Army Corps of Engineers. 2008. *A Field Guide to the Identification of the Ordinary High Water Mark (OHWM) ion the Arid West Region of the United States: A Delineation Manual.* ERDC/CRREL TR-08-12: Cold Regions Research and Engineering Laboratory, U.S. Army Engineer Research and Development Center, Hanover NH.

[3] Environmental Laboratory. 1987. Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, U.S. Army Engineer Waterways Experimental Station, Vicksburg, Mississippi.

[4] U.S. Army Corps of Engineers. 2008. Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region. Ed. J.S. Wakeley, R.W. Lichevar, and C.V. Noble. ERDC/EL TR-08-28. Vicksburg, MS: U.S. Army Engineer Research and Development Center.

The Soil Conservation Service (SCS)[5] has mapped the following soil types as occurring in the general vicinity of the project site:

Calleguas Clay Loam, 50 to 75 percent slopes, eroded

The Calleguas Clay Loam series consists of very shallow and shallow, well drained soils formed on uplands, hills and mountains in material weathered from sedimentary rocks. Calleguas soils have slopes of 9 to 75 percent. The Calleguas soils are mapped as occurring within the portion of Buck Gully that traverses the northeast extent of the property.

Myford Sandy Loam, 2 to 30 Percent Slopes

The Myford Sandy Loam series consist of deep, moderately well drained soils up to 11 inches deep. Myford soils have slopes of 2 to 30 percent and were formed on terraces. The Myford Sandy Loam series are mapped as occurring within areas that are located adjacent to the project site.

Neither of these soil units are identified as hydric in the SCS's publication, Hydric Soils of the United States[6].

II. JURISDICTION

A. Army Corps of Engineers

Pursuant to Section 404 of the Clean Water Act, the Corps regulates the discharge of dredged and/or fill material into waters of the United States. The term "waters of the United States" is defined in Corps regulations at 33 CFR Part 328.3(a) as:

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[5] SCS is now known as the National Resource Conservation Service or NRCS.
[6] United States Department of Agriculture, Soil Conservation Service. 1991. Hydric Soils of the United States, 3rd Edition, Miscellaneous Publication Number 1491. (In cooperation with the National Technical Committee for Hydric Soils.)

(1) All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
(2) All interstate waters including interstate wetlands;
(3) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect foreign commerce including any such waters:
(i) Which are or could be used by interstate or foreign travelers for recreational or other purposes; or
(ii) From which fish or shell fish are or could be taken and sold in interstate or foreign commerce; or
(iii) Which are used or could be used for industrial purpose by industries in interstate commerce...
(4) All impoundments of waters otherwise defined as waters of the United States under the definition;
(5) Tributaries of waters identified in paragraphs (a) (1)-(4) of this section;
(6) The territorial seas;
(7) Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) (1)-(6) of this section.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 123.11(m) which also meet the criteria of this definition) are not waters of the United States.

(8) Waters of the United States do not include prior converted cropland.[7] Notwithstanding the determination of an area's status as prior converted cropland by any other federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with the EPA.

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[7] The term "prior converted cropland" is defined in the Corps' Regulatory Guidance Letter 90-7 (dated September 26, 1990) as "wetlands which were both manipulated (drained or otherwise physically altered to remove excess water from the land) and cropped before 23 December 1985, to the extent that they no longer exhibit important wetland values. Specifically, prior converted cropland is <u>inundated for no more than 14 consecutive days</u> during the growing season…." [Emphasis added.]

In the absence of wetlands, the limits of Corps jurisdiction in non-tidal waters, such as intermittent streams, extend to the OHWM which is defined at 33 CFR 328.3(e) as:

> *...that line on the shore established by the fluctuation of water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.*

B. <u>California Department of Fish and Game</u>

Pursuant to Division 2, Chapter 6, Sections 1600-1603 of the California Fish and Game Code, the CDFG regulates all diversions, obstructions, or changes to the natural flow or bed, channel, or bank of any river, stream, or lake, which supports fish or wildlife.

CDFG defines a "stream" (including creeks and rivers) as "a body of water that flows at least periodically or intermittently through a bed or channel having banks and supports fish or other aquatic life. This includes watercourses having surface or subsurface flow that supports or has supported riparian vegetation." CDFG's definition of "lake" includes "natural lakes or man-made reservoirs."

CDFG jurisdiction within altered or artificial waterways is based upon the value of those waterways to fish and wildlife. CDFG Legal Advisor has prepared the following opinion:

- Natural waterways that have been subsequently modified and which have the potential to contain fish, aquatic insects and riparian vegetation will be treated like natural waterways...

- Artificial waterways that have acquired the physical attributes of natural stream courses and which have been viewed by the community as natural stream courses, should be treated by [CDFG] as natural waterways...

- Artificial waterways without the attributes of natural waterways should generally not be subject to Fish and Game Code provisions...

Thus, CDFG jurisdictional limits closely mirror those of the Corps. Exceptions are CDFG's exclusion of isolated wetlands (those not associated with a river, stream, or lake), the addition of artificial stock ponds and irrigation ditches constructed on uplands, and the addition of riparian

habitat supported by a river, stream, or lake regardless of the riparian area's federal wetland status.

C. CCC Jurisdiction

Pursuant to the California Coastal Act (California Public Resources Code Section 30233), the CCC regulates the diking, filling, or dredging of wetlands within the coastal zone. The Coastal Act Section 30121 defines "wetlands" as land "*which may be covered periodically or permanently with shallow water*." The 1981 CCC Statewide Interpretive Guidelines state that hydric soils and hydrophytic vegetation, "*are useful indicators of wetland conditions, but the presence or absence of hydric soils and/or hydrophytes alone are not necessarily determinative when the Commission identifies wetlands under the Coastal Act. In the past, the Commission has considered all relevant information in making such determinations and relied upon the advice and judgment of experts before reaching its own independent conclusion as to whether a particular area will be considered wetland under the Coastal Act.*"

III. RESULTS

A. Corps Jurisdiction

Corps jurisdiction associated with the portion of Buck Gully within 200 feet of the property boundary totals approximately 0.026 acre of Waters of the United States, which consist of an intermittent or perennial stream, that exhibits areas of sparse emergent vegetation. Buck Gully is an intrastate waterway, tributary to the Pacific Ocean. The Corps retains jurisdiction of this drainage course because its final destination (i.e. the Pacific Ocean) is a navigable water. The boundaries of Corps jurisdictional waters are depicted on Exhibit 3a.

1. Description of Waters of the United States

Discharge observed within the Buck Gully drainage originates as dry weather flow from adjacent housing development and storm water runoff. The drainage is located to the north of the project site and extends from the northeast to the southwest to where it enters a concrete box culvert that carries flows beneath Pacific Coast Highway. The channel contains a soft bottom consisting of sand, gravel, and limited cobble and supports limited amounts of vegetation including alkali bulrush (*Scirpus maritimus*, OBL) and southern cattail (*Typha domingensis*, OBL). The OHWM varies from 10 to 13 feet in width within the reach that is within 200 feet of the property boundary.

The east bank of the drainage within the 200-foot reach supports areas of upland vegetation including Bermuda buttercup (*Oxalis pes-caprae*, UPL), cheeseweed (*Malva parviflora*, UPL), artichoke thistle (*Cynara cardunculus*, UPL), black mustard (*Brassica nigra*, UPL), lemonade berry (*Rhus integrifolia*, UPL), and unidentified ornamental groundcover. No wetlands occur on the eastern bank of the drainage within the 200-foot reach.

The west bank supports areas of upland vegetation including Bermuda buttercup (*Oxalis pes-caprae*, UPL), artichoke thistle (*Cynara cardunculus*, UPL), cheeseweed (*Malva parviflora*, UPL), Hottentot fig (*Carpobrotus edulis*, UPL), and fennel (*Foeniculum vulgare*, FACU). No wetlands occur on the western bank of the drainage within the 200-foot reach.

B. <u>CDFG Jurisdiction</u>

CDFG jurisdiction associated with the portion of Buck Gully within 200 feet of the property boundary totals approximately 0.026 acre of Waters of the State, which consist of an intermittent or perennial stream, that exhibits areas of sparse emergent vegetation. The boundaries of CDFG jurisdiction are depicted on Exhibit 3b.

1. Description of Waters of the State

Discharge observed within the Buck Gully drainage originates as dry weather flow from adjacent housing development and storm water runoff. The drainage is located to the north of the project site and extends from the northeast to the southwest to where it enters a concrete box culvert that carries flows beneath Pacific Coast Highway. The channel contains a soft bottom consisting of sand, gravel, and limited cobble and supports limited amounts of vegetation including alkali bulrush (*Scirpus maritimus*, OBL) and southern cattail (*Typha domingensis*, OBL). The channel varies from 10 to 13 feet in width (bank to bank) within the reach that is within 200 feet of the property boundary.

The east bank of the drainage within the 200-foot reach supports areas of upland vegetation including Bermuda buttercup (*Oxalis pes-caprae*, UPL), cheeseweed (*Malva parviflora*, UPL), artichoke thistle (*Cynara cardunculus*, UPL), black mustard (*Brassica nigra*, UPL), lemonade berry (*Rhus integrifolia*, UPL), and unidentified ornamental groundcover. No riparian habitat occurs on the eastern bank of the drainage within the 200-foot reach.

The west bank within the 200-foot reach supports areas of upland vegetation including Bermuda buttercup (*Oxalis pes-caprae*, UPL), artichoke thistle (*Cynara cardunculus*, UPL), cheeseweed

(*Malva parviflora*, UPL), Hottentot fig (*Carpobrotus edulis*, UPL), and fennel (*Foeniculum vulgare*, FACU). No riparian habitat occurs on the western bank of the drainage within the 200-foot reach.

C. CCC Jurisdiction

CCC jurisdiction associated with the portion of Buck Gully within 200 feet of the property boundary totals approximately 0.026 acre of intermittent or perennial stream, that exhibits areas of sparse emergent vegetation. The boundaries of CCC jurisdiction are depicted on Exhibit 3c.

1. Description of CCC Jurisdiction

Discharge observed within the Buck Gully drainage originates as dry weather flow from adjacent housing development and storm water runoff. The drainage is located to the north of the project site and extends from the northeast to the southwest to where it enters a concrete box culvert that carries flows beneath Pacific Coast Highway. The channel contains a soft bottom consisting of sand, gravel, and limited cobble and supports limited amounts of vegetation including alkali bulrush (*Scirpus maritimus*, OBL) and southern cattail (*Typha domingensis*, OBL). The channel varies from 10 to 13 feet in width (bank to bank) within the reach that is within 200 feet of the property boundary.

The east bank of the drainage within the 200-foot reach supports areas of upland vegetation including Bermuda buttercup (*Oxalis pes-caprae*, UPL), cheeseweed (*Malva parviflora*, UPL), artichoke thistle (*Cynara cardunculus*, UPL), black mustard (*Brassica nigra*, UPL), lemonade berry (*Rhus integrifolia*, UPL), and unidentified ornamental groundcover. No riparian habitat occurs on the eastern bank of the drainage within the 200-foot reach.

The west bank within the 200-foot reach supports areas of upland vegetation including Bermuda buttercup (*Oxalis pes-caprae*, UPL), artichoke thistle (*Cynara cardunculus*, UPL), cheeseweed (*Malva parviflora*, UPL), Hottentot fig (*Carpobrotus edulis*, UPL), and fennel (*Foeniculum vulgare*, FACU). No riparian habitat occurs on the western bank of the drainage within the 200-foot reach.

2. Wetlands Under the Coastal Act

The areas within the channel that support emergent vegetation consisting of alkali bulrush (*Scirpus maritimus*, OBL) and southern cattail (*Typha domengensis*, OBL) meet the Coastal definition of wetlands due to the presence of wetland hydrology and a predominance of wetland

indicator plants with an indicator status of FAC or wetter. The area of wetland within the 200-foot reach totals 0.005 acre.

IV. DISCUSSION

A. Impact Analysis

The project would not require discharge of fill into areas subject to Corps, CDFG or CCC jurisdiction within the Buck Gully drainage. As such, there would be no significant impacts to the Buck gully drainage associated with the project.

Portions of the Buck Gully drainage are within areas that could be potentially affected by fuel modification activities, including cutting of vegetation. The alkali bulrush and southern cattail are growing in the stream channel and account for minimal biomass and would not likely require removal or thinning, as they pose no fire risk or threat. As such, there would be no impacts to wetland vegetation associated with the project.

B. Buffers

Policy 4.2.2-3 of the City's Coastal Land Use Plan (CLUP) specifies that all wetland environmentally sensitive habitat areas (ESHA) shall have "a minimum buffer width of 100 feet wherever possible"; however, it is important to consider the entire policy set forth in 4.2.2-3:

> *Require buffer areas around wetlands of a sufficient size to ensure the biological integrity and preservation of the wetland that they are designed to protect. Wetlands shall have a minimum buffer width of 100 feet wherever possible. Smaller buffer widths may be allowed only where it can be demonstrated that 1) a 100 foot buffer is not possible due to site constraints, and 2) the proposed narrower buffer would be amply protective of the biological integrity of the wetland given the site-specific characteristics of the resource, and of the type and intensity of disturbance.* [Emphasis not in Original]

The project as proposed provides a setback of 72.3 feet from the 0.005-acre wetland area. Given the urban character of the area, including the predominance of non-native species that already dominate the banks of the stream and the adjacent slopes, as well as the setback from existing residential structures, which is as little as 70 feet in some areas, the proposed setback is sufficient to maintain the conditions as they currently exist. As a result, with provision of a 72.3-foot

buffer, there would be no significant indirect impacts to wetland ESHA associated with the project.

If you have any questions about this letter report, please contact either Glenn Lukos or Tony Bomkamp at (949) 837-0404.

Sincerely,

GLENN LUKOS ASSOCIATES, INC.

Tony Bomkamp
Senior Regulatory Specialist

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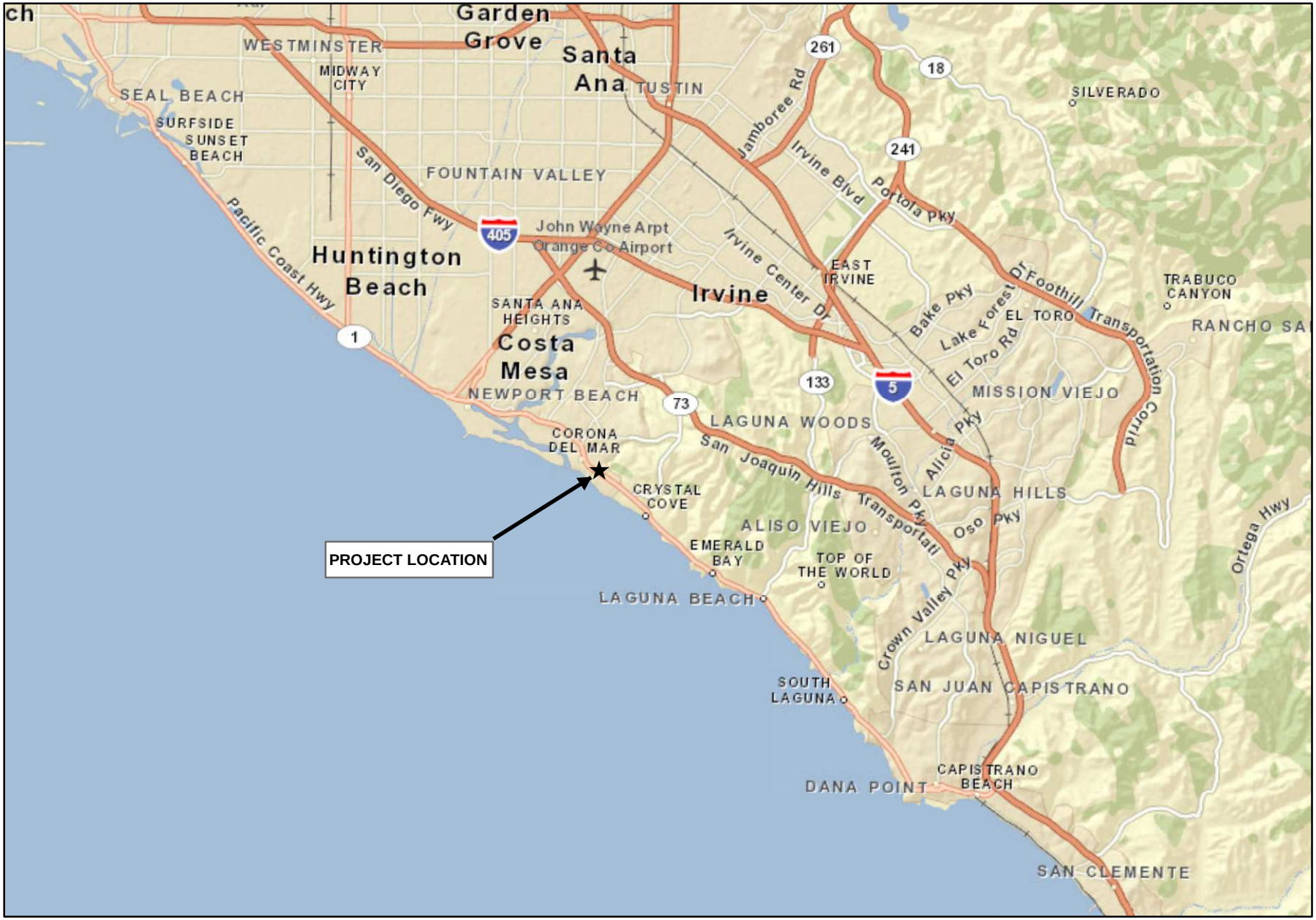
Exhibit 1:
Regional Map

Source: ESRI World Street Map



N

0 2 4 8 Miles

CORONA DEL MAR PLAZA

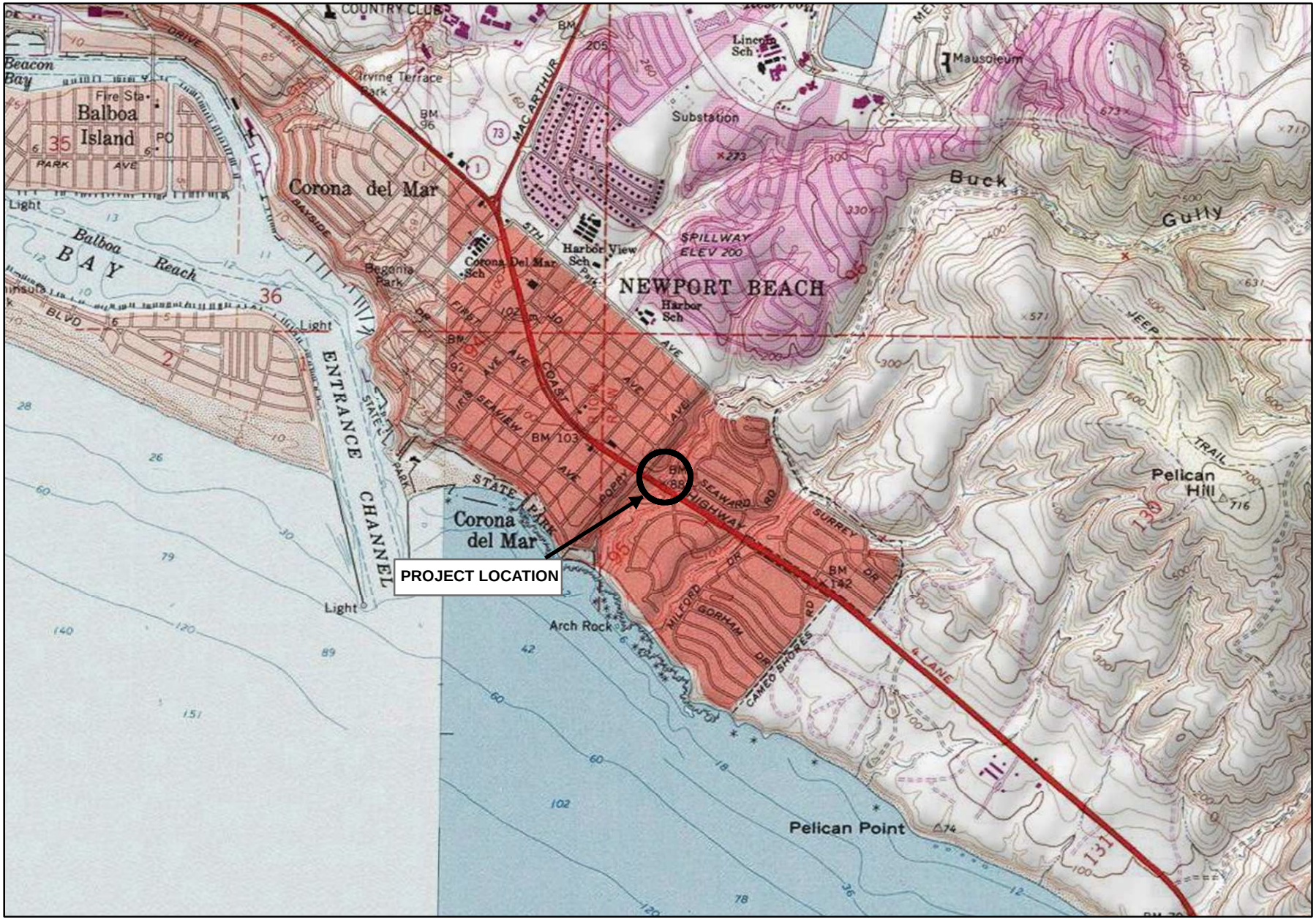
Regional Map

GLENN LUKOS ASSOCIATES

Exhibit 1

Exhibit 2:
Vicinity Map

Adapted from USGS Laguna Beach, CA quadrangle



N

0 1,000 2,000 4,000 Feet

CORONA DEL MAR PLAZA

Vicinity Map

GLENN LUKOS ASSOCIATES

Exhibit 2

Exhibit 3:
Jurisdictional Delineation Map

Legend

- SitePlan
- Waters of the US
- Vegetated Waters

N

0 30 60

Feet

1 inch = 60 feet

CORNOA DEL MAR PLAZA

Corps Jurisdiction

GLENN LUKOS ASSOCIATES

Exhibit 3a

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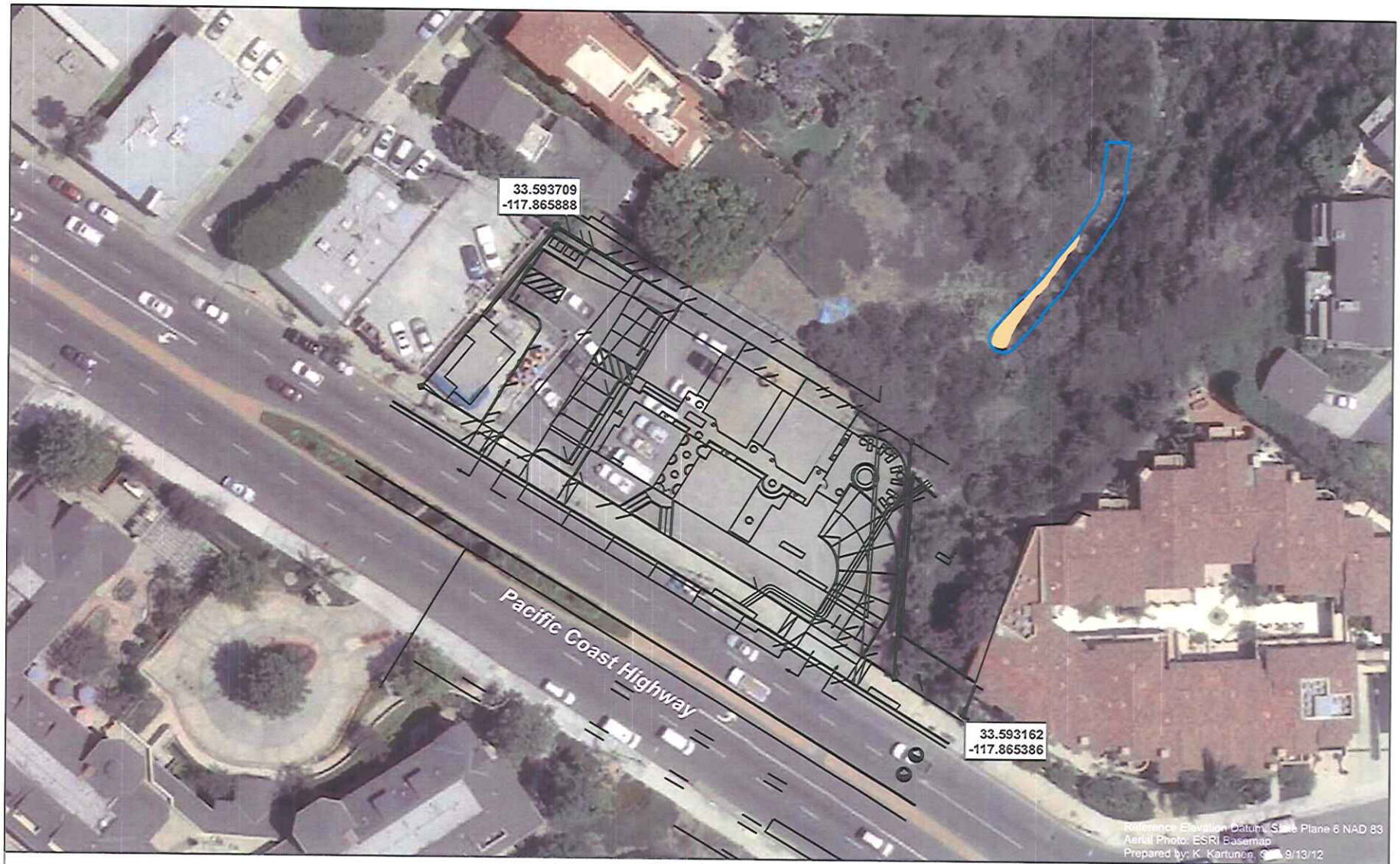
March 1, 2011



Legend

- SitePlan
- Waters of the State
- Emergent Vegetation

N

0 30 60

Feet

1 inch = 60 feet

CORNOA DEL MAR PLAZA

CDFG Jurisdiction

GLENN LUKOS ASSOCIATES

Exhibit 3b

X:\0363-THE REST\0814-08NEWP\814-8_GIS\Delineation\GIS\814-8DelineationCDFG.mxd

Legend

- SitePlan
- Stream
- Wetland Vegetation

N

0 30 60

Feet

1 inch = 60 feet

CORONA DEL MAR PLAZA

CCC Jurisdiction Buffer Map

GLENN LUKOS ASSOCIATES

Exhibit 3c

X:\0363-THE REST\0814-08NEWP\814-8_GIS\Delineation\GIS\814-8_SolterMap09-07-12.mxd

124/PC 8

Exhibit 4:
Site Photographs

Photo 1: View of stream with emergent vegetation.

CORONA DEL MAR PLAZA

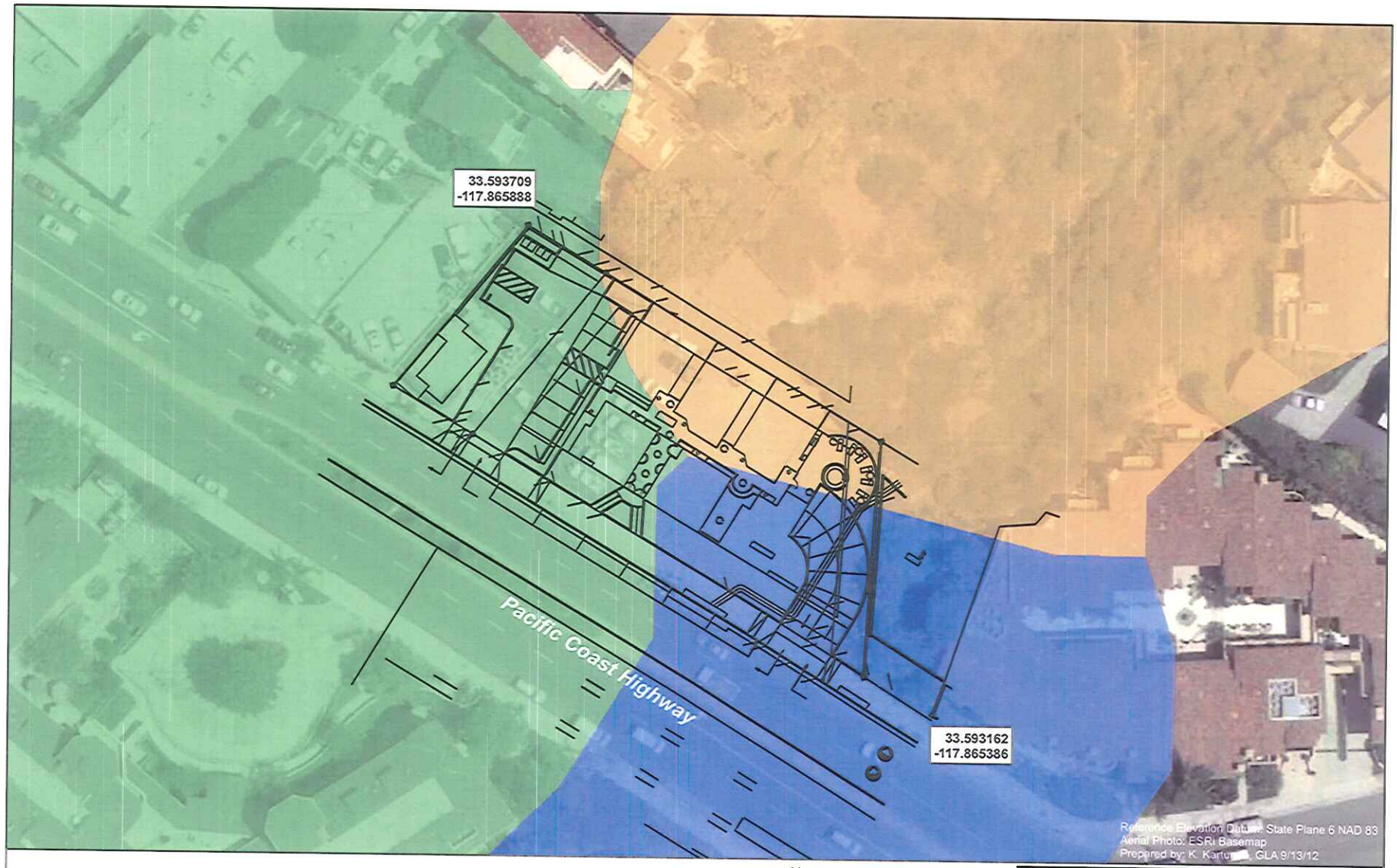
Site Photograph

GLENN LUKOS ASSOCIATES

Exhibit 4

126/PC 6

Exhibit 5:
Soils map



Legend

- SitePlan
- CALLEGUAS CLAY LOAM, 50 TO 75 PERCENT SLOPES, ERODED
- MYFORD SANDY LOAM, 2 TO 9 PERCENT SLOPES
- MYFORD SANDY LOAM, 9 TO 30 PERCENT SLOPES, ERODED

N

0 30 60

Feet

1 inch = 60 feet

CORONA DEL MAR PLAZA

Soils Map

GLENN LUKOS ASSOCIATES

Exhibit 5

X:\0363-THE REST\0814-08NEWP\814-2 GIS\Soils\GIS\814-8 Soils.mxd

Exhibit B

Acoustical Study

WIELAND ACOUSTICS, INC.
2691 Richter Avenue, Suite 114
Irvine, CA 92606
Tel: 949.474.1222
Fax: 949.474.9122
www.wielandacoustics.com

Preliminary
Acoustical Study for the Proposed Plaza Corona del Mar Townhomes, Corona del Mar, CA

Project File 09.041.00
November 5, 2009

Prepared for:

Mr. Magdi Hanna
3345 Newport Boulevard
Newport Beach, CA 92663

Prepared by:

David L. Wieland, Principal Consultant

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Appendix II. Traffic Noise Analysis
Appendix III. Interior Noise Analysis

1 Introduction

The proposed project involves the construction of seven townhouses over a common parking garage at 3918 E. Coast Highway in Corona del Mar. The project site is bounded on the northwest by a commercial parking lot for Gallo's Deli and some residential properties; on the northeast by an undeveloped canyon; on the southeast by single- and multi-family residential properties; and on the southwest by E. Coast Highway. Figure 1-1 identifies the location of the project site.

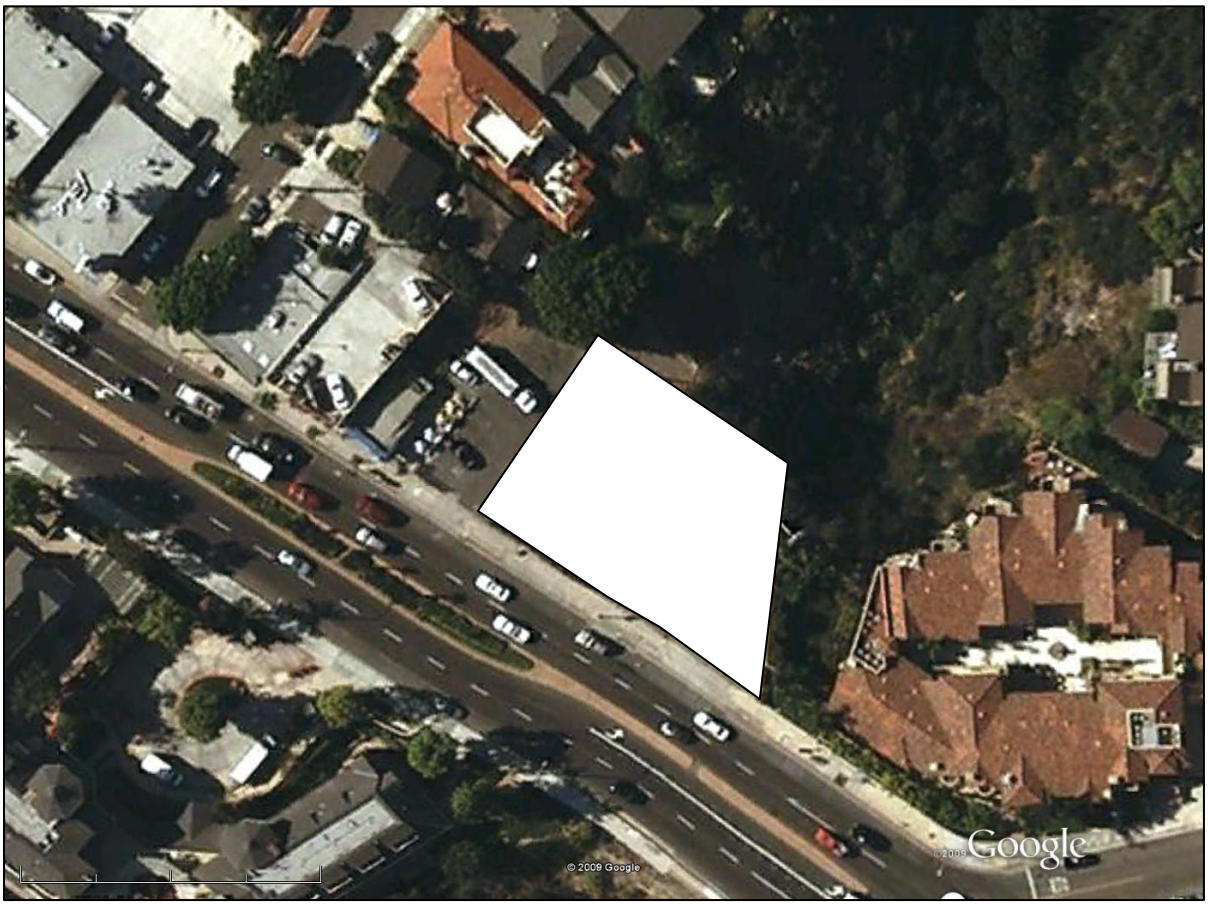


Figure 1-1. Project Site Location

Figure 1-2 provides the site plan for the project. The following report identifies the noise standards applied to the project, an analysis of future noise levels, an assessment of impact, and recommended mitigation measures.

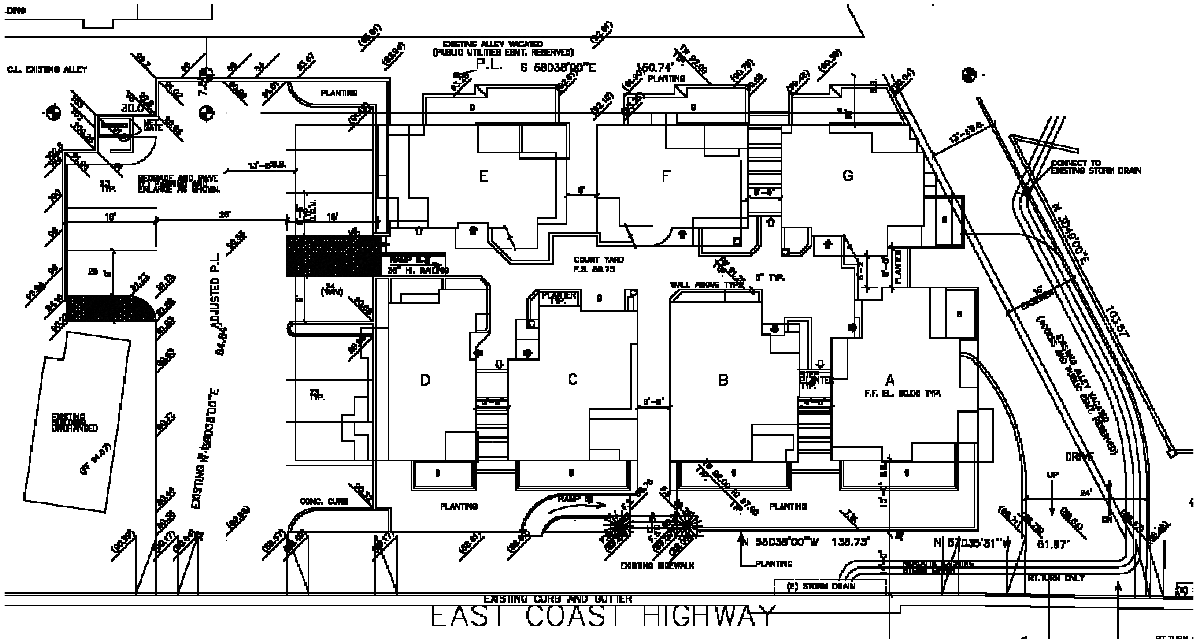


Figure 1-2. Project Site Plan

2 Noise Standards

2.1 City of Newport Beach General Plan Standards

The Noise Element of the City of Newport Beach General Plan specifies that, for residential developments, the interior CNEL (community noise equivalent level) shall not exceed 45 dB. (Refer to Appendix I for a glossary of acoustical terms used throughout this report.)

2.2 State of California Noise Insulation Standards

All multifamily projects must comply with the State of California's noise insulation standards (CAC Title 24). The State's Title 24 standards specify that the intrusion of noise from exterior sources (such as traffic) shall not exceed a CNEL of 45 dB within the interior of any habitable space. In addition to the exterior-to-interior noise requirements, the State standards set minimum ratings for the sound transmission of party wall and floor/ceiling separation assemblies. **This report only provides an evaluation of, and recommendations for, the exterior-to-interior requirements of the State standards. It is the project architect's responsibility to ensure compliance with the separation assembly requirements of the State standards.**

3 Exterior Noise Environment

3.1 Transportation Noise

The primary source of noise affecting the project site is traffic on E. Coast Highway. Table 3-1 provides the data used to estimate the future traffic noise exposure at the project site.

Table 3-1. Data Used in Future Traffic Noise Analysis

Traffic Parameter	E. Coast Hwy.
Roadway Configuration	4 lanes, divided
Average Daily Traffic Volume (ADT)	35,000 [a]
Speed Limit	45 mph
% Medium Trucks	1.38% [b]
% Heavy Trucks	0.53% [b]

Notes:
a. See Reference 1.
b. Caltrans.

Based on the above traffic data, it is estimated that the future traffic noise exposure will be 72.5 dB CNEL at the nearest facades to E. Coast Highway. The traffic noise analysis was conducted using the FHWA RD 77-108 Highway Traffic Noise Prediction Model. (Refer to Appendix II.)

3.2 Stationary Noise Sources

Adjacent to the northwest side of the project site is a deli with such noise sources as outdoor dining, ventilation fans, air conditioners, and a parking lot. In addition, there are occasional truck deliveries to the deli. Further to the northwest, and adjacent to the deli, is a commercial building with a parking lot, ventilation fans, and air conditioning compressors on the rooftop. During our site review no significant noise could be heard from any of these sources due to the high ambient traffic noise level at the project site. However, it is possible that noise from these sources may be audible at times, particularly during late evening and early morning hours or during lulls in traffic. It has been assumed in this study that the owners of the deli and the commercial building regulate their activities in order to conform to the City of Newport Beach's noise ordinance standards.

4 Assessment of Impact

As indicated in the Section 3.1, the future traffic noise exposure is estimated to be as high as 72.5 dB CNEL at the facades of the nearest proposed residential units to E. Coast Highway. Therefore the units will have to provide an exterior-to-interior noise reduction of up to 27.5 dB in order to comply with the City's General Plan interior noise standard of 45 dB CNEL.

5 Preliminary Noise Control Recommendations

1. All window and door assemblies used throughout the project shall be well fitted and well weather-stripped. The perimeters of all window and door frames shall be sealed to the exterior wall construction with a weather-resistant sealant. For residential units A through D, the window and door assemblies shall also be sound rated. Sound-rated assemblies with outdoor-indoor transmission class (OITC) ratings of up to approximately 34 may be required at the south, east and west elevations. The actual OITC ratings needed shall be determined as part of the final engineering design of the project. (Note: OITC ratings are not the same as the more typical STC ratings; care must be taken to avoid confusion between the two.)
2. All front entry doors throughout the project, other than the sound-rated assemblies discussed in Item 1, above, shall be well weather-stripped solid core wood or insulated hollow metal assemblies at least 1-3/4" thick.
3. For all residential units, the exterior walls shall be sound rated assemblies with OITC ratings of up to approximately 37. The actual OITC ratings needed shall be determined as part of the final engineering design of the project. An OITC rating of 37 may be achieved in many ways, including the following:
    a. Minimum 7/8" stucco exterior (where wood or stone veneer siding occurs, it shall be placed over the stucco).
    b. Stud space filled with minimum R-11 insulation batts.
    c. Minimum 5/8" gypsum wallboard interior.
    d. All joints well fitted and/or caulked to form an airtight seal.
4. The interior noise standard is to be met in all residential units with windows, doors and skylights closed. Therefore, ventilation is required in all residential units per the Uniform Building Code and Uniform Mechanical Code standards in order to provide a habitable environment. Wall-mounted air conditioners shall not be used.
5. For residential units A through D, all supply and return ducts to the exterior (including, but not limited to ducts serving HVAC equipment, attic-mounted equipment, bathroom fans, and dryer exhausts) shall have the first five feet from the exterior of 20-gauge steel duct that is internally lined with one-inch-thick coated glass fiber insulation. For compliance with health and safety requirements, kitchen exhaust ducts should not be lined. Each duct shall include a 90° bend within the first five feet from the exterior such that there is no direct line of sight through the duct. Where a full 90º bend cannot be achieved, two 45° bends in succession (to form a zigzag) may be used such that there is no direct line of sight through the duct. All duct openings shall be oriented away from E. Coast Highway.
6. For residential units E through G, all supply and return ducts to the exterior (including, but not limited to ducts serving HVAC equipment, attic-mounted equipment, bathroom fans, and dryer exhausts), shall be oriented away from E. Coast Highway, and shall incorporate at least 6' of flexible air duct with internal fiberglass lining and at least one 90° bend. For compliance with health and safety requirements, kitchen exhaust ducts should not be internally lined.

7. At residential units A through D, if building heating units with flues or combustion air vents are located within or adjacent to any occupied space, they shall be contained in a separate closet or room that is closed off from the occupied space by doors. The doors shall be weather-stripped solid core wood or minimum 20-gauge hollow steel assemblies at least 1 ¾”-thick.
8. Attic vents in all residential units shall be oriented away from E. Coast Highway. If such an orientation cannot be avoided, then an acoustic baffle shall be placed in the attic space behind the vent as shown in Figure 5-1.
9. At residential units A through D the roof system shall have minimum ¾” plywood sheathing that is well sealed to form a continuous barrier to noise. At residential units E through G the roof system shall have minimum ½” plywood sheathing. Minimum R-19 unfaced fiberglass insulation batts shall be placed on the underside of the roof sheathing or in the attic space.
10. At residential units A through D minimum 5/8” thick gypsum board or plaster ceilings shall be provided. At residential units E through G minimum ½”-thick gypsum board or plaster ceilings shall be provided. All joints in the ceiling shall be well fitted and/or caulked to form an airtight seal. Open-beam construction shall not be used.
11. At any penetrations of exterior walls by pipes, ducts or conduits, the space between the wall and pipes, ducts or conduits shall be caulked or filled with mortar to form an airtight seal.
12. Except as identified in Items 1 through 11 above, there shall be no other openings (through-the-wall or -door mailboxes, vents, etc.) in the exterior facades facing E. Coast Highway.
13. In order to minimize the buildup of intrusive traffic noise due to reverberation, the floors of all rooms within residential units A through D, except bathrooms and kitchens, shall be carpeted with minimum 5/16” pile height carpeting over a resilient pad.

Final noise control recommendations should be prepared during the final engineering stage of the design, and should be based on final site and architectural plans.

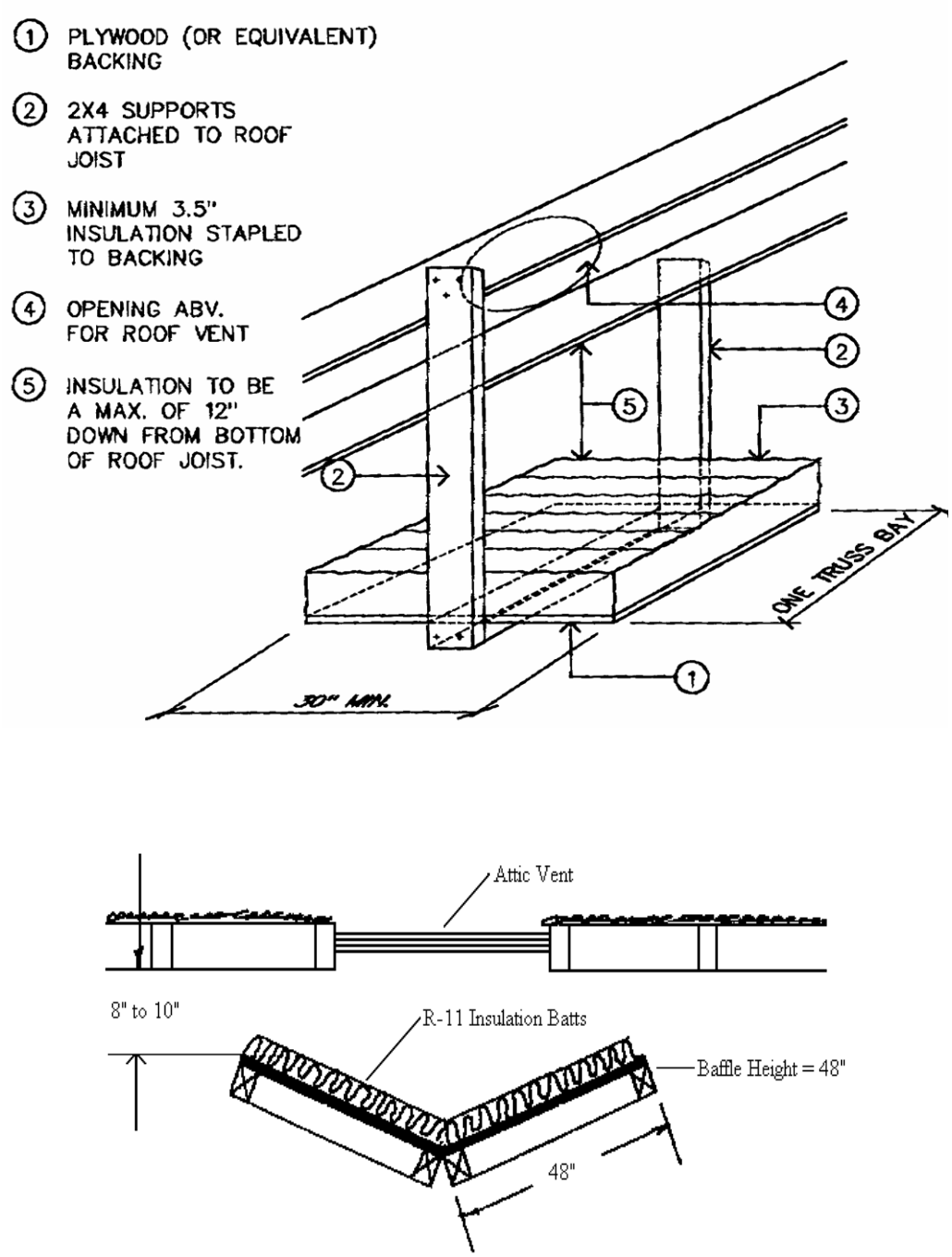


Figure 5-1. Acoustical Baffle Details for Attic Vents

6 Party Wall and Floor/Ceiling Separation Assemblies

The State noise insulation standards (Title 24) specify minimum sound ratings for party wall and floor/ceiling separation assemblies. The design of these assemblies is beyond the scope of this report. **It is the project architect's responsibility to verify compliance with the separation assembly requirements of the State standards.**

7 Conclusion

Analysis indicates that the project site is exposed to significant levels of noise as a result of traffic on E. Coast Highway. However, it is concluded that, with the preliminary recommendations provided herein, the project will comply with the City's interior noise standards for residential properties.

The analysis and recommendations provided in this report are based on preliminary project design drawings. Therefore, it is further recommended that the final design of the project be reviewed by a qualified acoustical consultant to verify compliance with the City and State interior noise standards.

8 Implementation Disclaimer

Wieland Acoustics assumes no responsibility whatsoever for the implementation of the recommendations provided in this report, or for the details of construction or the final noise levels following completion of the project. We are responsible only for the accuracy of our calculations, which are based on the construction elements detailed in this report. No guarantees or assurances are given or implied.

9 References

1. *City of Newport Beach General Plan Transportation Study, Newport Beach, California*. Urban Crossroads. March 22, 2006. (Provided as Appendix D, *Traffic Study*, of *City of Newport Beach Draft Environmental Impact Report Appendices, General Plan 2006 Update*, Volume II, April 2006.
2. *Architectural Drawings, Sheets A-1, A-2, A-2.1, A-2.2, A-3, and A-3.1.* Marcelo E. Lische Architect AIA. August 25, 2009.

APPENDIX I

Glossary of Acoustical Terms

Glossary of Terms

The following is a list of definitions of terms commonly used in the field of acoustics. Some, or all, of these terms may have been used in the preceding report:

Ambient Noise: The all-encompassing noise associated with a given environment at a specified time, usually a composite of sound from many sources both near and far.

Average Sound Level: See *Equivalent-Continuous Sound Level*.

A-Weighted Sound Level, dB(A): The *sound level* obtained by use of A-weighting. Weighting systems were developed to measure sound in a way that more closely mimics the ear's natural sensitivity. The A-weighting system is incorporated into the *sound level meter* to alter its sensitivity relative to *frequency* so that the instrument is less sensitive to noise at frequencies where the human ear is less sensitive and more sensitive at frequencies where the human ear is more sensitive. (Refer to Figure I-1 for typical noise source levels.)

Community Noise Equivalent Level (CNEL): A 24-hour A-weighted average sound level which takes into account the fact that a given level of noise may be more or less tolerable depending on when it occurs. The CNEL measure of noise exposure weights average hourly noise levels by 5 dB for the evening hours (between 7:00 p.m. and 10:00 p.m.), and 10 dB between 10:00 p.m. and 7:00 a.m., then combines the results with the daytime levels to produce the final CNEL value. It is measured in decibels, dB. (Refer to Figure I-2 for typical noise exposure levels.)

CNEL: See *Community Noise Equivalent Level*.

Day-Night Average Sound Level (Ldn): A measure of noise exposure level that is similar to *CNEL* except that there is no weighting applied to the evening hours of 7:00 p.m. to 10:00 p.m. It is measured in *decibels*, dB. (Refer to Figure I-2 for typical noise exposure levels.)

Daytime Average Sound Level (Leq12): The time-averaged *A-weighted sound level* measured between the hours of 7:00 am to 7:00 pm. It is measured in *decibels*, dB.

Decay Rate: The time taken for the *sound pressure level* at a given *frequency* to decrease in a room. It is measured in *decibels* per second, dB/s.

Decibel (dB): The basic unit of measure for *sound level*.

Direct Sound: Sound that reaches a given location in a direct line from the source without any reflections.

Divergence: The spreading of sound waves from a source in a free field, resulting in a reduction in *sound pressure level* with increasing distance from the source.

Energy Basis: This refers to the procedure of summing or averaging *sound pressure levels* on the basis of their squared pressures. This method involves the conversion of *decibels* to pressures, then performing the necessary arithmetic calculations, and finally changing the pressures back to *decibels*.

Equivalent-Continuous Sound Level (Leq): The average *sound level* measured over a specified time period. It is a single-number measure of time-varying *noise* over a specified time period. It is the level of a steady sound that, in a stated time period and at a stated location, has the same A-weighted sound energy as the time-varying sound. For example, a person who experiences an

Leq of 60 dB(A) for a period of 10 minutes standing next to a busy street is exposed to the same amount of sound energy as if he had experienced a constant noise level of 60 dB(A) for 10 minutes rather than the time-varying traffic noise level. It is measured in *decibels*, dB.

Fast Response: A setting on the *sound level meter* that determines how *sound levels* are averaged over time. A *fast* sound level is always more strongly influenced by recent sounds, and less influenced by sounds occurring in the distant past, than the corresponding *slow* sound level. For the same non-steady sound, the maximum *fast* sound level is generally greater than the corresponding maximum *slow* sound level. *Fast* response is typically used to measure *impact* sound levels.

Field Impact Insulation Class (FIIC): A single number rating similar to the *impact insulation class* except that the impact *sound pressure levels* are measured in the field.

Field Sound Transmission Class (FSTC): A single number rating similar to *sound transmission class* except that the *transmission loss* values used to derive this class are measured in the field.

FIIC: See *Field Impact Insulation Class*.

Flanking Sound Transmission: The transmission of sound from a room in which a source is located to an adjacent receiving room by paths other than through the common partition. Also, the diffraction of noise around the ends of a barrier.

Frequency: The number of oscillations per second of a sound wave (i.e., the number of cycles per second). It is measured in hertz, Hz.

FSTC: See *Field Sound Transmission Class*.

Hertz (Hz): See *Frequency.*

Hourly Average Sound Level (HNL): The *equivalent-continuous sound level, Leq,* over a 1-hour time period. It is measured in *decibels*.

Impact Insulation Class (IIC): A single number rating used to compare the effectiveness of floor/ceiling assemblies in providing reduction of impact-generated sounds such as the sound of a person walking across the upstairs floor.

Impact Noise: The noise that results when two objects collide.

Impulse Noise: Noise of a transient nature due to a sudden impulse of pressure like that created by a gunshot or a balloon bursting.

Insertion Loss: The decrease in *sound power level* measured at the location of the receiver when an element (e.g., a noise barrier) is inserted in the transmission path between the sound source and the receiver. It is measured in *decibels*.

Inverse Square Law: A rule by which the sound intensity varies inversely with the square of the distance from the source. This results in a 6 dB decrease in *sound pressure level* for each doubling of distance from the source.

L_2, L_8, L_{25}, L_{50}: See *X-Percentile-Exceeded Sound Level*.

Ldn: See *Day-Night Average Sound Level*.

Leq: See *Equivalent-Continuous Sound Level*.

Leq(12): See *Daytime Average Sound Level*.

Lmax: See *Maximum Sound Level*.

L_n: See *X-Percentile-Exceeded Sound Level*.

Lpk: See *Peak Sound Level*.

Masking: The process by which the threshold of hearing for one sound is raised by the presence of another sound.

Maximum Sound Level (Lmax): The greatest *sound level* measured on a *sound level meter* during a designated time interval or event. It is measured in *decibels*.

NC Curves (Noise Criterion Curves): A system for rating the noisiness of an occupied indoor space. An actual *octave-band spectrum* is compared with a set of standard NC curves to determine the NC level of the space.

NIC: See *Noise Isolation Class*.

NNIC: See *Normalized Noise Isolation Class*.

Noise: Any unwanted or disagreeable sound.

Noise Criterion Curves: See *NC Curves*.

Noise Isolation Class (NIC): A single number rating derived from measured values of *noise reduction* between two enclosed spaces that are connected by one or more partitions. Unlike *STC* or *NNIC*, this rating is not adjusted or normalized to a measured or standard *reverberation time*.

Noise Reduction: The difference in *sound pressure level* between any two points.

Noise Reduction Coefficient (NRC): A single number rating of the *sound absorption* properties of a material. It is the average of the *sound absorption coefficients* at 250, 500, 1000, and 2000 Hz, rounded to the nearest multiple of 0.05.

Normalized Noise Isolation Class (NNIC): A single number rating similar to the *noise isolation class* except that the measured *noise reduction* values are normalized to a *reverberation time* of 0.5 seconds.

NRC: See *Noise Reduction Coefficient*.

Octave: The *frequency* interval between two sounds whose frequency ratio is 2. For example, the frequency interval between 500 Hz and 1,000 Hz is one octave.

Octave-Band Sound Level (Octave-Band Level): For an octave frequency band, the *sound pressure level* of the sound contained within that band. It is measured in *decibels*.

One-Third Octave: The *frequency* interval between two sounds whose frequency ratio is $2^{1/3}$ (1.26). For example, the frequency interval between 200 Hz and 250 Hz is one-third octave.

One-Third-Octave-Band Sound Level (One-Third-Octave-Band Level): For a one-third-octave frequency band, the *sound pressure level* of the sound contained within that band. It is measured in *decibels*.

Outdoor-Indoor Transmission Class (OITC): A single number rating used to compare the *sound insulation* properties of building façade elements. This rating is designed to correlate with subjective impressions of the ability of facade elements to reduce the overall loudness of ground and air transportation noise.

Peak Sound Level (Lpk): The maximum instantaneous *sound level* during a stated time period or event. It is measured in *decibels*.

Pink Noise: Noise that has approximately equal intensities at each *octave* or *one-third-octave* band.

Point Source: A source that radiates sound as if from a single point.

RC Curves (Room Criterion Curves): A system for rating the noisiness of an occupied indoor space. An actual *octave-band spectrum* is compared with a set of standard RC curves to determine the RC level of the space.

Real-Time Analyzer (RTA): An instrument for the determination of a sound *spectrum*.

Receiver: A person (or persons) or equipment which is affected by *noise*.

Reflected Sound: Sound that persists in an enclosed space as a result of repeated reflections or scattering. It does not include sound that travels directly from the source without reflections.

Reverberation: The persistence of a sound in an enclosed or partially enclosed space after the source of the sound has stopped, due to the repeated reflection of the sound waves.

Reverberation Time (T_{60}): The time required for the *sound pressure level* of a given *frequency* in an enclosed or partially enclosed space to decrease by 60 dB after the source of the sound has stopped. It is measured in seconds.

Room Absorption: The total absorption within a room due to all objects, surfaces and air absorption within the room. It is measured in Sabins or metric Sabins.

Room Criterion Curves: See *RC Curves*.

RTA: See *Real-Time Analyzer*.

SLM: See *Sound Level Meter*.

Slow Response: A setting on the *sound level meter* that determines how measured *sound levels* are averaged over time. A *slow* sound level is more influenced by sounds occurring in the distant past that the corresponding *fast* sound level.

Sound: A physical disturbance in a medium (e.g., air) that is capable of being detected by the human ear.

Sound Absorption: The process of dissipation of sound energy, and the property of materials and structures to dissipate sound energy.

Sound Absorption Coefficient (α): A measure of the sound-absorptive property of a material.

Sound Insulation: The capacity of a structure or element to prevent sound from reaching a receiver room either by absorption or reflection.

Sound Level: See *Sound Pressure Level*.

Sound Level Meter (SLM): An instrument used for the measurement of *sound level*, with a standard frequency-weighting and standard exponentially weighted time averaging.

Sound Power Level: A physical measure of the amount of power a sound source radiates into the surrounding air. It is measured in *decibels*.

Sound Pressure Level: A physical measure of the magnitude of a sound. It is related to the sound's energy. The terms *sound pressure level* and *sound level* are often used interchangeably. It is measured in *decibels*.

Sound Transmission Class (STC): A single number rating used to compare the *sound insulation* properties of walls, floors, ceilings, windows, or doors. This rating is designed to correlate with subjective impressions of the ability of building elements to reduce the overall loudness of speech, radio, television, and similar noise sources in offices and buildings.

Source Room: A room that contains a noise source or sources.

Spectrum: The spectrum of a sound wave is a description of its resolution into components, each of different *frequency* and usually different amplitude (level).

STC: See *Sound Transmission Class*.

T_{60}: See *Reverberation Time*.

Tapping Machine: A device used in rating different floor constructions against impacts. It produces a series of impacts on the floor under test, 10 times per second.

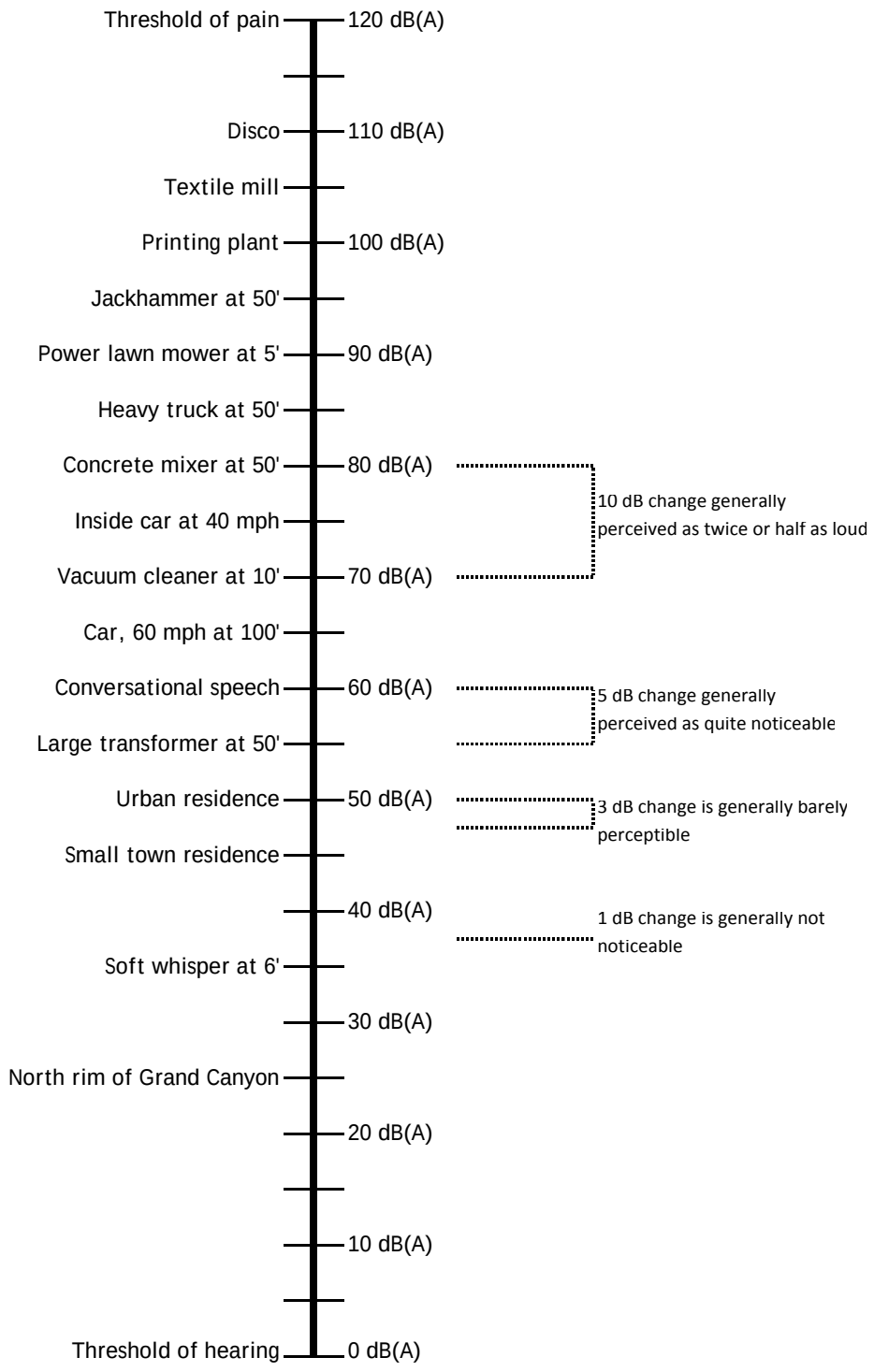
Tone: A sound with a distinct pitch (i.e., a dominant *frequency*).

Transmission Loss (TL): A property of a material or structure describing its ability to reduce the transmission of sound at a particular *frequency* from one space to another. The higher the TL value the more effective the material or structure is in reducing sound between two spaces. It is measured in *decibels*.

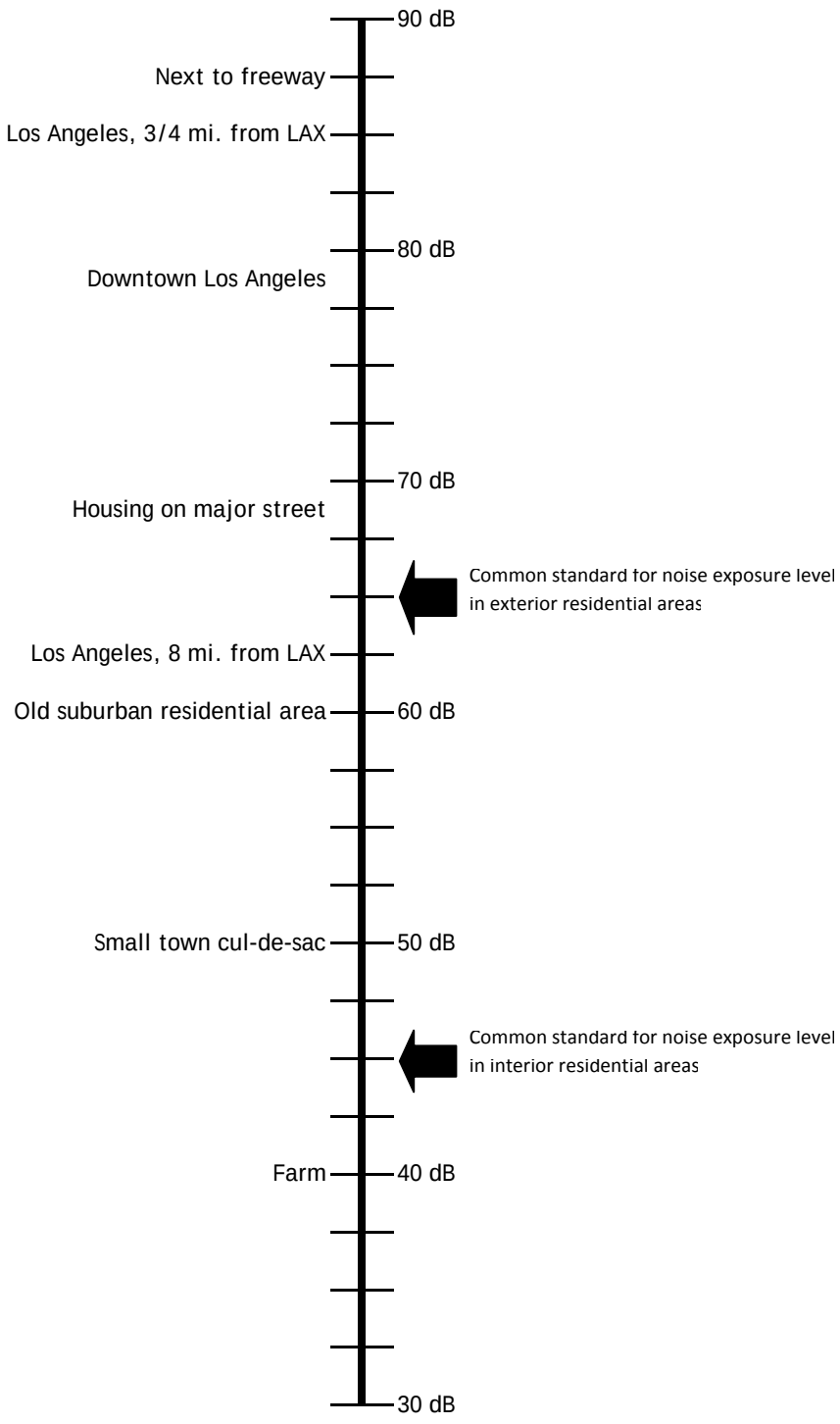
White Noise: Noise that has approximately equal intensities at all *frequencies*. (White noise need not be random noise.)

Windscreen: A porous covering for a microphone, designed to reduce the noise generated by the passage of wind over the microphone.

X-Percentile-Exceeded Sound Level (L_n): The *A-weighted sound level* equaled or exceeded by a fluctuating *sound level x* percent of a stated time period. E.g., the letter symbol L_{10} represents the *sound level* which is exceeded 10 percent of the stated time period. For a 1-hour measurement, L_{50} is the *sound level* exceeded for more than 30 minutes in an hour, L_{25} is the *sound level* exceeded for more than 15 minutes in an hour, L_8 is the *sound level* exceeded for more than 5 minutes in an hour, and L_2 is the *sound level* exceeded for more than 1 minute in an hour.



WIELAND ACOUSTICS, INC.	Common Noise Sources and A-Weighted Noise Levels	**I-1**



WIELAND ACOUSTICS, INC.	Common CNEL and Ldn Noise Exposure Levels at Various Locations	**I-2**

APPENDIX II

Traffic Noise Analysis

Table II-1. Analysis of Unmitigated Traffic Noise Levels at Nearest Bldg. Façade, from E. Coast Hwy.

ADT: 35,000 ***No. of Lanes:*** 4 ***Date:*** Oct. 30, 2009

Site Conditions: Hard

Noise Emission Curves: Calveno

Autos:	Total %:	95.51%	Daytime %:	74.03%	Evening %:	12.32%	Nighttime %:	9.16%
Medium Trucks:	Total %:	1.38%	Daytime %:	1.17%	Evening %:	0.07%	Nighttime %:	0.14%
Heavy Trucks:	Total %:	0.53%	Daytime %:	0.46%	Evening %:	0.01%	Nighttime %:	0.06%

Elevations:	Source:	0.0 ft.	Barrier:	0.0 ft.	Receiver:	0.0 ft.
Heights:	Source:	varies	Barrier:	0.0 ft.	Receiver:	5.0 ft.

Gradient of Near Lane: 4.30 %

Angle of View, Left: -90.0 deg.

Angle of View, Right: 90.0 deg.

Speed Limit: 45 mph

Distance from Receiver to Lanes,		***Calibration Factor for Each Lane,***	
#1:	40.0 ft.	***#1:***	0.0 dB
#2:	52.0 ft.	***#2:***	0.0 dB
#3:	ft.	***#3:***	dB
#4:	79.0 ft.	***#4:***	0.0 dB
#5:	91.0 ft.	***#5:***	0.0 dB
#6:	ft.	***#6:***	dB

Average Daytime Leq: 71.1 dB(A) ***Average Evening Leq:*** 68.6 dB(A) ***Average Nighttime Leq:*** 63.3 dB(A)

CNEL: 72.4 dB

Ldn: 71.9 dB

APPENDIX III

Interior Noise Analysis

Table III-1. Calculation of Interior Noise Levels *

Client:	Mr. Magdi Hanna	Project No.	09.041.00
Case:	Unit D, 1st Floor Bedroom	Date:	Nov. 4, 2009

NOISE SOURCE:

Source #	Source Name
2	Traffic

SOUND ABSORPTION:

Type	Area	Material	Type	Area	Material
6	161	Carpet, 5/16" Pile and Foam			
17	543	1/2" Gypsum Board, Painted			
35	64	Padded Furniture			
16	82	24 oz. Glass Operable Windows (C			

PARTITION ELEMENTS:

	South		West			
Element	Type	Area	Type	Area	Type	Area
Wall	1	50	1	35		
Windows						
Openable						
Fixed			77	4		
Doors						
Entry						
Sliding Glass	104	78				
French						
Wall A/C						
Miscellaneous						

EXTERIOR LEVEL:

	South	West	
CNEL	72.5	69.5	

INTERIOR LEVEL:

	Partition #1	Partition #2	Partition #3	**Sum**
CNEL	44.3	33.3	0.0	**44.6**

Partition Elements are:

	Partition #1	Partition #2	Partition #3
Element	OITC	OITC	OITC
Wall	37	37	
Openable Window			
Fixed Window		32	
Entry Door			
Sliding Glass Dr.	32		
French Door			
Wall A/C			
Miscellaneous			

* Analysis based on FHWA-EWR method per E966-99, Section 9.72, with 3 dB correction for room center.

Table III-2. Calculation of Interior Noise Levels *

Client:	Mr. Magdi Hanna	Project No.	09.041.00
Case:	Unit C, 1st Floor Bedroom	Date:	Nov. 4, 2009

NOISE SOURCE:

Source #	Source Name
2	Traffic

SOUND ABSORPTION:

Type	Area	Material	Type	Area	Material
6	116	Carpet, 5/16" Pile and Foam			
17	415	1/2" Gypsum Board, Painted			
35	46	Padded Furniture			
16	48	24 oz. Glass Operable Windows (C			

PARTITION ELEMENTS:

	South		West			
Element	Type	Area	Type	Area	Type	Area
Wall	1	28	1	98		
Windows						
Openable						
Fixed						
Doors						
Entry						
Sliding Glass	104	48				
French						
Wall A/C						
Miscellaneous						

EXTERIOR LEVEL:

	South	West	
CNEL	72.5	69.5	

INTERIOR LEVEL:

	Partition #1	Partition #2	Partition #3	**Sum**
CNEL	43.4	37.8	0.0	**44.5**

Partition Elements are:

Element	Partition #1 OITC	Partition #2 OITC	Partition #3 OITC
Wall	37	37	
Openable Window			
Fixed Window			
Entry Door			
Sliding Glass Dr.	32		
French Door			
Wall A/C			
Miscellaneous			

* Analysis based on FHWA-EWR method per E966-99, Section 9.72, with 3 dB correction for room center.

Table III-3. Calculation of Interior Noise Levels *

Client:	Mr. Magdi Hanna	Project No.	09.041.00
Case:	Unit B, 1st Floor Bedroom	Date:	Nov. 4, 2009

NOISE SOURCE:

Source #	Source Name
2	Traffic

SOUND ABSORPTION:

Type	Area	Material	Type	Area	Material
6	115	Carpet, 5/16" Pile and Foam			
17	409	1/2" Gypsum Board, Painted			
35	46	Padded Furniture			
16	51	24 oz. Glass Operable Windows (C			

PARTITION ELEMENTS:

	South		West		East	
Element	Type	Area	Type	Area	Type	Area
Wall	1	24	1	98		
Windows						
Openable						
Fixed						
Doors						
Entry						
Sliding Glass	104	51				
French						
Wall A/C						
Miscellaneous						

EXTERIOR LEVEL:

	South	West	East
CNEL	72.5	69.5	

INTERIOR LEVEL:

	Partition #1	Partition #2	Partition #3	**Sum**
CNEL	43.6	37.8	0.0	**44.6**

Partition Elements are:

	Partition #1	Partition #2	Partition #3
Element	OITC	OITC	OITC
Wall	37	37	
Openable Window			
Fixed Window			
Entry Door			
Sliding Glass Dr.	32		
French Door			
Wall A/C			
Miscellaneous			

* Analysis based on FHWA-EWR method per E966-99, Section 9.72, with 3 dB correction for room center.

Table III-4. Calculation of Interior Noise Levels *

Client:	Mr. Magdi Hanna	Project No.	09.041.00
Case:	Unit D, 2nd Floor Living Room	Date:	Nov. 4, 2009

NOISE SOURCE:

Source #	Source Name
2	Traffic

SOUND ABSORPTION:

Type	Area	Material	Type	Area	Material
6	187	Carpet, 5/16" Pile and Foam			
17	536	1/2" Gypsum Board, Painted			
35	75	Padded Furniture			
16	152	24 oz. Glass Operable Windows (C			

PARTITION ELEMENTS:

	South		West		East	
Element	Type	Area	Type	Area	Type	Area
Wall	1	33	1	104	1	15
Windows						
Openable	207	66			207	30
Fixed			89	8		
Doors						
Entry						
Sliding Glass	108	48				
French						
Wall A/C						
Miscellaneous						

EXTERIOR LEVEL:

	South	West	East
CNEL	72.5	69.5	69.5

INTERIOR LEVEL:

	Partition #1	Partition #2	Partition #3	**Sum**
CNEL	43.1	36.8	34.1	**44.4**

Partition Elements are:

	Partition #1	Partition #2	Partition #3
Element	OITC	OITC	OITC
Wall	37	37	37
Openable Window	35		35
Fixed Window		34	
Entry Door			
Sliding Glass Dr.	34		
French Door			
Wall A/C			
Miscellaneous			

* Analysis based on FHWA-EWR method per E966-99, Section 9.72, with 3 dB correction for room center.

Table III-5. Calculation of Interior Noise Levels *

Client:	Mr. Magdi Hanna	Project No.	09.041.00
Case:	Unit D, 2nd Floor Dining Room	Date:	Nov. 4, 2009

NOISE SOURCE:

Source #	Source Name
2	Traffic

SOUND ABSORPTION:

Type	Area	Material	Type	Area	Material
6	52	Carpet, 5/16" Pile and Foam			
17	265	1/2" Gypsum Board, Painted			
35	21	Padded Furniture			
16	48	24 oz. Glass Operable Windows (C			

PARTITION ELEMENTS:

	South		West		East	
Element	Type	Area	Type	Area	Type	Area
Wall	1	11			1	71
Windows						
Openable						
Fixed						
Doors						
Entry						
Sliding Glass	108	48				
French						
Wall A/C						
Miscellaneous						

EXTERIOR LEVEL:

	South	West	East
CNEL	72.5	69.5	69.5

INTERIOR LEVEL:

	Partition #1	Partition #2	Partition #3	**Sum**
CNEL	44.2	0.0	38.6	**45.3**

Partition Elements are:

	Partition #1	Partition #2	Partition #3
Element	OITC	OITC	OITC
Wall	37		37
Openable Window			
Fixed Window			
Entry Door			
Sliding Glass Dr.	34		
French Door			
Wall A/C			
Miscellaneous			

* Analysis based on FHWA-EWR method per E966-99, Section 9.72, with 3 dB correction for room center.

Table III-6. Calculation of Interior Noise Levels *

Client:	Mr. Magdi Hanna	Project No.	09.041.00
Case:	Unit C, 2nd Floor Living Room	Date:	Nov. 4, 2009

NOISE SOURCE:

Source #	Source Name
2	Traffic

SOUND ABSORPTION:

Type	Area	Material	Type	Area	Material
6	201	Carpet, 5/16" Pile and Foam			
17	664	1/2" Gypsum Board, Painted			
35	80	Padded Furniture			
16	48	24 oz. Glass Operable Windows (C			

PARTITION ELEMENTS:

	South		West		East	
Element	Type	Area	Type	Area	Type	Area
Wall	1	34	1	121	1	15
Windows						
Openable						
Fixed	89	101			89	23
Doors						
Entry						
Sliding Glass					108	40
French						
Wall A/C						
Miscellaneous						

EXTERIOR LEVEL:

	South	West	East
CNEL	72.5	69.5	69.5

INTERIOR LEVEL:

	Partition #1	Partition #2	Partition #3	**Sum**
CNEL	42.3	36.7	37.7	**44.4**

Partition Elements are:

	Partition #1	Partition #2	Partition #3
Element	OITC	OITC	OITC
Wall	37	37	37
Openable Window			
Fixed Window	34		34
Entry Door			
Sliding Glass Dr.			34
French Door			
Wall A/C			
Miscellaneous			

* Analysis based on FHWA-EWR method per E966-99, Section 9.72, with 3 dB correction for room center.

Table III-7. Calculation of Interior Noise Levels *

Client:	Mr. Magdi Hanna	Project No.	09.041.00
Case:	Unit C, 2nd Floor Dining Room	Date:	Nov. 4, 2009

NOISE SOURCE:

Source #	Source Name
2	Traffic

SOUND ABSORPTION:

Type	Area	Material	Type	Area	Material
6	108	Carpet, 5/16" Pile and Foam			
17	431	1/2" Gypsum Board, Painted			
35	43	Padded Furniture			
16	54	24 oz. Glass Operable Windows (C			

PARTITION ELEMENTS:

	South		West		East	
Element	Type	Area	Type	Area	Type	Area
Wall	1	81			1	103
Windows						
Openable						
Fixed	89	6				
Doors						
Entry						
Sliding Glass	108	48				
French						
Wall A/C						
Miscellaneous						

EXTERIOR LEVEL:

	South	West	East
CNEL	72.5	69.5	69.5

INTERIOR LEVEL:

	Partition #1	Partition #2	Partition #3	**Sum**
CNEL	44.0	0.0	38.0	**45.0**

Partition Elements are:

	Partition #1	Partition #2	Partition #3
Element	OITC	OITC	OITC
Wall	37		37
Openable Window			
Fixed Window	34		
Entry Door			
Sliding Glass Dr.	34		
French Door			
Wall A/C			
Miscellaneous			

* Analysis based on FHWA-EWR method per E966-99, Section 9.72, with 3 dB correction for room center.

Table III-8. Calculation of Interior Noise Levels *

Client:	Mr. Magdi Hanna	Project No.	09.041.00
Case:	Unit B, 2nd Floor Living Room	Date:	Nov. 4, 2009

NOISE SOURCE:

Source #	Source Name
2	Traffic

SOUND ABSORPTION:

Type	Area	Material	Type	Area	Material
6	210	Carpet, 5/16" Pile and Foam			
17	615	1/2" Gypsum Board, Painted			
35	84	Padded Furniture			
16	117	24 oz. Glass Operable Windows (C			

PARTITION ELEMENTS:

	South		West		East	
Element	Type	Area	Type	Area	Type	Area
Wall	1	72	1	124	1	19
Windows						
Openable						
Fixed	89	65				
Doors						
Entry						
Sliding Glass					108	52
French						
Wall A/C						
Miscellaneous						

EXTERIOR LEVEL:

	South	West	East
CNEL	72.5	69.5	69.5

INTERIOR LEVEL:

	Partition #1	Partition #2	Partition #3	**Sum**
CNEL	41.6	36.7	37.3	**43.9**

Partition Elements are:

	Partition #1	Partition #2	Partition #3
Element	OITC	OITC	OITC
Wall	37	37	37
Openable Window			
Fixed Window	34		
Entry Door			
Sliding Glass Dr.			34
French Door			
Wall A/C			
Miscellaneous			

* Analysis based on FHWA-EWR method per E966-99, Section 9.72, with 3 dB correction for room center.

Table III-9. Calculation of Interior Noise Levels *

Client:	Mr. Magdi Hanna	Project No.	09.041.00
Case:	Unit B, 2nd Floor Dining Room	Date:	Nov. 4, 2009

NOISE SOURCE:

Source #	Source Name
2	Traffic

SOUND ABSORPTION:

Type	Area	Material	Type	Area	Material
6	92	Carpet, 5/16" Pile and Foam			
17	382	1/2" Gypsum Board, Painted			
35	37	Padded Furniture			
16	56	24 oz. Glass Operable Windows (C			

PARTITION ELEMENTS:

	South		West		East	
Element	Type	Area	Type	Area	Type	Area
Wall	1	28			1	89
Windows						
Openable						
Fixed						
Doors						
Entry						
Sliding Glass	108	56				
French						
Wall A/C						
Miscellaneous						

EXTERIOR LEVEL:

	South	West	East
CNEL	72.5	69.5	69.5

INTERIOR LEVEL:

	Partition #1	Partition #2	Partition #3	**Sum**
CNEL	43.5	0.0	37.8	**44.6**

Partition Elements are:

	Partition #1	Partition #2	Partition #3
Element	OITC	OITC	OITC
Wall	37		37
Openable Window			
Fixed Window			
Entry Door			
Sliding Glass Dr.	34		
French Door			
Wall A/C			
Miscellaneous			

* Analysis based on FHWA-EWR method per E966-99, Section 9.72, with 3 dB correction for room center.

Attachment No. PC 7

Setback Map

Enhanced View of Setback Map S-10 C- Corona del Mar

Setback Map

S-10C - Corona del Mar

Name: S-10C / October 26, 2010

Attachment No. PC 8

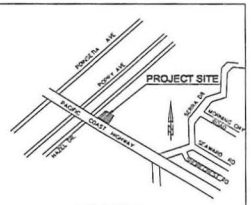
Tentative Tract Map

TENTATIVE TRACT MAP NO. 17386

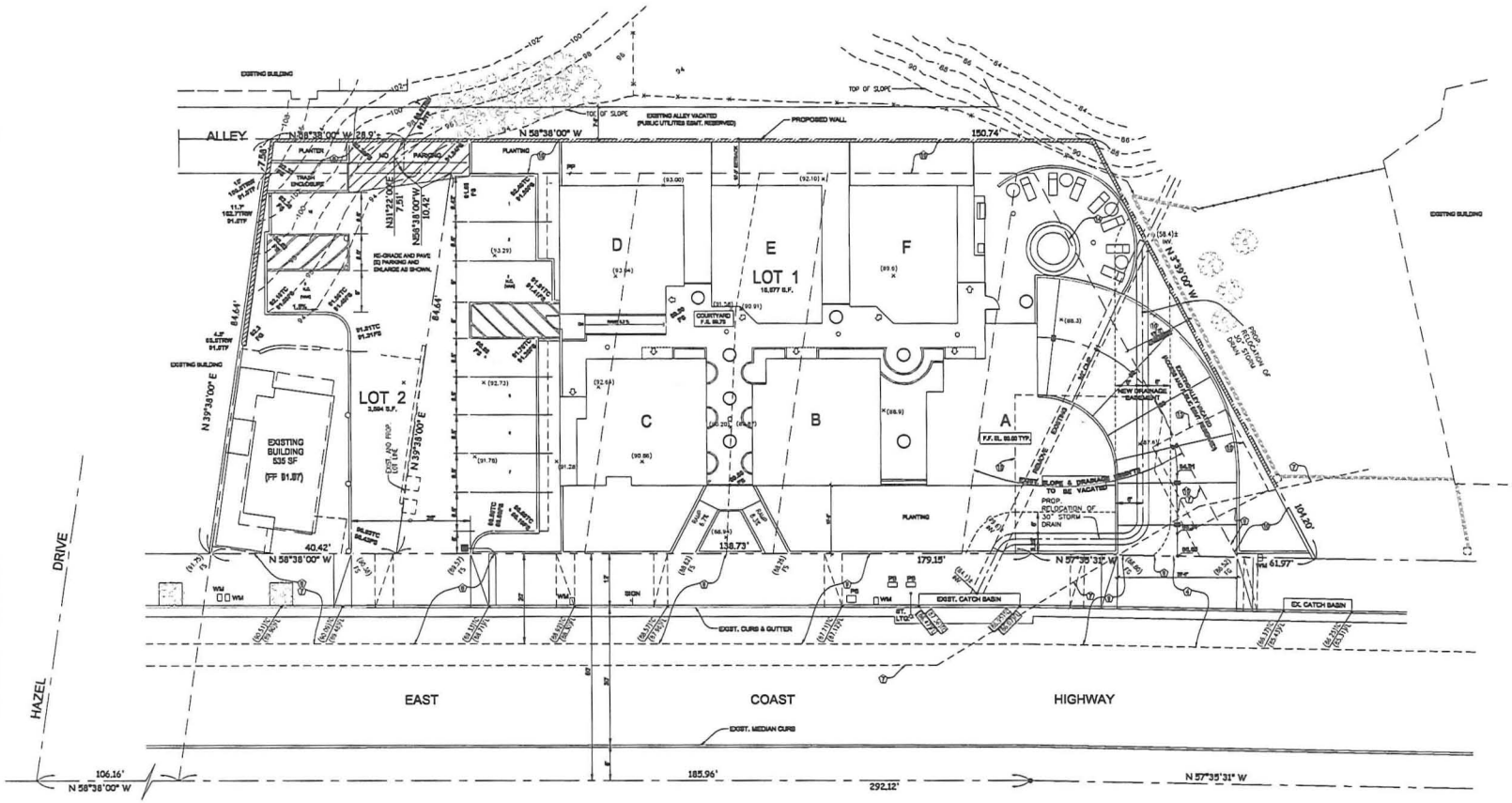
BEING A SUBDIVISION OF LOTS 54, 55, 56, 57 AND 58 IN BLOCK "B" OF TRACT NO. 673, IN THE CITY OF NEWPORT BEACH, IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 20, PAGES 17 & 18 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

LOT 1 IS FOR CONDOMINIUM PURPOSES

OCTOBER , 2012



VICINITY MAP
N.T.S.



NOTES:

USED:
LOT 54 IS OCCUPIED BY A RESTAURANT
LOTS 55, 56, 57 AND 58 ARE VACANT

EXISTING ZONING:
LOT 54 IS ZONED CC (COMMERCIAL CORRIDOR)
LOTS 55, 56, 57 AND 58 ARE ZONED RM (MULTI UNIT RESIDENTIAL)

PROPOSED ZONING:
SAME AS EXISTING

FLOOD AREA: "X"
AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOOD PLAIN

FIRE AREA: VHFHSZ
VERY HIGH FIRE HAZARD SAFETY ZONE

OWNER / SUBDIVIDER:
MAGDI HANNA
3348 NEWPORT BLVD.
NEWPORT BEACH, CA 92663
PHONE (949) 723-2000

MAP PREPARER:
JRV ENGINEERING
23822 LA CADENA DR.
LAGUNA HILLS, CA. 92653
(714) 734 - 0728

JUSTO N. VILLAR RCE 28651

LOT 54
(4) — EASEMENT FOR THE PURPOSES OF EITHER OR BOTH POLE LINES, CONDUITS AND INCIDENTAL PURPOSES FOR LOT 54, RECORDED IN BOOK 34 PAGE 304, ON MARCH 16, 1927 OF OFFICIAL RECORDS.
(5) — THE RIGHT OF THE STATE OF CALIFORNIA FOR THE PURPOSES OF PUBLIC HIGHWAY AND INCIDENTAL PURPOSES FOR LOT 54, RECORDED IN BOOK 977 PAGE 591, ON FEBRUARY 07, 1939 OF OFFICIAL RECORDS.
(6) — THE RIGHT OF THE STATE OF CALIFORNIA FOR THE PURPOSES OF PUBLIC HIGHWAY AND INCIDENTAL PURPOSES, RECORDED IN BOOK 889 PAGE 102, ON JANUARY 13, 1939 OF OFFICIAL RECORDS.
(7) — EASEMENT FOR THE IRVINE COMPANY FOR THE PURPOSES OF PIPELINE AND INCIDENTAL PURPOSES FOR LOT 58, RECORDED IN BOOK 89 PAGE 46, ON MAY 27, 1927 OF OFFICIAL RECORDS.
(8) — THE RIGHT OF THE STATE OF CALIFORNIA FOR THE PURPOSES OF PUBLIC HIGHWAY AND INCIDENTAL PURPOSES, IN BOOK 975 PAGE 646 IN BOOK 975 PAGE 641, ON JANUARY 18, 1939 ALL OF OFFICIAL RECORDS.
(9) — THE RIGHT OF THE STATE OF CALIFORNIA TO EXTEND OVER RIGHT OF WAY FOR THE PURPOSES OF SLOPE, DRAINAGE AND INCIDENTAL PURPOSES LOTS 57 AND 58, RECORDED IN BOOK 2716 PAGE 46, ON APRIL 30, 1964 OF OFFICIAL RECORDS.
(10) — EASEMENT FOR THE LAGUNA BEACH COUNTY WATER DISTRICT FOR THE PURPOSES OF PIPELINE AND INCIDENTAL PURPOSES, RECORDED IN BOOK 8882 PAGE 216, ON NOVEMBER 06, 1984 OF OFFICIAL RECORDS.
(11) — EASEMENT FOR THE CITY OF NEWPORT BEACH FOR THE PURPOSES OF PUBLIC ALLEY AND INCIDENTAL PURPOSES FOR LOT 58, RECORDED IN BOOK 6268 PAGE 287, ON SEPTEMBER 18, 1962 OF OFFICIAL RECORDS.
(12) — QUITCLAIM DEED EASEMENT RIGHTS TO AUTO SPA OF CORONA DEL MAR INC., AS INSTRUMENT No. 97-32163, ON JANUARY 17, 1997 OF OFFICIAL RECORDS.
(13) — RESOLUTION No. 98-46, EXECUTED BY CITY OF NEWPORT BEACH AS INSTRUMENT No. 84765, ON SEPTEMBER 30, 1998 OF OFFICIAL RECORDS - FOR THE VACATION OF ALLEYS ON LOTS 55, 56, 57 AND 58.

CITY OF NEWPORT BEACH
PLANNING COMMISSION
STAFF REPORT
December 6, 2012 Meeting
Agenda Item 4

SUBJECT:	Port Theater Alcohol Service - (PA2012-070)
SITE LOCATION:	2905 E. Coast Highway Minor Use Permit No. UP2012-009
APPLICANT:	Pand Realty LLC
PLANNER:	Makana Nova, Assistant Planner (949) 644-3249, mnova@newportbeachca.gov

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PROJECT SUMMARY

A minor use permit for the Port Theater to allow the addition of a Type 47 (On-Sale General) Alcoholic Beverage Control License in conjunction with food service at a landmark theater. The requested hours of operation for alcohol service are from 8:00 a.m. to 11:00 p.m., daily. The existing theater operates from 8:00 a.m. to 2:00 a.m., daily. Alcohol service during theater shows would be provided on the second floor mezzanine and access to this area would be limited to patrons 21 years of age and older. Alcohol service is also proposed throughout the theater (both the first and second level) during theater shows that are limited to patrons over the age of 21.

RECOMMENDED ACTION

1) Conduct a public hearing; and

2) Adopt Resolution No. ___ approving Minor Use Permit No. UP2012-009 Attachment No. PC 1).

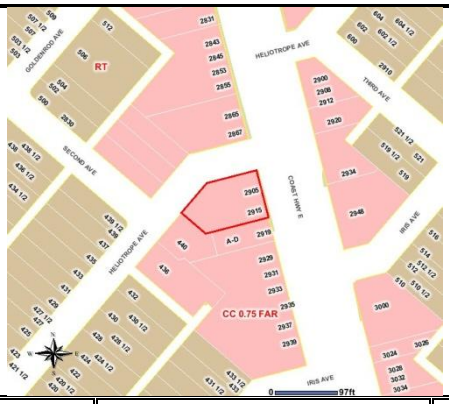
INTRODUCTION

Project Setting

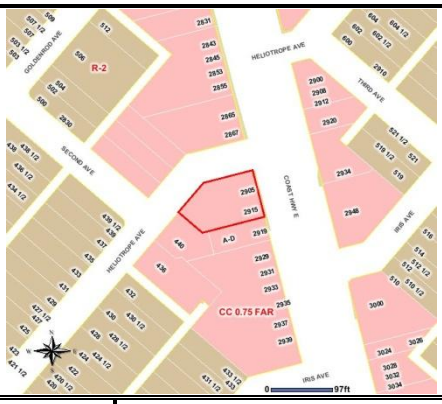
The subject property is bounded by East Coast Highway and Heliotrope Avenue. Office and retail uses are located along East Coast Highway to the north, south, and east. An existing restaurant and residential units are located to the west of the subject property. The property is 8,205 square feet (approximately 0.19 acres) in area and is developed with a 10,893-square-foot landmark theater. No parking is provided on-site.

VICINITY MAP

GENERAL PLAN



ZONING



LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	CC (Corridor Commercial)	CC (Commercial Corridor)	Landmark theater
NORTH	CC (Corridor Commercial)	CC (Commercial Corridor)	Retail and office
SOUTH	CC (Corridor Commercial)	CC (Commercial Corridor)	Retail and office
EAST	CC (Corridor Commercial)	CC (Commercial Corridor)	Retail and office
WEST	CC (Corridor Commercial) and RT (Two-Unit Residential)	CC (Commercial Corridor) and R-2 (Two-Unit Residential)	Restaurant, single-family, and two-unit residential units

04/16/2012

Background

The existing building has historically been utilized as a theater. According to County records, the building was originally constructed in 1949 and contained over 900 seats without the benefit of on-site parking. Both live and cinematic performances were historically held at the theater.

The theater closed in 1998 and remained vacant for over a decade. The Port Theater was remodeled and reopened in July of 2012 on the basis that they were considered a landmark under Section 20.38.070 (Landmark Structures) of the Zoning Code. The remodeled theater is consistent with the requirements of the Landmark Structures ordinance where parking demand, seating, and occupant loads are below that prior to the remodel of the theater. Thus, on-site parking was not required for the theater use to resume.

The theater was remodeled as a luxury theater with mobile leather seats. The remodeled theater is permitted an occupant load of 350 persons. Up to 12 events per year may exceed the 350 person occupant load with the approval of a special event permit. The theater has six varying floor plans approved for the first level that allows flexibility for a variety of showings. Five of the lower level plans provide seats ranging from from 108 seats to 300 seats. The sixth plan does not contain seats and has standing area for up to 500 people (although they must maintain no more than 350 people without a special event permit). The gross floor area of the establishment is 10,893 square feet, the interior seating areas total 7,491 square feet, and the entry lobby is 1,366 square feet in area. The theater provides a bar and concessions stand within the entry lobby and 46 fixed seats on the upper level mezzanine that includes a second bar and concesssions stand.

Project Description

The applicant requests a minor use permit to allow the addition of a Type 47 (On-Sale General) Alcoholic Beverage Control License that includes beer, wine, and liquor in conjunction with concessions food service at the landmark theater. The requested hours of operation for alcohol service are from 8:00 a.m. to 11:00 p.m., daily. The applicant proposes to maintain the current hours of operation for the business from 8:00 a.m. to 2:00 a.m., daily, for theater showings.

Alcohol service during theater shows would be provided on the second floor mezzanine bar and concessions stand and access to the second floor would be limited to patrons 21 years or older. Alcohol service is also proposed throughout the theater (both the first and second level) during shows that are limited to patrons 21 years or older. The applicant has supplied a description of their request, provided as Attachment No. PC 3.
Due to the operational hours for the theater, the characteristics of the use, the location of the theater, and the sensitivity of the community, this application has been referred to the

Planning Commission by the Zoning Administrator for consideration and action. Refer to the Zoning Administrator's memo to the Planning Commission (Attachment No. PC 4.)

DISCUSSION

Consistency with General Plan/Coastal Land Use Plan/Zoning

The site is designated CC (Corridor Commercial) by the General Plan Land Use Element, the Coastal Land Use Plan, and the Zoning Code. These designations are 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. The existing theater is consistent within these designations and is a permitted use within the CC zoning district. The proposed alcohol service is consistent with these land use designations. Inasmuch as this subject property is located within the Coastal Zone, this request to serve alcohol is not considered an intensification of the existing theater use. Thus, Coastal Commission approval will not be required.

The Zoning Code requires a minor use permit for food service uses with alcohol service with no late hours up to 11:00 p.m. However, the code is silent regarding alcohol service within theaters. The Community Development Director determined that a minor use permit was the appropriate discretionary permit application for the proposed use.

Findings

Alcohol Sales

In order to approve a use permit for alcohol sales, the Planning Commission must find that the use is consistent with the purpose and intent of Section 20.48.030 (Alcohol Sales). In accordance with Section 20.48.030 (Alcohol Sales), the Planning Commission must make the following finding for approval of a new alcoholic beverage license:

1. *The use is consistent with the purpose and intent of Section 20.48.030 (Alcohol Sales of the Zoning Code.*

The purpose and intent of Section 20.48.030 (Alcohol Sales) is to preserve a healthy and safe environment for residents and businesses by establishing a set of consistent standards for the safe operation of retail alcohol sales establishments. In finding that the proposed use is consistent with Section 20.48.030 (Alcohol Sales) of the Zoning Code, the following criteria must also be considered:

a) *The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.*

b) *The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.*

c) *The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.*

d) *The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.*

e) *Whether or not the proposed amendment will resolve any current objectionable conditions.*

The establishment is located within Police Department Reporting District 44 (RD 44), which includes Old Corona del Mar. For a map of the City of Newport Beach Reporting Districts, see Attachment No. PC 5. A summary of alcohol related statistics from 2011 is provided in Attachment No. PC 6. The Police Department does not object to the operations as proposed by the applicant.

The part one crimes rate, DUI/drunk arrests, calls for service, and per capita ratio of alcohol licenses in RD 44 for 2011 were higher than the three adjacent reporting districts. However, these same statistics are below the Citywide reporting district averages. The higher crime rate within this reporting district in comparison to adjacent districts is largely due to the number of visitors to Old Corona del Mar, the fact that East Coast highway bisects the reporting district, and Corona Del Mar State Beach draws thousands of visitors annually. Additionally, there is a higher concentration of restaurants and commercial uses in RD 44, compared to adjacent districts, which are predominantly if not completely developed with residential or institutional uses. For calendar years 2011 and 2012 (year-to-date), the Police Department reported one call for service to the theater in each year.

Homes are located 60 feet west of the subject property on Heliotrope Avenue. The project site is not located in close proximity to a daycare center or hospital. Sherman Gardens is located approximately 780 feet to the north. Corona del Mar State Beach and the Oasis Senior Center are located approximately 1,500 feet to the west and east, respectively. The nearest church, Our Lady of Mount Carmel Church, is located 375 feet to the northeast on Heliotrope Avenue across East Coast Highway. The nearest school, Harbor View Elementary School, is located 1,000 feet to the northeast. The theater is surrounded by other commercial retail and office uses along East Coast Highway.

The location of the theater is in close proximity to several establishments with alcohol licenses including Port Restaurant, The Place, and Mayur. There are 26 total alcohol licenses within RD 44 and the alcohol statistics indicate an over concentration of alcohol licenses. However, due to the type of license, a formal finding of public convenience and necessity is not required by the Department of Alcoholic Beverage Control to be made by the City.

The Police Department has thoroughly reviewed the proposed operation and has no objections. Refer to Attachment No. PC 7 for a copy of the Police Department Recommendation. The recommended conditions require all employees serving alcohol to be at least 21 years of age and receive ABC-required Licensee Education on Alcohol and Drugs (LEAD) training. Additionally, the Police Department will also require a security plan with provisions for licensed security personnel, security personnel attire, and a ratio for security personnel to patrons. The security plan will also address enhanced control of noise, loitering, litter, disorderly conduct, parking/circulation, and other potential disturbances resulting from the establishment.

Staff believes this finding can be made and that it is appropriate to allow the alcohol service within the existing theater because it was originally designed to accommodate a theater use and will be conditioned to remain consistent with this primary use. While the proposed establishment is located in close proximity to other establishments selling alcoholic beverages, staff believes the physical and operational characteristics of the establishment would make the service of alcoholic beverages acceptable. The service of alcoholic beverages would provide additional menu options for patrons and would enhance the economic viability of the business. The draft resolution includes conditions of approval to minimize alcohol related problems and ensure that the use remains compatible with the surrounding community.

Use Permit Findings

In accordance with Section 20.52.020 (Conditional Use Permits and Minor Use Permits), the Planning Commission must also make the following findings for approval of a minor use permit:

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

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

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

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

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

The proposed use is consistent with the General Plan, Local Coastal Program Coastal Land Use Plan, and Zoning Code. Although crime and ABC licenses are higher than adjacent districts, the crime statistics for RD 44 are lower than the Citywide crime rate. The statistics relative to adjacent districts are directly attributed to the large commercial district located in RD 44, East Coast Highway, and the number or visitors to Corona del Mar State Beach. The existing theater is in the heart of a commercial area within Old Corona del Mar and is a permitted use consistent with the landmark structures ordinance.

Alcohol sales will be within the existing theater, which will be conditioned to minimize the impacts and limit objectionable conditions to the neighborhood. The 11:00 p.m. cutoff for alcohol service will help ensure late night operations do not contribute to neighborhood issues within Corona del Mar. The applicant does not propose dancing, thereby eliminating the probability for the establishment to evolve into a nightclub. The theater will maintain its current occupant loads with or without alcohol service and a security plan will be provided to the satisfaction of the Police Department. Emergency access and all required utilities are provided.

Alcohol service will be provided as a convenience to the public and provides additional choices for patrons. Staff is recommending approval given the limited hours for alcohol service, required security plan, designated alcohol service areas, and the fact that the site was a theater and it retains the infrastructure and occupant load for a theater with the addition of alcohol service to its menu. Staff believes the findings for approval can be made and the facts in support of the required findings are presented in the draft resolution (Attachment No. PC 1).

Alternatives

The following alternatives are available to the Planning Commission should they feel the facts are not in evidence of support for the project application:

1. The Planning Commission may suggest specific operational changes that are necessary to alleviate any concerns. If any additional requested changes are substantial, the item could be continued to a future meeting. Should the Planning Commission choose to do so, staff will return with a revised resolution incorporating new findings and/or conditions.

2. If the Planning Commission believes that there are insufficient facts to support the findings for approval, the Planning Commission should deny the application and provide facts in support of denial to be included in the attached draft resolution for denial (Attachment No. PC 2).

Environmental Review

The project is categorically exempt under Section 15301, of the California Environmental Quality Act (CEQA) Guidelines - Class 1 (Existing Facilities). The Class 1 exemption includes the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use. The proposed application involves the addition of on-site alcoholic beverage service to an existing theater. Therefore, the use qualifies for a categorical exemption under Class 1.

If denied, projects which a public agency rejects or disapproves are not subject to the CEQA review, pursuant to Section 15270 of the CEQA Guidelines.

Public Notice

Notice of this hearing 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 Draft Resolution for Approval with Findings and Conditions
PC 2 Draft Resolution for Denial
PC 3 Correspondence Memo and Applicant's Project Description
PC 4 Zoning Administrator's Memo
PC 5 Newport Beach Reporting Districts
PC 6 Alcohol Related Statistics
PC 7 Police Department Recommendation
PC 8 Site Photos
PC 9 Project plans

Attachment No. PC 1

Draft Resolution for Approval with Findings and Conditions

RESOLUTION NO. ####

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2012-009 TO ALLOW A TYPE 47 (ON-SALE GENERAL) ALCOHOL LICENSE LOCATED AT 2905 EAST COAST HIGHWAY (PA2012-070)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Pand Realty, LLC, with respect to property located at 2905 East Coast Highway, requesting approval of a minor use permit. The property is legally described as Lot 1, Block G, Tract 323, in the City of Newport Beach, County of Orange, State of California, as shown on a map recorded in Book 14, Pages 40 and 41 of miscellaneous maps, records of Orange County, California. Excepting therefrom the portion of the 14-foot alley abutting said Lot 1 on the southwest, vacated by the City of Newport Beach. Also excepting therefrom the following: beginning at the most westerly corner of said Lot 1; thence northeasterly along the northwesterly line of said lot, a distance of 50 feet to a point; thence southeasterly along a line parallel with the rear or alley line of said lot and the prolongation thereof to its intersection with the southerly line of said lot; thence westerly along the southerly line of said lot to its intersection with the rear or alley line of said lot; thence northwesterly along said rear or alley line of said lot to the point of beginning.

2. The request is for a minor use permit for the Port Theater to allow the addition of a Type 47 (On-Sale General) Alcoholic Beverage Control License in conjunction with food service at a landmark theater. The requested hours of operation for alcohol service are from 8:00 a.m. to 11:00 p.m., daily. The existing theater operates from 8:00 a.m. to 2:00 a.m., daily. Alcohol service during theater shows would be provided on the second floor mezzanine and access to this area would be limited to patrons 21 years of age and older. Alcohol service is also proposed throughout the theater (both the first and second level) during theater shows that are limited to patrons over the age of 21.

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 located within the coastal zone. The Coastal Land Use Plan category is Corridor Commercial (CC-B).

5. A public hearing was held on December 6, 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.

DRAFT

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. The proposed project involves the addition of on-site alcoholic beverage service to an existing theater. Therefore, the use qualifies for a categorical exemption under Class 1.

SECTION 3. REQUIRED FINDINGS.

Alcohol Service

In accordance with Section 20.48.030 (Alcohol Sales) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

Finding

A. The use is consistent with the purpose and intent of Section 20.48.030 (Alcohol Sales of the Zoning Code.

Facts in Support of Finding

In finding that the proposed use is consistent with Section 20.48.030 (Alcohol Sales) of the Zoning Code, the following criteria must be considered:

i. The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.

1. The establishment is located within Police Department Reporting District 44 (RD 44). Due to the high concentration of commercial land uses, the calls for service, number of arrests, and crime rate are greater than adjacent residential Reporting Districts. The theater is located in the heart of Corona del Mar and East Coast Highway bisects RD44. Corona del Mar State Beach is also located in this reporting district, which draws thousands of visitors annually. While the crime rate is higher than adjacent residential reporting districts, the crime rate for RD 44 is lower than the Citywide crime rate and the Newport Beach Police Department does not consider the number significant given the type of development within this Reporting District.

ii. The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.

1. Due to the high concentration of commercial land uses, the calls for service, number of arrests, and crime rate are greater for RD 44 than for adjacent residential Reporting Districts; however, the Newport Beach Police Department does not consider the number significant given the type of development within this Reporting District.

iii. The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.

Residential units are located 60 feet west of the subject property on Heliotrope Avenue. The project site is not located in close proximity to a daycare center, hospital, or park. Sherman Gardens is located approximately 780 feet to the north of the subject property. Corona del Mar State Beach and the Oasis Senior Center are located in the vicinity approximately 1,500 feet to the west and east, respectively. The nearest church, Our Lady of Mount Carmel Church, is located 375 feet to the northeast of the subject property on Heliotrope Avenue across East Coast Highway. The nearest school, Harbor View Elementary School, is located 1,000 feet to the northeast of the subject property. The proposed use is surrounded by other commercial retail and office uses along East Coast Highway. Old Corona del Mar is generally characterized by a high number of visitors, in which commercial and residential zoning districts are located in close proximity to one another.

iv. The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.

1. There are three other establishments in the vicinity which provide alcohol service to patrons. These include the Port Restaurant, The Place, and Mayur. While the proposed establishment is located in close proximity to other establishments selling alcoholic beverages, the theater is a destination point for Old Corona del Mar, the use is different than other establishments selling alcoholic beverages, and the service of alcoholic beverages is acceptable for this location.

v. *Whether or not the proposed amendment will resolve any current objectionable conditions*

1. The addition of alcohol service is a new request to an existing theater use. As such, there are currently no objectionable conditions on-site related to the service of alcohol.

2. The theater is adjacent to a highly-traveled commercial area along East Coast Highway. It is anticipated that the establishment will serve residents and visitors within the vicinity. The addition of alcohol service to the concessions menu will complement the food service and provide convenience to patrons of the theater.

Minor Use Permit

In accordance with Section 20.52.020.F (Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a minor use permit are set forth:

Finding

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

Facts in Support of Finding

1. The General Plan Land Use Element designates the subject property as Corridor Commercial (CC), 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 existing landmark theater is consistent with the land uses permitted in the CC land use designation.

2. The addition of alcohol service to the existing landmark theater and food concessions is compatible with the land uses permitted within the surrounding neighborhood.

3. The subject property is not part of a specific plan area.

Finding

C. 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

1. The zoning designation for the subject property is Commercial Corridor (CC), 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. The existing landmark theater is a permitted use within the CC zoning district and is consistent with the standards of the Landmark Structures ordinance.

2. The project has been conditioned to limit objectionable conditions resulting from the service of alcohol at the theater and is required to comply with all applicable Municipal regulations.

3. The proposed use is consistent with the standards and permit requirements of Section 20.48.030 (Alcohol Sales) of the Zoning Code.

Finding

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

Facts in Support of Finding

1. The allowed uses in the vicinity include retail, office, and restaurant commercial uses. The existing theater and the proposed alcohol service are consistent with these surrounding land uses.

2. The remodeled theater is consistent with the requirements of Section 20.38.070 (Landmark Structures) of the Zoning Code, where parking demand, seating, and occupant loads are well below that prior to the remodel of the theater. Thus, on-site parking is not required for the theater use to continue.

3. A theater has operated in this location since 1949. The theater was recently remodeled and reopened in July of 2012.

4. Alcohol service within the theater will be restricted to the hours between 8:00 a.m. and 11:00 p.m., daily.

5. The operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol related impacts. The project has been conditioned to ensure that the business remains a theater and does not become a bar, club, or tavern.

6. The applicant will obtain Health Department approval. The establishment will comply with the California Building Code and requirements of the Alcoholic Beverage Control Department to ensure the safety and welfare of customers and employees within the establishment.

Finding

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

Facts in Support of Finding

1. The theater renovation was checked for compliance with all life safety requirements during plan check and field inspections. Site access is provided by two public streets. Adequate public and emergency vehicle access, public services, and utilities are provided within the existing tenant space.

2. Tenant improvements are not required for the addition of alcohol service to the existing theater. The establishment will comply with all Building, Public Works, and Fire Codes. All ordinances of the City and all conditions of approval will be complied with.

Finding

F. 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, a safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

Facts in Support of Finding

1. The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.

2. Alcohol service within the theater will serve the surrounding neighborhood of Corona del Mar. The proposed establishment will provide alcohol service as a public convenience to the surrounding neighborhood. The service of alcohol will provide an economic opportunity for the property owner to maintain a successful business that is compatible with the surrounding community.

3. Alcohol service will not be provided after 11:00 p.m., daily, preventing late night detrimental impacts to the neighborhood.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby approves Minor Use Permit No. UP2012-009 (PA2012-070), 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.

PASSED, APPROVED AND ADOPTED THIS 6th DAY OF DECEMBER, 2012.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY:_____
Michael Toerge, Chairman

BY:_____
Fred Ameri, Secretary

EXHIBIT "A"

CONDITIONS OF APPROVAL

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

2. Minor Use Permit No. 2012-009 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.

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

4. 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 Minor Use Permit.

5. This Minor Use Permit may be modified or revoked by the 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.

6. 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.

7. There shall be no alcoholic beverage sales permitted after 11:00 p.m.

8. No more than two alcoholic beverages shall be sold or served to any one person at any one time.

9. On the second level mezzanine, alcoholic beverage service and consumption shall be permitted, which shall only be accessible by patrons 21 years or older. On the lower level of the theater, alcoholic beverage service and consumption shall only be permitted when the shows or screenings are restricted to patrons 21 years and older.

10. Alcoholic beverage service in the lower level theater shall not be permitted for any public event or screenings when patrons or persons under 21 years old are present. Alcoholic beverage service may be offered on the second level mezzanine, accessible only to patrons 21 years or older. Access to the second level mezzanine during such events shall be strictly monitored.

11. Prior to implementation of this Minor Use Permit, a comprehensive security plan for the permitted uses shall be submitted to the Newport Beach Police Department for review and approval.

12. All owners, managers and employees selling alcoholic beverages shall be over the age of 21 and undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.

13. Approval does not permit the venue to operate as a bar, tavern, cocktail lounge, or nightclub as defined by the Newport Beach Municipal Code, unless the Planning Commission first approves such permit.

14. Alcohol service and consumption shall only be permitted in conjunction with theater screenings, live shows, and other actual events. At no time shall stand alone alcohol service and consumption be permitted. This condition does not prohibit alcohol service and consumption during show intermissions and other routine breaks in entertainment.

15. The sale of alcoholic beverages for consumption off the premises is prohibited.

16. The applicant shall not share any profits or pay any percentage or commission to any outside 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.

17. 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.

18. There shall be no dancing allowed on the premises at public events.

19. Strict adherence to maximum occupancy limits is required.

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

21. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs, which are clearly visible to the exterior shall constitute a violation of this condition.

22. 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.

23. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Community Development Director, and may require an amendment to this Minor Use Permit.

24. 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.

25. A Special Event Permit shall be required for any event or promotional activity that involves more than 350 occupants or operates outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.

26. To the fullest extent permitted by law, the 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 the City's approval of the Port Theater Alcohol Service including, but not limited to, Minor Use Permit No. UP2012-009 (PA2012-070). 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.

Attachment No. PC 2

Draft Resolution for Denial

RESOLUTION NO. ####

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH DENYING MINOR USE PERMIT NO. UP2012-009 FOR A TYPE 47 (ON-SALE GENERAL) ALCOHOL LICENSE LOCATED AT 2905 EAST COAST HIGHWAY (PA2012-070)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Pand Realty, LLC, with respect to property located at 2905 East Coast Highway, requesting approval of a minor use permit. The property is legally described as Lot 1, Block G, Tract 323, in the City of Newport Beach, County of Orange, State of California, as shown on a map recorded in Book 14, Pages 40 and 41 of miscellaneous maps, records of Orange County, California. Excepting therefrom the portion of the 14-foot alley abutting said Lot 1 on the southwest, vacated by the City of Newport Beach. Also excepting therefrom the following: beginning at the most westerly corner of said Lot 1; thence northeasterly along the northwesterly line of said lot, a distance of 50 feet to a point; thence southeasterly along a line parallel with the rear or alley line of said lot and the prolongation thereof to its intersection with the southerly line of said lot; thence westerly along the southerly line of said lot to its intersection with the rear or alley line of said lot; thence northwesterly along said rear or alley line of said lot to the point of beginning.

2. A minor use permit for the Port Theater to allow the addition of a Type 47 (On-Sale General) Alcoholic Beverage Control License in conjunction with food service at a landmark theater. The requested hours of operation for alcohol service are from 8:00 a.m. to 11:00 p.m., daily. The existing theater operates from 8:00 a.m. to 2:00 a.m., daily. Alcohol service during theater shows would be provided on the second floor mezzanine and access to this area would be limited to patrons 21 years of age and older. Alcohol service is also proposed throughout the theater (both the first and second level) during theater shows that are limited to patrons over the age of 21.

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 located within the coastal zone. The Coastal Land Use Plan category is Corridor Commercial (CC-B).

5. A public hearing was held on December 6, 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.

DRAFT

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

Pursuant to Section 15270 of the California Environmental Quality Act (CEQA) Guidelines, projects which a public agency rejects or disapproves are not subject to CEQA review.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.48.030 (Alcohol Sales), permits are required per Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards). Therefore, the requested alcohol service at an existing landmark theater requires the approval of a minor use permit based on the requirements for a food service establishment with alcohol service and no late hours after 11:00 p.m.

The Planning Commission may approve a minor use permit only after making each of the required findings set forth in Section 20.48.030 (Alcohol Sales) and Section 20.52.020.F (Use Permit, Findings and Decision). In this case, the Planning Commission was unable to make the required findings based upon the following:

1. The Planning Commission determined, in this case, that the proposed Minor Use Permit for the addition of a Type 47 (On-Sale General) alcohol license to an existing landmark theater is not consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code. The proposed project may prove detrimental to the community.

2. The design, location, size, and characteristics of the proposed project are not compatible with the single-family residences and commercial uses in the vicinity. The addition of alcohol service may result in negative impacts to residents and businesses in the vicinity and would not be compatible with the enjoyment of the nearby residential properties.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby denies Minor Use Permit No. UP2012-009 (PA2012-070).

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.

PASSED, APPROVED AND ADOPTED THIS 6th DAY OF DECEMBER, 2012.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY:_____
Michael Toerge, Chairman

BY:_____
Fred Ameri, Secretary

Attachment No. PC 3

Correspondence Memo and
Applicant's Project Description

Picoco LLC
4343 Von Karman Avenue, 3rd Floor
Newport Beach, CA 92660
Tel 949-640-0801 Fax 949-640-0802

October 31, 2012

Zoning Commission
City of Newport Beach
Community Development Department, Planning Division
3300 Newport Boulevard
Newport Beach, CA 92663

Re: Port Theater, UP2012-009 (PA2012-070), Amendment to Limit Alcohol Service Areas

Dear Commission:

Please find below our proposed addition to the project description that was provided to the City on October 11, 2012 in connection with Port Theater's application for the above referenced use permit.

Amendment to Include to Project Description Section F. Security Plan

Alcohol Service Areas. When there are patrons of mixed ages in the theater, Port will limit service of alcohol to only the upstairs mezzanine and bar during public events. Thus, during normal movie showings or related public events, alcohol service and consumption will be limited to the upstairs of Port Theater, and no alcohol will be served or consumed on the lower level. By restricting the service and consumption of alcohol to the upper level of the theater during public events of mixed ages, Port employees can easily and clearly monitor alcohol consumption to ensure that no underage drinking occurs. The upstairs area will be heavily staffed by servers and bartenders with clear visibility of all patrons in the area making it open and obvious if any person who appears to be underage attempts to consume alcohol, and immediate steps can then be taken by Port to ensure that such consumption does not occur.

We hope that providing this additional restriction, compounded with our prior self-imposed restrictions, including the removal of our proposed dance activity, provides the City full confidence in supporting our use permit application and expediting the remainder of this application process prior to the pending expiration of our license application with the Ca. Dept. of Alcohol Beverage Control. In this regard, we look forward to receipt of formal notice scheduling us at the City's Planning Commission hearing on December 6, 2012. If you have any questions pertaining to any of the above, please do not hesitate to contact me.

Sincerely,

Jessica Prause, Esq.

Pand Realty LLC
4343 Von Karman Avenue, 3rd Floor
Newport Beach, CA 92660
Tel 949-640-0801 Fax 949-640-0802

RECEIVED BY
COMMUNITY
SEP 12 2012
DEVELOPMENT
CITY OF NEWPORT BEACH

September 12, 2012

Zoning Commission
City of Newport Beach
Community Development Department, Planning Division
3300 Newport Boulevard
Newport Beach, CA 92663

Dear Commission:

Please find enclosed the revised project description that was requested in the Notice of Incomplete Filing dated June 26, 2012, as well as other information that was separately requested by Makana Nova.

Revised Project Description

The Port Theater was redeveloped with only one purpose in mind – to facilitate a venue in which events such as cinema, performing arts shows, pre- and post-show gatherings, lectures, films, corporate or community meetings, and other public or private events can be enjoyed by the community in a luxurious but relaxed atmosphere. The architecture, lighting, and acoustics of the theater were designed to accommodate the above uses.

Theaters in this day and age have come a long way from theaters of the past, with many theaters currently offering a variety of services and amenities that did not exist in theaters 30 or even 5 years ago. For example, upscale theaters now do not limit their food service to merely popcorn and hotdogs, but instead offer hot meals, gourmet desserts and full beverage service of spirits, beer and wine. The uses that the Port Theater is seeking are critical to the financial and functional viability of the theater given the varied and changing requirements imposed on theaters in today's market.

For example, recently, the city approved and supported the creation of a new theater in Fashion Island with alcohol service rights and a high degree of flexibility in food preparation and program planning similar to what we are requesting in this use permit. This city approval of these capabilities validates that modern theaters need to be able to offer their patrons a variety of updated amenities such as state of the art digital content, varied luxurious seating arrangements, and upgraded gourmet food and beverage services. To entice Patrons to leave the cocoons of their homes and choose to visit a theater rather than a variety of other entertainment venues, theaters must offer an exceptional experience, complete with an array of food and beverage offerings. The Port Theater wants to ensure that it has no fewer approvals than those granted to

similarly situated theaters; however, the Port Theater is not currently anticipating seeking uses that would categorize the theater as a bar, tavern, cocktail lounge, or nightclub.

Additionally, in August of 2011, the City of Newport Beach approved similar uses as above for the Balboa Performing Arts Theater (a sister theater with the same designated landmark status as the Port Theater), in order to allow for greater flexibility for the theater's operations including alcoholic service, a rooftop gathering place and an increase to its original volumetric space to ensure the financial viability of the project. The City explicitly recognized the challenges and changing needs imposed on modern community theaters.

Management's Request to the City of Newport Beach

Because we are currently operating and have invested significant sums to rejuvenate the Port Theater, we have elected to limit the hours of alcoholic beverage service to no later than 11:00 PM. Though this significantly reduces our service offerings, we have elected to impose this restriction in order to file this application with the Zoning Administrator and not be subjected to the lengthy public hearing process. As such, the Port Theater requests that the Zoning Administrator approve our application expeditiously.

I. Information Requested in the Notice of Incomplete Filing date June 26, 2012

A. Food and Drink Service

Currently, food and drink is served from the concession stand in the lobby of the theater. If a particular food or beverage item takes some time to prepare, the patron must wait for it in the lobby area and pick it up when it is ready. Please see section "F" for operational protocols regarding alcohol service.

Future upgraded service to patrons may include servers bringing food and drink items to patrons at their seats.

B. Turn-Over Between Performances/Screenings

There are generally between four and six screenings scheduled per day. Once a screening has ended, patrons can exit the theater through two different sets of doors which lead to the lobby. The patrons waiting to see the following screening will only be allowed into the theater once all of the patrons have exited from the prior screening. This allows staff to reset the seating, clean the facilities, and perform other duties.

C. Hours of Operation

The hours of operation for the theater are generally 8:00AM to 2:00AM Monday through Sunday. These hours will vary with the hosting of community events, pre- and post-show gatherings, special television events or private events that may extend the hours of operation until later.

Each function of the theater, including food service, cinema screenings, and live performances will be available during the hours of operation listed above. Alcohol service will conclude by 11:00PM Monday through Sunday.

D. Floor Plans for Specific Events

The theater has five different approved floor plans, and management will decide which floor plan is most appropriate for each type of event prior to the event. The different floor plans provide greater flexibility due to the varied requirements imposed on theaters in today's market. While the Port Theater will show a variety of cinematic content, the theater will be available for other events such as performing arts shows, pre- and post-show gatherings, lectures, films, corporate or community meetings, and other public or private events. The increased flexibility in being able to choose which floor plan is best suited for each event is critical to the function of the theater and will improve the quality of events and patron experience.

Standing Room Occupancy Floor Plan- The standing room only floor plan will be used for events that do not require seating and may include usage as a dance floor as designated on the attached plans. With the dance floor limited to the flat portion of the theater in front of the main seating area, the occupancy count is 384 occupants.

E. Role of Cinema

Cinematic and other entertainment content is at the core of the attraction of the Port Theater for customers. As such, alcohol and gourmet food service are merely extensions of the food and beverage selections typically offered by theaters. Tickets must be purchased by each patron in order to watch screenings.

The theater used to represent a signature event for patrons, who would come dressed up in their finest attire when silent pictures were first shown. Over time, theaters have had to adapt to new and changing entertainment formats as patrons have had access to an ever greater selection of options. With the advent of VHS in the home and then DVD and Blu-ray, which offer high quality pictures, theaters have had to adapt to offer more of a better experience to convince consumers that they should leave the comfort of their homes. Across the industry and the country, the way forward for theaters has been to provide enhanced food and beverage options for patrons, more interesting content selections and to encourage greater community involvement with the theater. Theaters cannot survive unless they offer a reason for consumers to make the theater a part of their routine, which means that theaters need to offer better content, better food, better service and better amenities. The Port Theater has been designed from the ground up in order to meet the demands of today's consumers.

F. Security Plan

The theater has a number of security cameras strategically located throughout the property to provide maximum surveillance capabilities of employee and patron activity. In addition, the exterior doors are alarmed to protect against intrusion.

Alcohol will be served only from trained servers and bartenders who are 21 or over. All servers and bartenders will undergo appropriate alcohol service training (LEAD), including training on how to properly examine identification prior to the serving of alcohol to ensure that only those patrons who are 21 or over will be served. In addition, there will be distinct cups for both alcoholic and nonalcoholic beverages so employees can easily monitor which patrons have which type of beverage. Alcoholic service will only be provided when a designated Port employee is present.

1. Mezzanine Level - Alcohol will be served at the mezzanine bar area where patrons under the age of 21 will not be permitted when alcohol is being served. A barrier will be used at the bottom of the stairs where an employee will verify each patron's identification and only allow those patrons who are 21 and over access to the mezzanine area. The exclusion of minors from the mezzanine area will serve as an effective enforcement mechanism by ensuring that only patrons aged 21 and over will be served alcohol. However, when alcohol is not served at the mezzanine bar area, patrons of all ages will be permitted in the mezzanine area.

In addition, the mezzanine bar area will be under the constant supervision of employees as there will always be at least one employee staffed in the area at all times, making the mezzanine bar an extremely controlled space. Unlike other movie theaters that must send an employee into the theater with a flash light to verify alcohol consumption or patrons' ages, the Port Theater will ensure that the mezzanine space is overseen at all times by employees. Further,

the mezzanine will have enhanced illumination as its lights for the bar area are on a separate circuit to improve the employees' ability to monitor alcohol service.

2. Lower Seating - Patrons 21 and over will also be permitted to consume alcohol in the lower seating area by ordering a beverage from a server who will deliver the beverage from the mezzanine level. This lower seating area will be sufficiently illuminated to allow servers and other staff members to effectively supervise alcohol consumption.

3. Private Events - Regarding private events, alcohol is permitted, and a security plan will be developed prior to each event to ensure proper security measures will be in place. The Port Theater will continue to abide by legal non-conforming use for private events.

No alcoholic beverages will be permitted outside of the building at any time. Theater employees will be staffed regularly at entrances and exits to ensure that alcoholic beverages are not taken outside the theater. The Port Theater is committed to ensuring that alcohol is only served in a safe and regulated environment.

G. Maximum Number of Employees

The maximum number of employees on-site during the hours of operation will vary depending on the time of day, day of the week, and occurrence of special events. Port Theater management will ensure that the theater is appropriately staffed at all times.

H. Parking Management

The Port Theater received a landmark designation which was represented to the owner as having the effect of grandfathering certain features such as its parking requirement. The theater owner relied on those grandfathered features when deciding to redevelop the theater

Further, the redevelopment of the Port Theater reduced the demand on parking because of the severe reduction in seating from the original 900+ seats to seating plans allowing up to 367 seats. As a result, there is a significant reduction in the demands that used to be placed on surrounding infrastructure. Often, it is anticipated that the Port Theater will operate with less than 250 occupants.

II. Information requested in Makana Nova's email to Joe Moschella date July 11, 2012

A. Food will be prepared in the kitchen, the kitchen prep pantry, and at the concession stand. All food preparation will be executed in accordance with Orange County Health Care Agency regulations.

B. There are no changes from Chapter 4 of CPC 2007.

C. There are no changes from Chapter 11 of CBC 2007.

D. The mezzanine level will be used for seating and dining and will also serve as a bar. Only those patrons who are 21 years of age and older will be permitted in the mezzanine area

when alcohol service is provided. (See Section "F" above for more details on the mezzanine level). Dancing will not be permitted on the mezzanine level.

A full service kitchen is located on the upper floor slightly above the mezzanine level as shown in previous plans and in the plans submitted in this revised application.

Attachment No. PC 4

Zoning Administrator's Memo

CITY OF NEWPORT BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
3300 NEWPORT BOULEVARD, BLDG. C
NEWPORT BEACH, CA 92658-8915
(949) 644- 3297

Memorandum

To: Makana Nova, Assistant Planner

From: Brenda Wisneski, Zoning Administrator

Date: October 9, 2012

Re: Port Theater Use Permit (PA2012-070) – Referral to Planning Commission

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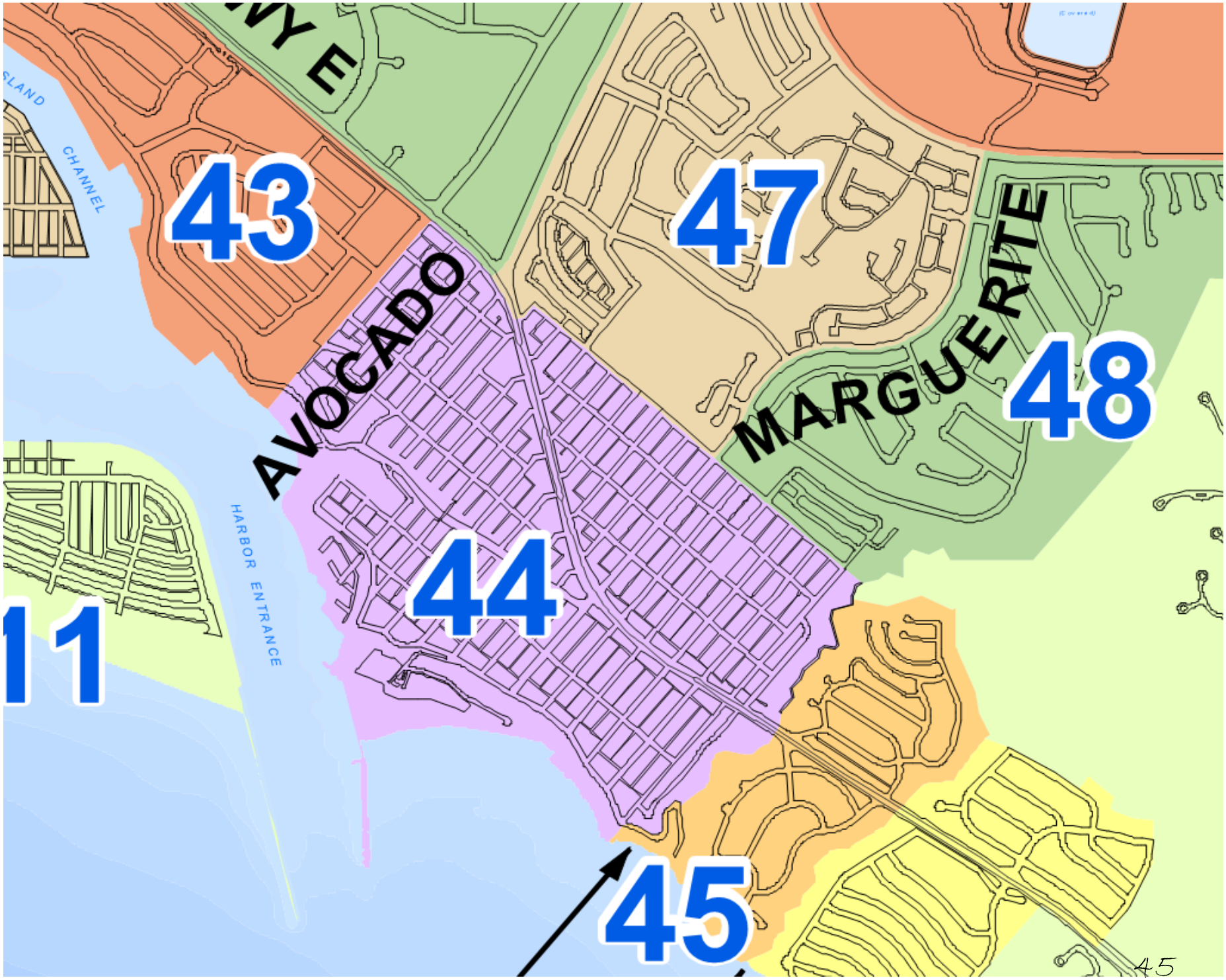
I understand the Port Theater has submitted a minor use permit for the Port Theater to allow the addition of a Type 47 (On-Sale General) Alcoholic Beverage Control License in conjunction with food service at a landmark theater. The requested hours of operation for alcohol service are from 8:00 a.m. to 11:00 p.m., daily. The theater operates from 8:00 a.m. to 2:00 a.m., daily.

Due to the hours of operation for the establishment (operational hours of the theater extend beyond 11:00 p.m. although alcohol service is proposed to end at 11:00 p.m.), the characteristics of the use, the location of the theater in a difficult parking area, and the sensitivity of the community, I feel it is appropriate at this time to refer the review of the minor use permit request to the Planning Commission and to provide the applicant timely review and consideration of their request.

Attachment No. PC 5

Newport Beach Reporting Districts


43
47
48
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45
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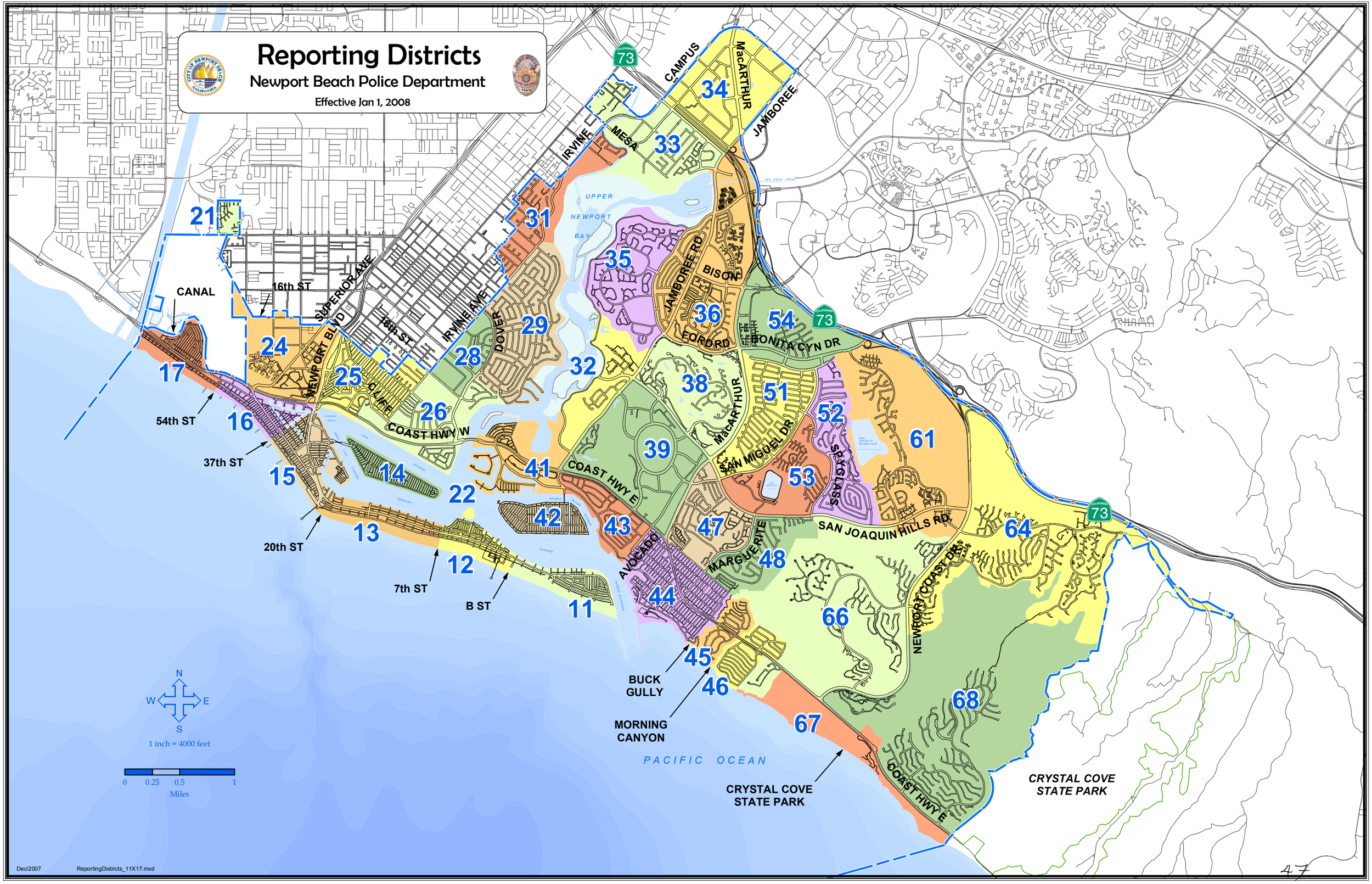
AVOCADO
MARGUERITE
HARBOR ENTRANCE
CHANNEL

Reporting Districts

Newport Beach Police Department

Effective Jan 1, 2008



Dec/2007 ReportingDistricts_11X17.mxd

47

Attachment No. PC 6

Alcohol Related Statistics

Chief Jay R. Johnson

NEWPORT BEACH POLICE DEPARTMENT

Crime Analysis Unit

870 Santa Barbara Drive · Newport Beach · CA 92660 · 949·644·3791

CRIME AND ALCOHOL-RELATED STATISTICS - 2011

Subject:	Calls For Service	Crimes			Arrests				Citations	ABC Info	
		Part I Crimes	Part II Crimes	Crime Rate	All Arrests	DUI	Public Intoxication	Liquor Law	Alcohol Related	Active Licenses	License Per Capita
Port Theater	1	0	0	*not applicable*	0	0	0	0	0	1	*not applicable*
Subject RD: RD44	4,459	121	209	1,888.56	185	29	47	1	74	26	246
Adjacent RD: RD43	660	23	25	1,196.67	20	5	1	0	2	5	384
Adjacent RD: RD45	411	25	20	1,230.31	11	6	3	0	8	3	677
Adjacent RD: RD47	506	18	15	528.63	15	6	0	0	1	3	1,135
Newport Beach	66,374	2,405	3,343	2,816.95	3,177	643	654	7	1,245	394	217
California	*not available*	1,146,072	*not available*	3,076.38	1,357,573	195,276	105,388	17,007	*not available*	44,536	836
National	*not available*	10,329,135	*not available*	3,345.52	13,120,947	1,412,223	560,718	512,790	*not available*	*not applicable*	*not applicable*

Summary for Port Theater at 2905 E. Coast Hwy. (RD44)

In 2011, RD44 had a total of 330 reported crimes, compared to a city-wide reporting district average of 152 reported crimes. This reporting district is 178 crimes, or 117%, OVER the city-wide average.

The number of active ABC licenses in this RD is 26, which equals a per capita ratio of one license for every 246 residents. Orange County averages one license for every 504 residents and California averages one license for every 836 residents. This location is within an RD that is OVER the Orange County and California per capita averages of ABC licenses.

Notes:

Part I Crimes are the 8 most serious crimes as defined by the FBI Uniform Crime Report - Homicide, Rape, Robbery, Aggravated Assault, Burglary, Larceny-Theft, Auto Theft, and Arson.

This report reflects City of Newport Beach data for calendar year 2011, which is the most current data available.

California and National figures are based on the 2010 Uniform Crime Report, which is the most recent edition.

Crime Rate refers to the number of Part I Crimes per 100,000 people.

Number of Active ABC Licenses is the total of all types of licenses known to the NBPD as of the date of this document.

10/30/2012

Attachment No. PC 7

Police Department Recommendation

City of Newport Beach
Police Department

Memorandum

November 7th, 2012

TO: Makana Nova, Assistant Planner

FROM: Detective Mario Montero

SUBJECT: Port Theatre, 2905 E. Coast Hwy, Corona Del Mar
Use Permit No. UP2012-009 (PA2012-070).

At your request, the Police Department has reviewed the project application for the *Port Theatre,* located at 2905 E. Coast Highway, Corona Del Mar. The applicant is requesting a conditional use permit which would allow the addition of a Type 47 (On-Sale General) Alcoholic Beverage Control License in conjunction with hot food service while operating a single-screen cinema. The proposed hours of operation are 8:00 am to 2:00 am daily. Alcoholic beverages would only be served from 8:00 am until 11:00 pm daily. As proposed the establishment would not operate as a bar and dancing would not be permitted.

I have included a report by Senior Crime Analyst Caroline Staub that provides detailed statistical information related to calls for service in and around the applicant's place of business. This report indicates that the location is within a reporting district where reported crimes are 117% *higher* than the city-wide average. Additionally, this location is also within a reporting district that is over the Orange County and California per capita of ABC licenses.

Applicant History

The establishment is a movie theatre venue, which was first built in 1949. The facility operated as a movie theatre until 1998 at which time it closed down and remained closed until July 2012 when the current operator, Mr. Fariborz Maseeh of Picoco LLC, performed renovations and re-opened again as a movie theatre. The applicant believes the service of alcoholic beverages and gourmet food items is necessary to be competitive and profitable in today's changing market. The permit was originally applied for in June 2012, but the application was incomplete. Since the original application there have been revisions to the applicant's plan. The Port Theatre is not affiliated with the Port Restaurant which is adjacent to the business.

Recommendations
The Police Department has no objection to the operation as described by the applicant. With the conditions listed below it is the opinion of the Police Department that the Port Theatre will not have a negative impact on the community and police services.

Signs and Displays
Any signs or displays would need to conform to City requirements. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs, which are clearly visible to the exterior, shall constitute a violation of this section.

Hours of Operation
The proposed hours of operation would be 8:00 am to 2:00 am daily, with alcoholic beverage service from 8:00 am until 11:00 pm only.

Security
The Police Department reviewed the applicant's proposed security policy as described in section F and in the revision dated October 31st, 2012. The Police Department recognizes the recent trend of movie theatre venues offering alcoholic beverage service to patrons. The Department also recognizes Port Theatre's intention to operate as a flexible venue by offering to show live sporting events, provide live performances and host other special events. Considering the services offered beyond traditional movie screenings the Police Department recommends the applicant's proposed policy should also include a provision for the use of licensed security services. Specifically, the Department recommends that clearly identifiable security personnel be employed when alcohol service is permitted in the lower theatre. The security personnel should be assigned only to security duties and be trained and licensed according to California Department of Consumer Affairs rules. Attire for security employees should be uniform in appearance, clearly identifying their purpose. Uniform appearance, for the purpose of this recommendation, may consist of traditional security uniforms or professional business attire (such as suits, ties or polo type shirts of the same color). A ratio of one security employee for every fifty patrons is recommended. Security personnel should not undertake other duties, such as food service or concession sales, which would distract them from their primary duties.

Employee Training
Require all owners, managers, and employees selling alcoholic beverages to undergo and successfully complete a certified training program in responsible methods and skills for serving and selling alcoholic beverages.

Recommended Conditions
To maintain quality of life for area residents and ensure the location remains consistent with the proposed business model of a modern multi-use theatre, the Police Department

has determined that the following conditions would be appropriate for the Conditional Use Permit:

1. Approval does not permit the venue to operate as a bar, tavern, cocktail lounge or nightclub as defined by the Newport Beach Municipal Code, unless the Planning Commission first approves such permit.

2. Alcohol service and consumption shall only be permitted in conjunction with theatre screenings, live entertainment and other actual events. At no time shall stand alone alcohol service and consumption be permitted. This condition does not prohibit alcohol service and consumption during show intermissions and other routine breaks in entertainment.

3. The sale of alcoholic beverages for consumption off the premises is prohibited.

4. No more than two (2) alcoholic beverages shall be sold or served to any one (1) person at any one (1) time.

5. Alcoholic beverage service shall be permitted on the second level mezzanine, which shall only be accessible by patrons 21 years or older.

6. Alcoholic beverage service and consumption shall only be permitted on the lower level of the theatre for public events when the event or screenings are restricted to patrons 21 years and older.

7. Alcoholic beverage service in the lower level theatre shall not be permitted for any public event or screenings when patrons or persons under 21 years old are present. Alcoholic beverage service may be offered on the second level mezzanine, accessible only to patrons 21 years or older. Access to the second level mezzanine during such events will be strictly monitored.

8. Alcoholic beverage service on the lower level theatre may be permitted for closed private events or special events only after obtaining a Special Event Permit from The City.

9. No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed at any time.

10. There shall be no alcoholic beverage sales or alcoholic beverage consumption permitted after 11:00 p.m.

11. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted at any time.

12. The applicant shall not share any profits or pay any percentage or commission to any outside 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.

13. 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.

14. There shall be no dancing allowed on the premises. The applicant may apply for a Special Event permit granting an exception to this condition when an event, such as a wedding or other private function, might require such consideration.

15. Strict adherence to maximum occupancy limits is required.

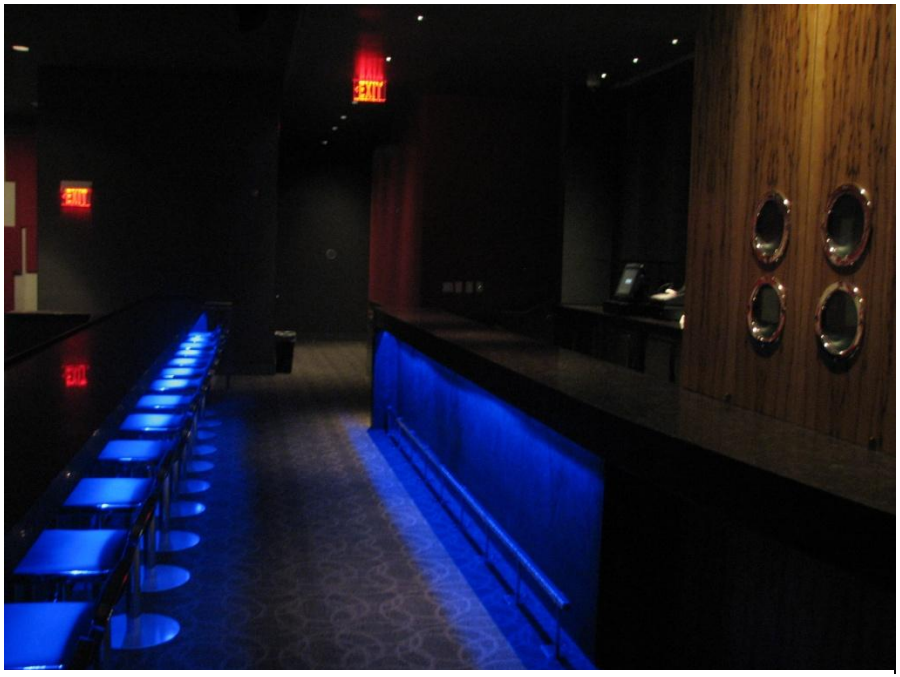
If you have any questions, please contact Detective Mario Montero at (949) 644-3706.

Mario Montero, ABC/Vice/Intelligence
Detective Division

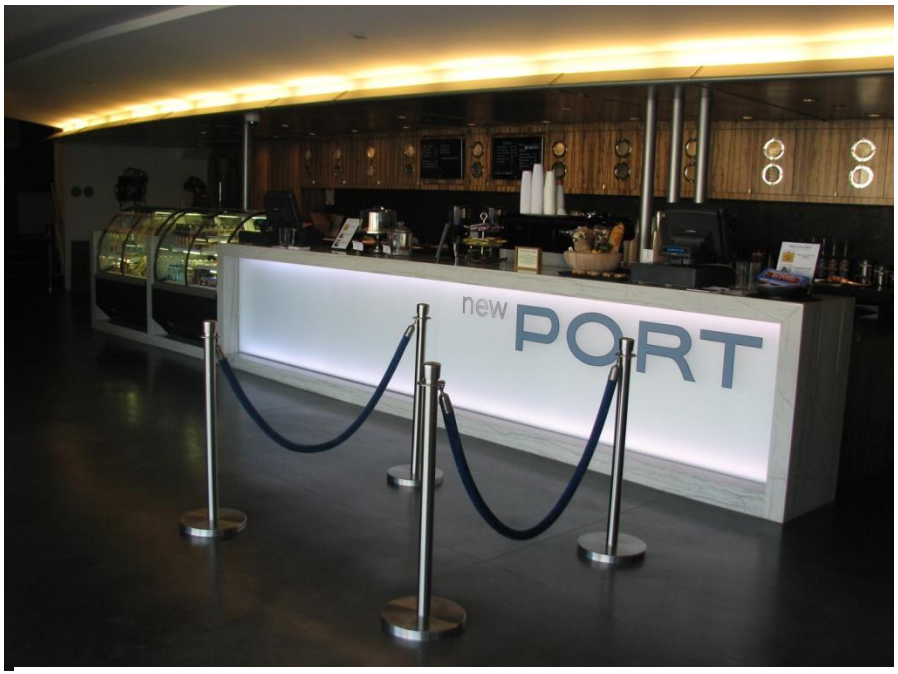
Dale Johnson, Captain
Detective Division Commander

Attachment No. PC 8

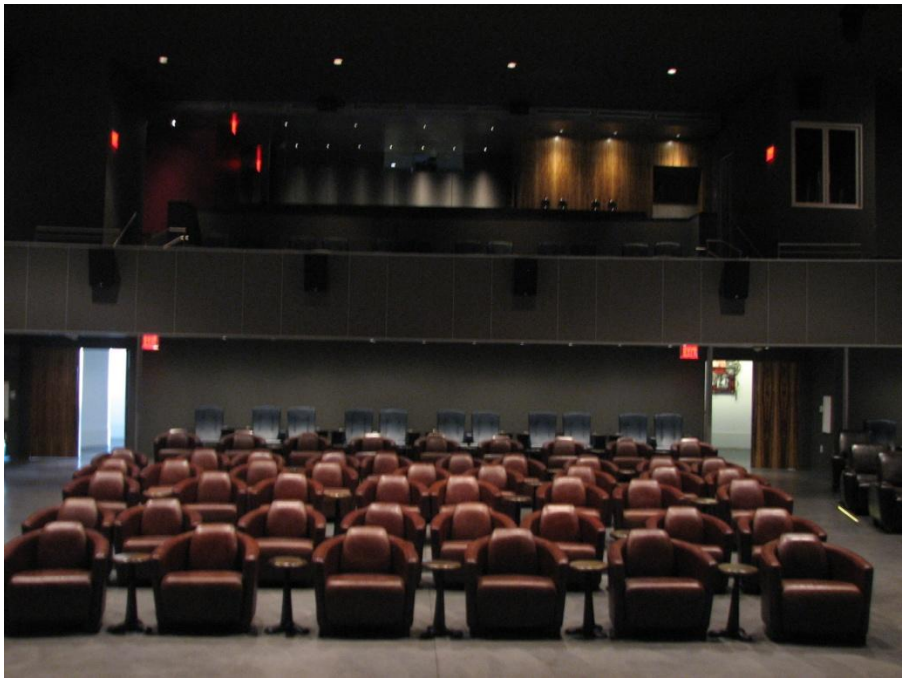
Site Photos



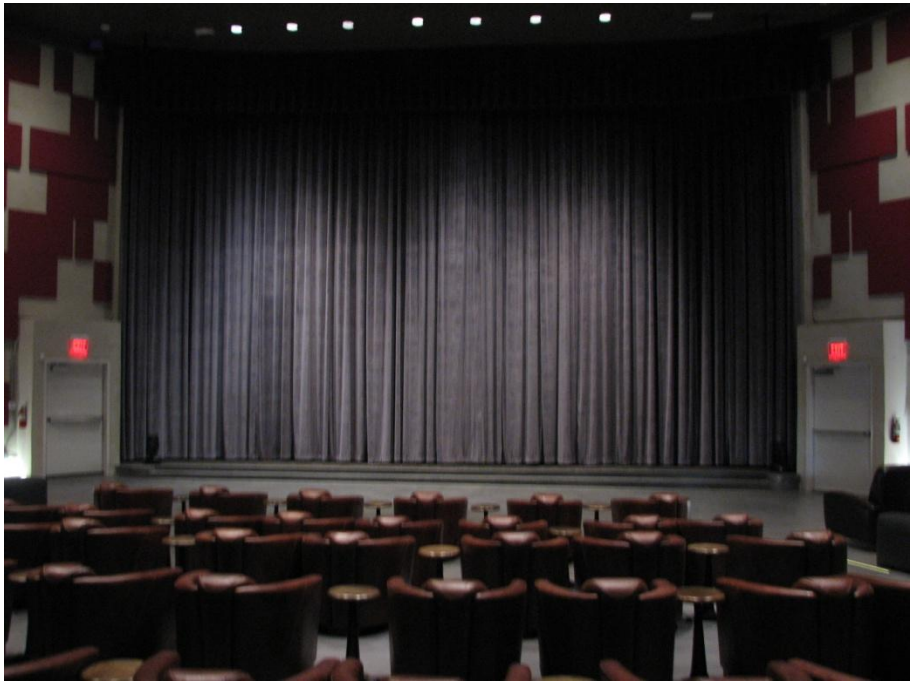
Second level mezzanine bar/concessions area, taken 11-20-12



Lobby entrance concessions area, taken 11-20-12



First level seating and second level mezzanine, taken 11-20-12



View of the screen from the first level seating area, taken 11-20-12

Exterior of the Port Theater, taken 04-27-12

Exterior of the Port Theater entrance from East Coast Highway
Taken 08-03-12

Lobby concessions stand, taken 11-20-12

Food and beverage display case at the lobby concession stand,
taken 11-20-12

Exterior of the Port Theater from the south side of East Coast Highway while under construction, taken 03-21-12

Exterior of the Port Theater from the north side of East Coast Highway while under construction, taken 03-21-12

Adjacent uses from the south side of East Coast Highway while under construction, taken 11-20-12

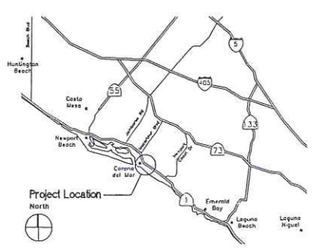
Adjacent commercial uses taken from the south of the subject property, taken 11-20-12

Attachment No. PC 9

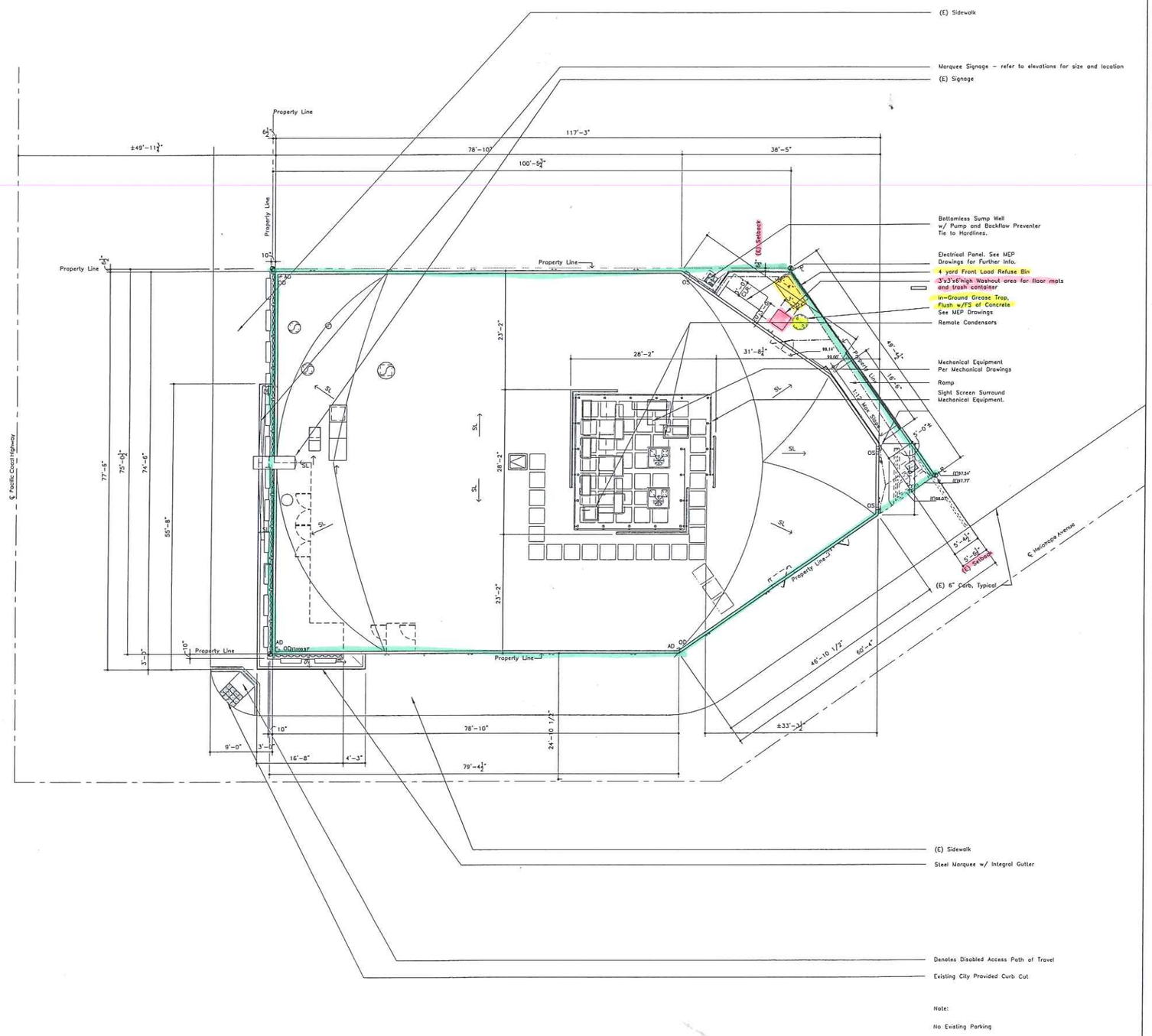
Project Plans

Point of Contact	Lisa Hanscom (949) 988.7324
Project Address:	2905 East Coast Highway Corona Del Mar, CA 92625
Occupancy / Const.:	Group A-1 Assembly uses intended for the viewing of motion pictures
Zone:	RSC (Retail Service Commercial)
Lot Area:	8,142.36 sf.
Floor Area Ratio(FAR):	10,892.90/8,142.36 sf. = 133.78% Lot Area – 8,142.36 sf. Gross Floor Area – 10,892.90 sf.
Parking:	0 Parking
Height:	Refer to elevations for specific conditions
Construction Type:	Type V-B Sprinklered
AREA BUILDING per Chapter 5:	First Level = 7,178.66ft² Second Level = 3,788.84ft²

3 Project Information



2 Vicinity Map



1 Site Plan

Scale: 1/8" = 1'-0"

LS architects
LAIDLAW SCHULTZ

PROJECT
Port Theater Building - Remodel
2905 East Coast Highway
Newport Beach, CA 92625

DRAWING DESCRIPTION
Site Plan

DATE	ISSUE/REVISION	REVIEW
05.29.2012	Use Permit	
08.24.2012	Use Permit	

North A.100
SHEET NO.

All drawings and written material appearing herein constitute original and unpublished work of the architect and may not be duplicated, used or disclosed without the written consent of Laidlaw Schultz Architects.

3111 Second Avenue
Corona del Mar, CA 92625-2322
(949) 645-9662 Fax (949) 645-9554
www.LSarchitects.com

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General Notes

Motion Picture Projection Rooms:

Per 2007 Title 24 Volume 1 CBC
Section 409

409.1–General. the provisions of this section shall apply to rooms in which ribbon–type cellulose acetate or other safety film is utilized in conjunction with electric arc, xenon or other light–source projection equipment that develops hazardous gases, dust or radiation. Where cellulose nitrate film is utilized or stored, such rooms shall comply with NFPA 40.

409.1.1 Projection room required. Every motion picture machine projecting film as mentioned within the scope of this section shall be enclosed in a projection room. Appurtenant electrical equipment, such as rheostats, transformers and generators, shall be within the projection room or in an adjacent room of equivalent construction.

409.2 Construction of Projection Rooms. Every projection room shall be of permanent construction consistent with the construction requirements for the type of building in which the projection room is located. Openings are not required to be protected.
The room shall have a floor area of not less than 80 square feet for a single machine and at least 40 square feet for each additional machine. Each motion picture projector, floodlight, spotlight or similar piece of equipment shall have a clear working space of not less than 30 inches by 30 inches on each side and at the rear thereof, but only one such space shall be required between two adjacent projectors. The projection room and the rooms appurtenant thereto shall have a ceiling height of not less than 7 feet 6 inches. The aggregate of openings for projection equipment shall not exceed 25 percent of the area of the wall between the projection room and the auditorium. Openings shall be provided with glass or other approved material, so as to close completely the opening.

409.3 Projection room and equipment ventilation. Ventilation shall be provided in accordance with the California Mechanical Code.

409.3.1 Supply Air. Each projection room shall be provided with adequate air supply inlets so arranged as to provide well–distributed air throughout the room. Air inlet ducts shall provide an amount of air equivalent to the amount of air being exhausted by projection equipment. Air is permitted to be taken from the outside; from adjacent spaces within the building, provided the volume and infiltration rate is sufficient; or from the building air–conditioning system, provided it is so, arranged as to provide sufficient air when other systems are not in operation.

409.3.2 Exhaust air. Projection rooms are permitted to be exhausted through the lamp exhaust system. The lamp exhaust system shall be positively interconnected with the lamp so that the lamp will not operate unless there is the required airflow. Exhaust air ducts shall terminate at the exterior of the building in such a location that the exhaust air cannot be readily recirculated into any air supply system. The projection room ventilation system is permitted to also serve appurtenant rooms, such as the generator and rewind rooms.

409.3.3 Projection Machines. Each projection machine shall be provided with an exhaust duct that will draw air from each lamp and exhaust it directly to the outside of the building. The lamp exhaust is permitted to serve to exhaust air from the projection room to provide room air circulation. Such ducts shall be of rigid materials, except for a flexible connector approved for the purpose. The projection lamp or projection room exhaust system, or both, is permitted to be combined but shall not be interconnected with any other exhaust or return system, or both, within the building.

409.4 Lighting Control. Provisions shall be made for control of the auditorium lighting and the means of egress lighting systems of theaters from inside the projection room and from at least one other convenient point in the building.

409.5 Miscellaneous Equipment. Each projection room shall be provided with rewind and film storage facilities.

Accessibility for Group A Occupancies

Section 1104B
Accessibility for Group A Occupancies
Per 2007 Title 24 Volume 1 CBC

1104B.1 General. All Group A occupancies shall be accessible as provided in this chapter. See also the general requirements in Section 1114.1.1

1104B.2 Assistive–listening systems in assembly areas. Assembly areas, conference and meeting rooms shall provide assistive–listening systems for persons with hearing impairments as provided in this section.
Exception: This section does not apply to systems used exclusively for paging, or background music, or a combination of these two uses.
1.Number of personal receivers required. The minimum number of receivers to be provided shall be equal to 4 percent of the total number of seats, but in no case less than two.
2.Types of listening systems. Types of assistive–listening systems include, but are not limited to, audio–induction loops, radio frequency systems (AM or FM) and infrared transmission.
3.Location. If the assistive–listening system provided is limited to specific areas or seats, then such areas or seats shall be within a 50–foot viewing distance of the performance area.
4.Signage. A sign shall be posted in a prominent place (for example, a customer service counter, ticket booth or assembly area entrance) indicating the availability of assistive–listening devices. The sign complying with Section 1117B.5.1, Items 2 and 3 shall include the International Symbol of Access for Hearing Loss complying with figure 11B–14C and include wording that states, "Assistive–Listening System Available."
5.Fees and charges. Nothing in this section shall preclude a facility charging for such assistive–listening system its usual fee for audiovisual equipment. However, no surcharge may be placed directly on any particular individual with a disability or any group of individuals with disabilities to cover the costs of such equipment.
6.Permanent and portable systems. Permanently installed assistive–listening systems are required in areas if (1) they accommodate at least 50 persons or if they have audio–amplification systems. and (2) they have fixed seating. If portable assistive–listening systems are used for conference or meeting rooms the systems may serve more than one room. An adequate number of electrical outlets or other supplementary wiring necessary to support a portable assistive–listening system shall be provided.

1104B.3.1 Seating. In all assembly places where seating is provided, there shall be spaces for persons using wheelchairs and semi–ambulant persons, as provided in this section.
Exceptions:
1. In existing buildings and facilities when the enforcing agency determines that compliance with the seating requirements of this code would create an unreasonable hardship, such requirements shall not apply. When the unreasonable hardship finding is applied, at least 1 percent of the total seating provided shall be accessible to and usable by persons with disabilities who use wheelchairs, and such seating shall comply with the level requirements and the individual space requirements of this code.
2. When an existing theater is subdivided into more than one facility having upper levels not accessible by ramp or elevator, and the enforcing agency determines that full compliance with this code would create an unreasonable hardship, such upper levels need not be made accessible, provided all facilities at grade are accessible and any event, showing of motion pictures or other activities made available to the public in all of the facilities are scheduled to ensure that all such functions are available to the public in the accessible facility.

1104B.3.2 Accessibility to key facilities. Seating for persons with disabilities shall be accessible from the main lobby or from a primary entrance, together with related toilet facilities.

1104B.3.3 Variety of locations. Accessible seating or accommodations in places of public amusement and resort, including theaters, concert halls and stadiums, shall be provided in a variety of locations so as to provide persons with disabilities a choice of admission prices otherwise available to members of the general public.

2 | Assembly/Theater Notes

Section 1104B
Accessibility for Group A Occupancies–Continued
Per 2007 Title 24 Volume 1 CBC

1104B.3.4 Wheelchair Spaces.

1. The number of such spaces is as shown in Table 11B–1.

TABLE 11B–1.WHEELCHAIR SEATING SPACES

SEATING CAPACITY	NO. OF WHEELCHAIR SEATING SPACES
4 to 26	1
27 to 50	2
51 to 300	4
301 to 500	6

In addition, 1 percent, but not less than one, of all fixed seats, shall be aisle seats with no armrests on the aisle side, or removable or folding armrests on the aisle side. Each such seat shall be identified by a sign or marker with the International Symbol of Accessibility (see Figure 11B.6). Signage notifying patrons of the availability of such seats shall be posted at the ticket office. Signs and markers shall comply with Section 1117B.5.1, Items 2 and 3 as applicable.

2. When the seating capacity exceeds 500, one additional wheelchair seating space shall be provided for each total seating capacity increase of 100.

3. The ground or floor at spaces shall be level and shall comply with Section 1124B.

1104B.3.5 Placement of wheelchair locations. Wheelchair areas shall be an integral part of any fixed seating plan, and shall be arranged so as to provide persons with disabilities a choice of admission prices and lines of sight comparable to those for members of the general public. Each wheelchair area shall adjoin an accessible route which shall also serve as a means of egress in case of emergency. At least one companion fixed seat shall be provided next to each wheelchair seating area. When the seating capacity exceeds 300, wheelchair spaces shall be provided in more than one location in addition to complying with Section 1104B.3.3.

EXCEPTIONS:
1. Accessible viewing positions where seating capacity is less than 300 may be clustered for bleachers, balconies and other areas having sight lines that require slopes of greater than one unit vertical in 20 units horizontal (5 percent slope.) Equivalent accessible viewing positions may be located on levels having accessible egress.
2. Where it is determined that dispersing accessible seating throughout an existing assembly area would create an unreasonable hardship, accessible seating areas may be clustered. Each accessible seating area shall have provisions for companion seating and shall be located on an accessible route that also serves as a means of emergency egress.

1104B.3.6 Size of wheelchair location. Each wheelchair location shall provide minimum clear floor or ground space as shown in Figure 11B–15, and shall adjoin an egress aisle on at least one side.

1104B.3.7 Removable seats. Readily removable seats may be installed in these wheelchair spaces when such spaces are not required to accommodate wheelchair users.

1104B.3.8 Seating for semi–ambulant individuals. In addition to spaces provided for wheelchair users as noted in Sections 1104B.3.4 through 1104B.3.7 above, there shall be provided seating for semi–ambulant individuals. The number of such seating shall be equal to at least 1 percent of the total seating and shall be no fewer than two. Such seats shall provide at least 24 inches (610 mm) clear leg space between the front of the seat to the nearest obstruction or to the back of the seat immediately in front.

1104B.3.9 Life safety. In determining the location of seating for persons with disabilities, life safety shall be considered, and all seating provided must comply with the fire and panic safety requirements of the state fire marshal.

1104B.3.10 Access to performing areas. An accessible route shall connect wheelchair seating locations with performing areas, including stages, arena floors, dressing rooms, locker rooms and other spaces used by performers.

1104B.3.11 Stages, enclosed and unenclosed platforms, and orchestra pits. Stages, enclosed and unenclosed platforms, and orchestra pits shall be made accessible to persons with disabilities.

EXCEPTIONS:
1. When the enforcing agency finds that requiring compliance with this code, for an enclosed or unenclosed platform or depressed area not more than 24 inches (610 mm) above or below an adjacent accessible level, would create an unreasonable hardship, the enclosed and unenclosed platform or depressed area shall be made accessible by a portable ramp with a slope not exceeding 1 unit vertical to 12 units horizontal (8.33% slope).

2. In existing buildings and facilities, all stages, enclosed or unenclosed platforms, and orchestra pits need not be accessible when the enforcing agency determines that compliance with this code would create an unreasonable hardship.

1104B.3.12 Ticket booths. Customer and employee sides of ticket booths and of concession and refreshment sales facilities shall be made accessible to persons with disabilities.

1104B.3.13 Miscellaneous areas. Public toilets and other public areas shall be made accessible to persons with disabilities.

Section 1104B
Accessibility for Group A Occupancies–Continued
Per 2007 Title 24 Volume 1 CBC

1104B.5 Dining, Banquet and Bar Facilities.

1. General. Dining, banquet, and bar facilities shall be made accessible to persons with disabilities as provided in this section. All areas where each type of functional activity occurs shall be made accessible.

EXCEPTIONS:
1. In existing buildings, when the enforcing agency determines that compliance with any regulation under this section would create an unreasonable hardship, an exception shall be granted when equivalent facilitation is provided.

2. In existing buildings, these regulations shall not apply when legal or physical constraints would not allow compliance with these regulations or equivalent facilitation without creating an unreasonable hardship. See Section 109.1.5.

2. Entrance. Access to these facilities shall be provided at entrances and exits as required by Section 1133B.1.1.
3. Raised or sunken areas. All raised or sunken areas, including dining areas, loggias and outdoor seating areas, shall be accessible. A raised platform where a head table or speaker's lectern is located shall be accessible. Open edges of raised or sunken areas shall be protected as required by Sections 1013 Guards, 1133B.8.1 Warning Curbs, or by other means as required by this code. For Existing buildings, see Section 1120B, Floors and Levels.
4. Seating. Each dining, banquet and bar area shall have one wheelchair seating space for each 20 seats, with at least one minimum wheelchair seating space per functional area. Such seating shall be designed and arranged to permit use by wheelchair occupants, and shall comply with Section 1122B, Fixed or Built–in Seating, Tables, and Counters. Access to such seating spaces shall be provided with main aisles not less than 36 inches (914 mm) clear width. In establishments where separate areas are designated for smoking and nonsmoking patrons, the required number of accessible fixed tables (or Counters) shall be proportionally distributed between the smoking and nonsmoking areas. Accessible seating spaces shall be integrated with general seating to allow a reasonable selection of seating area and to avoid having one area specifically highlighted as the area for persons with disabilities. The ratio of accessible seating is based on the total number of seats provided. Where food or drink is served at counters exceeding 34 inches in height for consumption by customers seated or standing at the counter, a portion of the main counter which is 60 inches in length minimum shall be proved in compliance with section 1122B.
5. Food service aisles. Food service aisles shall be a minimum of 36 inches (914 mm) of clear width with a preferred width of 42 inches (1067 mm) where passage of stopped wheelchairs by pedestrians is desired. Tray slides shall be mounted no higher than 34 inches (864 mm) above the floor as shown in Figure 11B–16. If self–service shelves are provided, at least 50 percent of each type must be within the reach ranges in Sections 1118B.5 and 1118B.6.
6. Tableware and condiment areas. Self–service tableware, dishware, condiments, food and beverage display shelves and dispensing devices shall comply with Sections 1118B and 1122B.4. See Figure 11B–17.
7. Restrooms. Restrooms and powder rooms shall conform to requirements in Section 1115B.
8. Food preparation areas. Access to food preparation areas shall comply with the provisions for entrance doors and doorways in Section 1008, and aisles in Sections 1014.4 and 1014.4.1.

CITY OF NEWPORT BEACH
BUILDING DEPARTMENT
3300 NEWPORT BLVD.
P.O.BOX 1768, NEWPORT BEACH, CA 92658
(949) 644-3275

DOCUMENTATION OF UNREASONABLE HARDSHIP

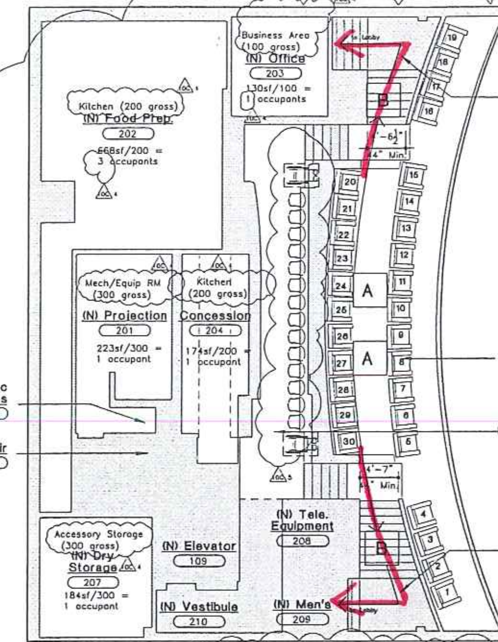
Other: 1104B.3.1 Seating (Exception #1)
Job Address: 2905 East Coast Highway
Property Owner: PANG REALTY, LLC
Petitioner: Craig Schultz - Laidlaw Schultz Architects
Position/Relationship: Architect
Address: 3111 Second Avenue, Corona del Mar
Project Info: P.C.# 0126-2007
Use: Theater
Stories: 2 Stories
Total cost of construction contemplated (not including disabled access work): 1.5 Million

1. Doors and Hardware $ 6,500
2. Restroom Facilities $ 85,000
3. Path of Travel throughout lower Level of the Theater $ 15,000
4. Accessibility of Concessions - lower level + second level $ 22,500
5. Elevator to Second level $ 85,000
6. Lift to Platform (Full Level of Theater) including stand... $ 30,000
TOTAL $ 266,500

FOR CITY USE ONLY
1. Total cost of proposed construction: $ 1.5 Million
2. Cost of disabled access improvements: $ 266,500
Approved/denied by ________ Date 11/30/09

*The $50,000 is in 1981 dollars, which is approximately $126,000 as of January 1, 2009.

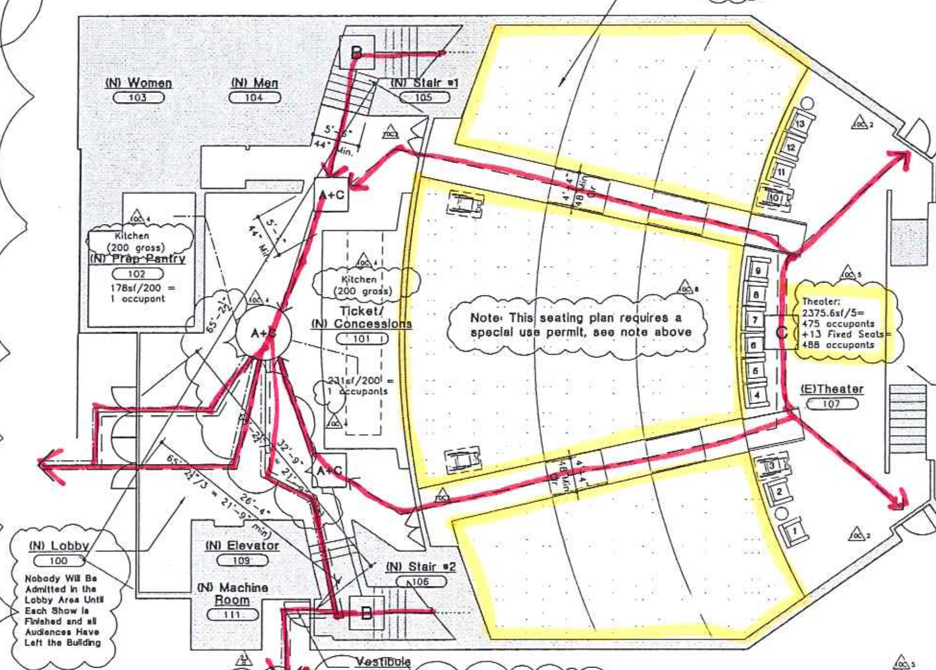
3 | Hardship Approval Form



Second Level (Occupant Load: 7staff + 16adj seats + 30 fixed seats = 53 total occupants) (1+1+3+1+1=7staff)

(Hatched Area=2375.6sf) Standing Space (5 net)

"The seating plans shall accommodate a maximum of 350 occupants without the requirement of a Special Event Permit issued by the City. When the building contains more than 350 occupants, a Special Event Permit is required to be issued by the City prior to the event. A maximum of 12 Special Event Permits shall be issued in the first year of operation, and the number of Special Event Permits for subsequent years is subject to review by the City. A seating diagram depicting each seating layout shall be required to be posted in the lobby prior to accommodating the occupancy of each seating layout. Any deviation from an approved seating plan requires review by the City's Fire Department and Building Department."



Lower Level (Occupant Load: 488theater + 2staff + 12platform =502 total occupants [Note: lobby occupants considered as part of theater occupancy) 13 fixed seats + 475 standing + 1 storage + 11 platform + 1 Prep Pantry + 1 Concessions = 502 occupants)

Actual Occupant Load	Stairways = .2"/Occupant (CBC Table 1005.1)	Other Egress Components = .15"/Occupant (CBC Table 1005.1) .2 at A
A 2nd Level Theater — Occupant Load 53 occupants (7staff + 46seats)		Egress Width (44" Min) 53 occupants x .2 = 10.60" 10.60"/2 exit access components = **05.30" clr**
B 2nd Level Stair — Occupant Load 53 occupants (7staff + 46seats)	Egress Width (44" min) 53 occupants x .20 = 10.60" 10.60"/2 exit access components = **05.30" clr**	
C Theater — Occupant Load 500 occupants (475+13+11+1)		Egress Width (44" min) 500 occupants x .2 = 100" 100"/4 exit access components = **25.00" clr**
Main Exit — Occupant Load: Theater = 500/2 = 250; 2nd Level = 53; Lobby = 2 (not occupied separately); Total = 305		Egress Width (44" min) 305 occupants x .2 = 61" 61"/2 exit access components = 30.5" VS. (per CBC 1025.2) 534 (488+53) x .2 = 106.8"/2 = 53.4" **53.4" clr**

Assembly without Fixed Seats
Calculated as Standing Room - 5sf/occupant

Note- Per CBC Section 1025-
Group A occupancies that have an occupant load greater than 300 shall be provided with at least 0.20-inch total exit width for each occupant served.

Per CBC Section 1025.12 Exception 4.
In places of assembly where flexibility of the seating arrangement is an integral part of the design function of the space and seating is on tiered levels, maximum of 200 seats shall not be required to be fastened to the floor. Plans showing seating, tiers and aisles shall be submitted for approval.

Note- As No one will be admitted in the lobby area until each show is finished and all audiences have left the building, the lobby occupant load has not been used in exit calculations.

1 | Exit Diagram — Scale- 1/8" = 1'-0"

LS architects
LAIDLAW SCHULTZ

PROJECT
Port Theater Building - Remodel
2905 East Coast Highway
Newport Beach, CA 92625

DRAWING DESCRIPTION
Assembly/Theater Notes and Exit Diagram

DATE	ISSUE/REVISION	REVIEW
11.06.07	Progress Print	
12.05.07	Progress Print	
12.20.07	Plan Check	
01.22.08	Plan Check #2	
02.07.08	Plan Check #3	
02.27.08	Plan Check #4	
03.14.08	Plan Check #5	
08.27.08	Bulletin 10- Interior Revisions for Plancheck	
12.26.08	Bulletin 10C-Interior Revisions for Pricing and Plancheck	
05.05.09	Bulletin 23B-Backcheck Corrections	
07.07.09	Bulletin 10C3-Plancheck Corrections	
09.21.09	Bulletin 10C 4-Plancheck Corrections	
11.02.09	Bulletin 10C 5-Plancheck Corrections	
01.13.10	Bulletin 10C 6-Plancheck Corrections	

LICENSED ARCHITECT — CRAIG H. SCHULTZ — C-22287 — March-2011 RENEWAL — STATE OF CALIFORNIA

A.002
SHEET NO.

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3111 Second Avenue
Corona del Mar, CA 92625-2322

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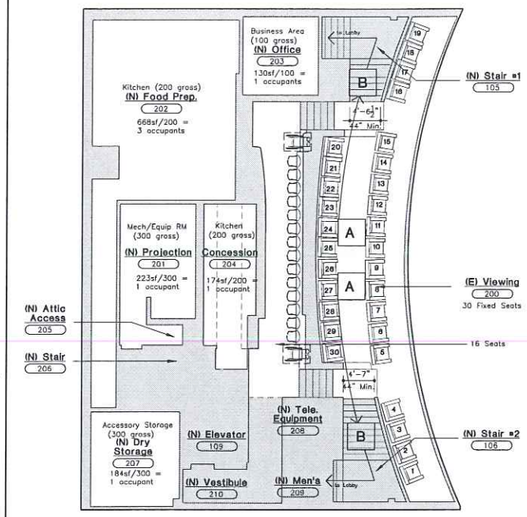
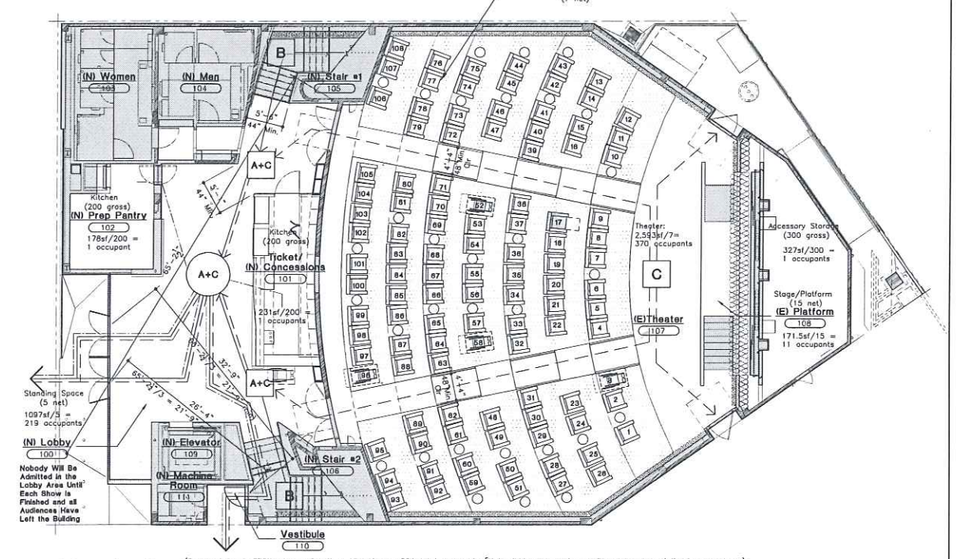


"The seating plans shall accommodate a maximum of 350 occupants without the requirement of a Special Event Permit issued by the City. When the building contains more than 350 occupants, a Special Event Permit is required to be issued by the City prior to the event. A maximum of 12 Special Event Permits shall be issued in the first year of operation, and the number of Special Event Permits for subsequent years is subject to review by the City. A seating diagram depicting each seating layout shall be required to be posted in the lobby prior to accommodating the occupancy of each seating layout. Any deviation from an approved seating plan requires review by the City's Fire Department and Building Department."

Second Level

(Occupant Load: 7staff + 16adj seats + 30 fixed seats = 53 total occupants)
(1+1+3+1+1=7staff)

(Hatched Area=259.3sf)
Concentrated Seating
(7 net)



Lower Level

(Occupant Load: 370theater + 2staff + 12platform =384 total occupants [Note: lobby occupants considered as part of theater occupancy)
370concentrated seating + 1 storage + 11 platform + 1 Prep Pantry + 1 Concessions = 384 occupants)

Actual Occupant Load	Stairways = .2"/Occupant (CBC Table 1005.1)	Other Egress Components = .15"/Occupant (CBC Table 1005.1) .2 at A
A 2nd Level Theater — Occupant Load 53 occupants (7staff + 46seats)		Egress Width (44" Min) 53 occupants x .2 = 10.60" 10.60"/2 exit access components = **05.30" clr**
B 2nd Level Stair — Occupant Load 53 occupants (7staff + 46seats)	Egress Width (44" min) 53 occupants x .20 = 10.60" 10.60"/2 exit access components = **05.30" clr**	
C Theater — Occupant Load 382 occupants (370+11+1)		Egress Width (44" min) 382 occupants x .2 = 76.4" 76.4"/4 exit access components = **19.10" clr**
Main Exit — Occupant Load: Theater = 382/2 = 191; 2nd Level = 53; Lobby = 2 (not occupied separately); Total = 246		Egress Width (44" min) 246 occupants x .2 = 49.2" 49.2"/2 exit access components = 24.6" VS. (per CBC 1025.2) 423 (370+53) x .2 = 84.6"/2 = 42.3" **42.3" clr**

Assembly without Fixed Seats
Calculated as Concentrated Seating - 7sf/occupant

Note- Per CBC Section 1025-
Group A occupancies that have an occupant load greater than 300 shall be provided with at least 0.20-inch total exit width for each occupant served.

Per CBC Section 1025.12 Exception 4.
In places of assembly where flexibility of the seating arrangement is an integral part of the design function of the space and seating is on tiered levels, maximum of 200 seats shall not be required to be fastened to the floor. Plans showing seating, tiers and aisles shall be submitted for approval.

Note- As No one will be admitted in the lobby area until each show is finished and all audiences have left the building, the lobby occupant load has not been used in exit calculations.

LS architects
LAIDLAW SCHULTZ

PROJECT
Port Theater Building - Remodel
2905 East Coast Highway
Newport Beach, CA 92625

DRAWING DESCRIPTION:
Assembly/Theater Notes and Exit Diagram

DATE	ISSUE/REVISION	REVIEW
11.06.07	Progress Print	
12.05.07	Progress Print	
12.20.07	Plan Check	
01.22.08	Plan Check #2	
02.07.08	Plan Check #3	
02.27.08	Plan Check #4	
03.14.08	Plan Check #5	
01.05.10	Bulletin 10C 7-Plancheck Corrections	
01.13.10	Bulletin 10C 8-Plancheck Corrections	

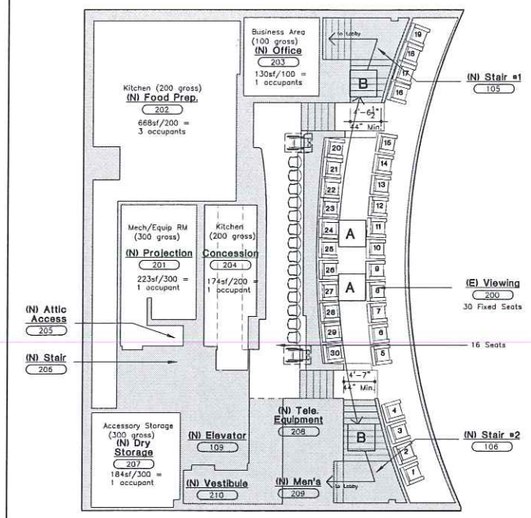
LICENSED ARCHITECT
KARL W. SCHULTZ
C-22287
March-2011
RENEWAL
STATE OF CALIFORNIA

A.002a
SHEET NO

All drawings and written material appearing herein are at all times original and unpublished work of the architect and may not be duplicated, used or disclosed without the written consent of Laidlaw Schultz Architects

3111 Second Avenue
Corona del Mar, CA 92625-2232
(949) 645-5067 Fax (949) 645-5554
www.LSarchitects.com

2 | Exit Diagram (Representative of 108 Seats, re- 203) | Scale- 1/8" = 1'-0"

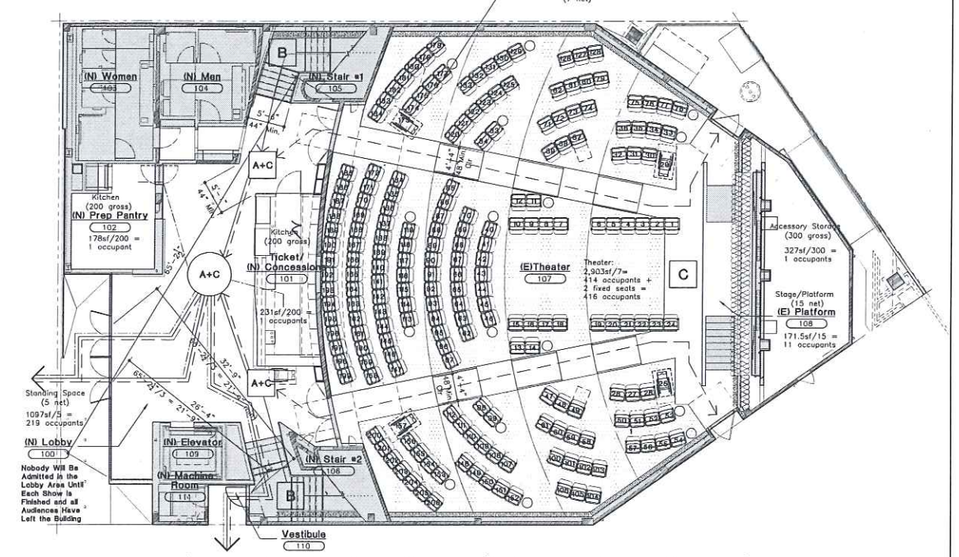


"The seating plans shall accommodate a maximum of 350 occupants without the requirement of a Special Event Permit issued by the City. When the building contains more than 350 occupants, a Special Event Permit is required to be issued by the City prior to the event. A maximum of 12 Special Event Permits shall be issued in the first year of operation, and the number of Special Event Permits for subsequent years is subject to review by the City. A seating diagram depicting each seating layout shall be required to be posted in the lobby prior to accommodating the occupancy of each seating layout. Any deviation from an approved seating plan requires review by the City's Fire Department and Building Department."

Second Level

(Occupant Load: 7staff + 16adj seats + 30 fixed seats = 53 total occupants)
(1+1+3+1+1=7staff)

(Hatched Area=2303sf)
Concentrated Seating
(7 net)



Lower Level

(Occupant Load: 416theater + 2staff + 12platform =430 total occupants [Note: lobby occupants considered as part of theater occupancy)
414concentrated seating + 2 fixed seats + 1 storage + 11 platform + 1 Prep Pantry + 1 Concessions = 430 occupants)

Actual Occupant Load

		Stairways = .2"/Occupant (CBC Table 1005.1)	Other Egress Components = .15"/Occupant (CBC Table 1005.1) .2 at A
A 2nd Level Theater (AD.8)	Occupant Load 53 occupants (7staff + 46seats)		Egress Width (44" Min) 53 occupants x .2 = 10.60" 10.60"/2 exit access components = **05.30" clr**
B 2nd Level Stair	Occupant Load 53 occupants (7staff + 46seats)	Egress Width (44" min) 53 occupants x .20 = 10.60" 10.60"/2 exit access components = **05.30" clr**	
C Theater	Occupant Load 428 occupants (416+11+1)		Egress Width (44" min) 428 occupants x .2 = 85.6" 85.6"/4 exit access components = **21.40" clr**
Main Exit	Occupant Load Theater = 428/2 = 214 2nd Level = 53 Lobby = 2 (not occupied separately) Total = 269		Egress Width (44" min) 269 occupants x .2 = 53.8" 53.8"/2 exit access components = 26.9" VS. (per CBC 1025.2) 469 (416+53) x .2 = 93.8"/2 = 46.9" **46.9" clr**

Assembly without Fixed Seats
Calculated as Concentrated Seating - 7sf/occupant

Note- Per CBC Section 1025-
Group A occupancies that have an occupant load greater than 300 shall be provided with at least 0.20-inch total exit width for each occupant served.

Per CBC Section 1026.12 Exception 4.
In places of assembly where flexibility of the seating arrangement is an integral part of the design function of the space and seating is on tiered levels, maximum of 200 seats shall not be required to be fastened to the floor. Plans showing seating, tiers and aisles shall be submitted for approval.

Note- As No one will be admitted in the lobby area until each show is finished and all audiences have left the building, the lobby occupant load has not been used in exit calculations.

2 Exit Diagram (Representative of 206 Seats, re: 203a)

Scale- 1/8" - 1'-0"

LS architects
LAIDLAW SCHULTZ

PROJECT
Port Theater Building - Remodel
2905 East Coast Highway
Newport Beach, CA 92625

DRAWING DESCRIPTION
Assembly/Theater Notes and Exit Diagram

DATE	ISSUE/REVISION	REVIEW
11.08.07	Progress Print	
12.05.07	Progress Print	
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01.22.08	Plan Check #2	
02.07.08	Plan Check #3	
02.27.08	Plan Check #4	
03.14.08	Plan Check #5	
01.05.10 (AD.6)	Bulletin 10C 7-Plancheck Corrections	
01.13.10 (AD.8)	Bulletin 10C 8-Plancheck Corrections	

LICENSED ARCHITECT
LAIDLAW H. SCHULTZ
C-22287
March-2011
RENEWAL
STATE OF CALIFORNIA

(AD.7)
A.002b
SHEET NO.

All drawings and written material appearing herein are at all times original and unpublished work of the architect and may not be duplicated, used or disclosed without the written consent of Laidlaw Schultz Architects.

2311 Bernard Avenue
Corona del Mar, CA 92625-2329
(949) 640-3883 Fax (949) 640-8534
www.LSarchitects.com

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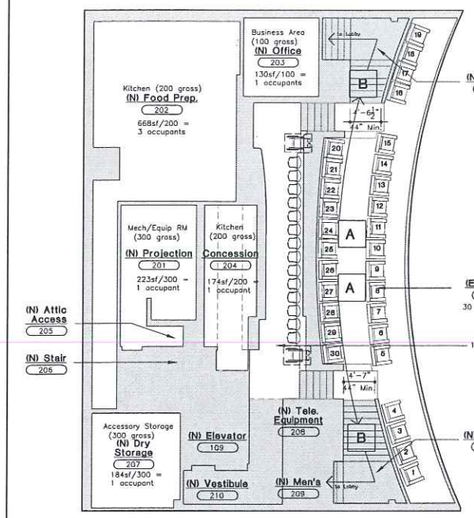
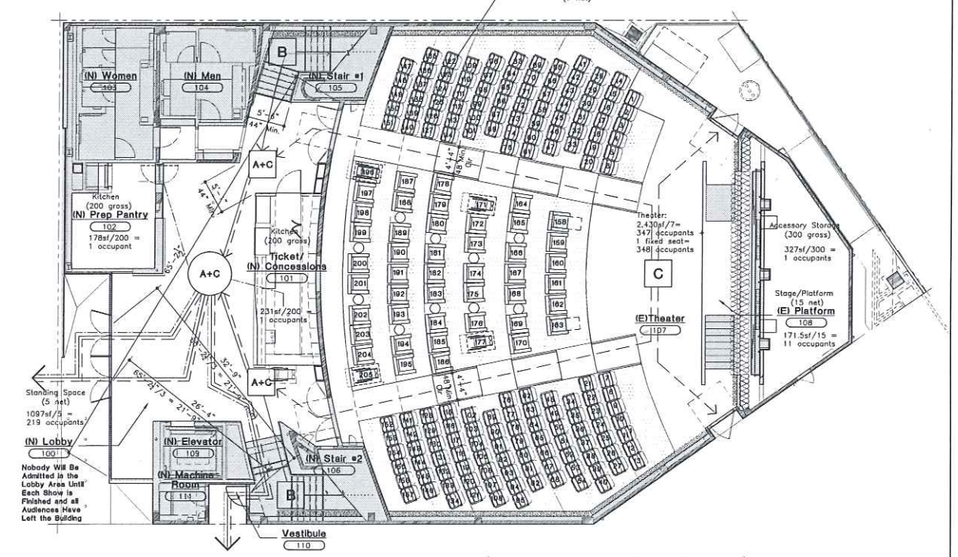


"The seating plans shall accommodate a maximum of 350 occupants without the requirement of a Special Event Permit issued by the City. When the building contains more than 350 occupants, a Special Event Permit is required to be issued by the City prior to the event. A maximum of 12 Special Event Permits shall be issued in the first year of operation, and the number of Special Event Permits for subsequent years is subject to review by the City. A seating diagram depicting each seating layout shall be required to be posted in the lobby prior to accommodating the occupancy of each seating layout. Any deviation from an approved seating plan requires review by the City's Fire Department and Building Department."

Second Level

(Occupant Load: 7staff + 16adj seats + 30 fixed seats = 53 total occupants)
(1+1+3+1+1=7staff)

(Hatched Area=2430sf)
Concentrated Seating
(7 net)



Lower Level

(Occupant Load: 348theater + 2staff + 12platform =362 total occupants [Note: lobby occupants considered as part of theater occupancy)
347concentrated seating + 1 fixed +1 storage + 11 platform + 1 Prep Pantry + 1 Concessions = 362 occupants)

Actual Occupant Load		Stairways = .2"/Occupant (CBC Table 1005.1)	Other Egress Components = .15"/Occupant (CBC Table 1005.1) .2 at A
A 2nd Level Theater (Ver. 8)	Occupant Load 53 occupants (7staff + 46seats)		Egress Width (44" Min) 53 occupants x .2 = 10.60" 10.60"/2 exit access components = **05.30" clr**
B 2nd Level Stair	Occupant Load 53 occupants (7staff + 46seats)	Egress Width (44" min) 53 occupants x .20 = 10.60" 10.60"/2 exit access components = **05.30" clr**	
C Theater	Occupant Load 360 occupants (348+11+1)		Egress Width (44" min) 360 occupants x .2 = 72.0" 72.0"/4 exit access components = **18.00" clr**
Main Exit	Occupant Load Theater = 360/2 = 180 2nd Level = 53 Lobby = 2 (not occupied separately) Total = 235		Egress Width (44" min) 235 occupants x .2 = 47.0" 47.0"/2 exit access components = 23.5" VS. (per CBC 1025.2) 401 (348+53) x .2 = 80.2"/2 = 40.1" **40.1" clr**

Assembly without Fixed Seats
Calculated as Concentrated Seating - 7sf/occupant

Note- Per CBC Section 1025-
Group A occupancies that have an occupant load greater than 300 shall be provided with at least 0.20-inch total exit width for each occupant served.

Per CBC Section 1025.12 Exception 4.
In places of assembly where flexibility of the seating arrangement is an integral part of the design function of the space and seating is on tiered levels, maximum of 200 seats shall not be required to be fastened to the floor. Plans showing seating, tiers and aisles shall be submitted for approval.

Note- As No one will be admitted in the lobby area until each show is finished and all audiences have left the building, the lobby occupant load has not been used in exit calculations.

2 Exit Diagram (Representative of 205 Seats, re: 203b)

Scale- 1/8" - 1'-0"

LS architects
LAIDLAW SCHULTZ

PROJECT
Port Theater Building - Remodel
2905 East Coast Highway
Newport Beach, CA 92625

DRAWING DESCRIPTION
Assembly/Theater Notes and Exit Diagram

DATE	ISSUE/REVISION	REVIEW
11.08.07	Progress Print	
12.05.07	Progress Print	
12.20.07	Plan Check	
01.22.08	Plan Check #2	
02.07.08	Plan Check #3	
02.27.08	Plan Check #4	
03.14.08	Plan Check #5	
(Ver. 7) 01.05.10	Bulletin 10C 7-Plancheck Corrections	
(Ver. 8) 01.13.10	Bulletin 10C 8-Plancheck Corrections	

LICENSED ARCHITECT
LARRY W. SCHULTZ
C-22287
March-2011
RENEWAL
STATE OF CALIFORNIA

(Ver. 7)
A.002c
SHEET NO.

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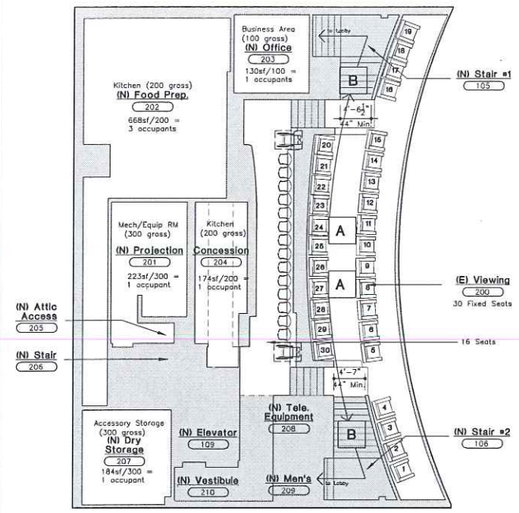
3311 Bechtel Avenue
Corona del Mar, CA 92625-2529
(949) 645-3883 Fax (949) 645-9554
www.LSarchitects.com

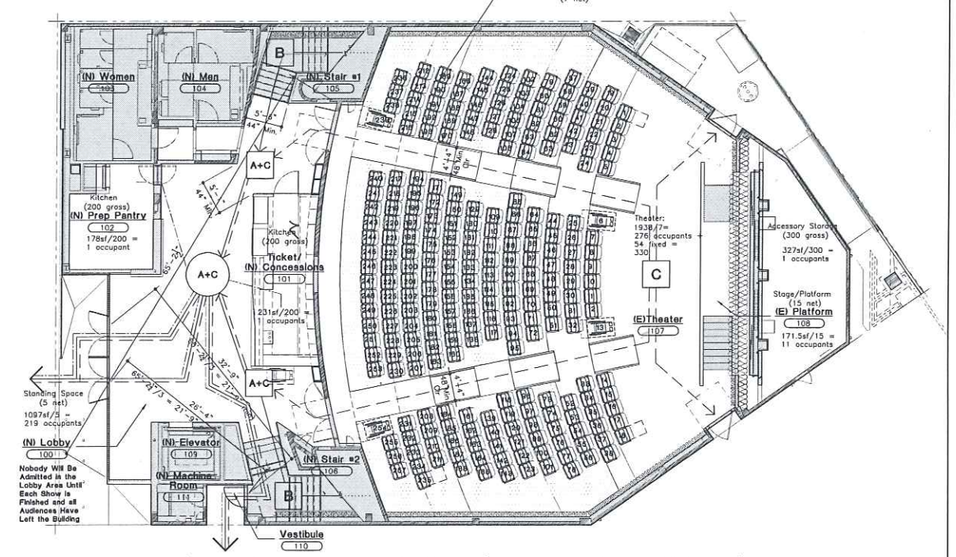


"The seating plans shall accommodate a maximum of 350 occupants without the requirement of a Special Event Permit issued by the City. When the building contains more than 350 occupants, a Special Event Permit is required to be issued by the City prior to the event. A maximum of 12 Special Event Permits shall be issued in the first year of operation, and the number of Special Event Permits for subsequent years is subject to review by the City. A seating diagram depicting each seating layout shall be required to be posted in the lobby prior to accommodating the occupancy of each seating layout. Any deviation from an approved seating plan requires review by the City's Fire Department and Building Department."

Second Level

(Occupant Load: 7staff + 16adj seats + 30 fixed seats = 53 total occupants)
(1+1+3+1+1=7staff)

(Hatched Area=1938sf)
Concentrated Seating
(7 net)



Lower Level

(Occupant Load: 330theater + 2staff + 12platform =344 total occupants (Note: lobby occupants considered as part of theater occupancy)
276concentrated seating + 54fixed+ 1 storage + 11 platform + 1 Prep Pantry + 1 Concessions = 344 occupants)

Actual Occupant Load		Stairways = .2"/Occupant (CBC Table 1005.1)	Other Egress Components = .15"/Occupant (CBC Table 1005.1) .2 at A
A 2nd Level Theater (ad.s)	Occupant Load 53 occupants (7staff + 46seats)		Egress Width (44" Min) 53 occupants x .2 = 10.60" 10.60"/2 exit access components = **05.30" clr**
B 2nd Level Stair	Occupant Load 53 occupants (7staff + 46seats)	Egress Width (44" min) 53 occupants x .20 = 10.60" 10.60"/2 exit access components = **05.30" clr**	
C Theater	Occupant Load 342 occupants (330+11+1)		Egress Width (44" min) 342 occupants x .2 = 68.4" 68.4"/4 exit access components = **17.10" clr**
Main Exit	Occupant Load Theater = 342/2 = 171 2nd Level = 53 Lobby = 2 (not occupied separately) Total = 226		Egress Width (44" min) 226 occupants x .2 = 45.2" 45.2"/2 exit access components = 22.6" VS. (per CBC 1025.2) 383 (330+53) x .2 = 76.6"/2 = 3.8.3" **38.3" clr**

Assembly without Fixed Seats
Calculated as Concentrated Seating - 7sf/occupant

Note- Per CBC Section 1025-
Group A occupancies that have an occupant load greater than 300 shall be provided with at least 0.20-inch total exit width for each occupant served.

Per CBC Section 1025.12 Exception 4.
In places of assembly where flexibility of the seating arrangement is an integral part of the design function of the space and seating is on tiered levels, maximum of 200 seats shall not be required to be fastened to the floor. Plans showing seating, tiers and aisles shall be submitted for approval.

Note-As No one will be admitted in the lobby area until each show is finished and all audiences have left the building, the lobby occupant load has not been used in exit calculations.

2 Exit Diagram (Representative of 257 Seats, re: 203c)

Scale- 1/8" = 1'-0"

LS architects
LAIDLAW SCHULTZ

PROJECT
Port Theater Building - Remodel
2905 East Coast Highway
Newport Beach, CA 92625

DRAWING DESCRIPTION
Assembly/Theater Notes and Exit Diagram

DATE	ISSUE/REVISION	REVIEW
11.06.07	Progress Print	
12.05.07	Progress Print	
12.20.07	Plan Check	
01.22.08	Plan Check #2	
02.07.08	Plan Check #3	
02.27.08	Plan Check #4	
03.14.08	Plan Check #5	
01.05.10	Bulletin 10C 7-Plancheck Corrections	
01.13.10	Bulletin 10C 8-Plancheck Corrections	

LICENSED ARCHITECT
DAVID M. SCHULTZ
C-22287
March-2011
RENEWAL
STATE OF CALIFORNIA

A.002d
SHEET NO.

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3111 Second Avenue
Corona del Mar CA 92625-2322
(949) 645-5050 Fax (949) 645-3584
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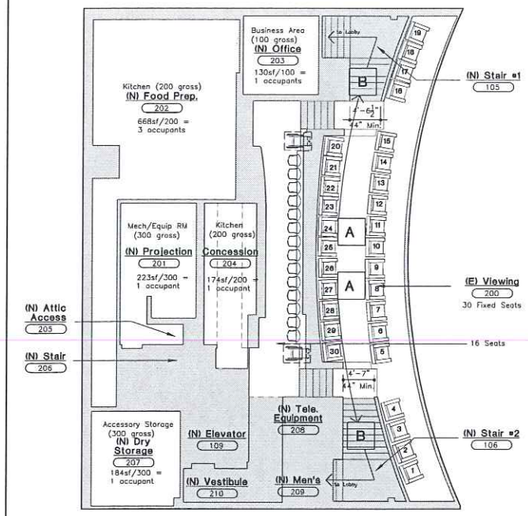
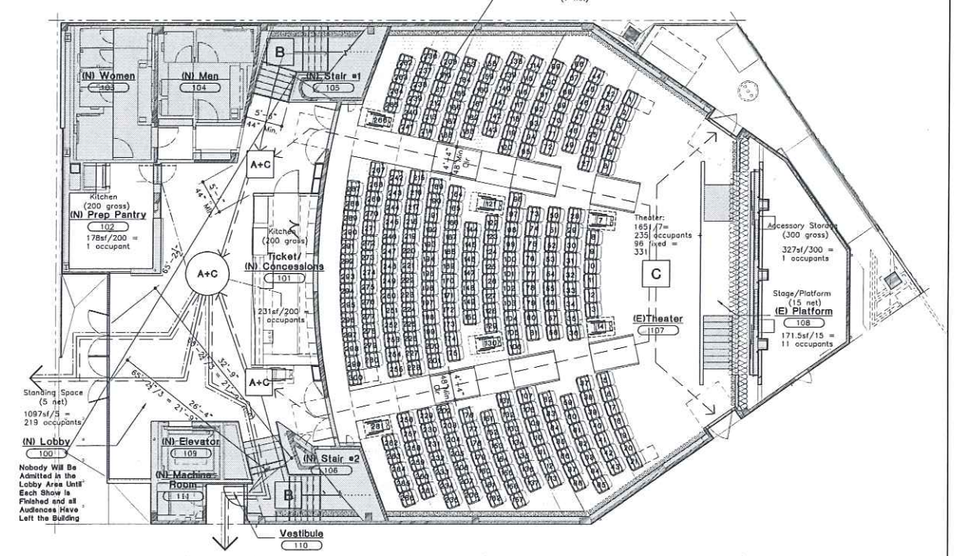


"The seating plans shall accommodate a maximum of 350 occupants without the requirement of a Special Event Permit issued by the City. When the building contains more than 350 occupants, a Special Event Permit is required to be issued by the City prior to the event. A maximum of 12 Special Event Permits shall be issued in the first year of operation, and the number of Special Event Permits for subsequent years is subject to review by the City. A seating diagram depicting each seating layout shall be required to be posted in the lobby prior to accommodating the occupancy of each seating layout. Any deviation from an approved seating plan requires review by the City's Fire Department and Building Department."

Second Level

(Occupant Load: 7staff + 16adj seats + 30 fixed seats = 53 total occupants)
(1+1+3+1+1=7staff)

(Hatched Area=1651sf)
Concentrated Seating
(7 net)



Lower Level

(Occupant Load: 331theater + 2staff + 12platform =345 total occupants [Note: lobby occupants considered as part of theater occupancy)
235concentrated seating + 96fixed+ 1 storage + 11 platform + 1 Prep Pantry + 1 Concessions = 345 occupants)

Actual Occupant Load		Stairways = .2"/Occupant (CBC Table 1005.1)	Other Egress Components = .15"/Occupant (CBC Table 1005.1) .2 at A
A 2nd Level Theater	Occupant Load 53 occupants (7staff + 46seats)		Egress Width (44" Min) 53 occupants x .2 = 10.60" 10.60"/2 exit access components = **05.30" clr**
B 2nd Level Stair	Occupant Load 53 occupants (7staff + 46seats)	Egress Width (44" min) 53 occupants x .20 = 10.60" 10.60"/2 exit access components = **05.30" clr**	
C Theater	Occupant Load 343 occupants (331+11+1)		Egress Width (44" min) 343 occupants x .2 = 68.6" 68.6"/4 exit access components = **17.15" clr**
Main Exit	Occupant Load Theater = 343/2 = 171.5 2nd Level = 53 Lobby = 2 (not occupied separately) Total = 226.5		Egress Width (44" min) 226.5 occupants x .2 = 45.3" 45.3"/2 exit access components = 22.7" VS. (per CBC 1025.2) .384 (331+53) x .2 = 76.8"/2 = 38.4" **38.4" clr**

Fixed Seats
Calculated as Concentrated Seating - 7sf/occupant

Note- Per CBC Section 1025-
Group A occupancies that have an occupant load greater than 300 shall be provided with at least 0.20-inch total exit width for each occupant served.

Per CBC Section 1026.12 Exception 4.
In places of assembly where flexibility of the seating arrangement is an integral part of the design function of the space and seating is on tiered levels, maximum of 200 seats shall not be required to be fastened to the floor. Plans showing seating, tiers and aisles shall be submitted for approval.

Note- As No one will be admitted in the lobby area until each show is finished and all audiences have left the building, the lobby occupant load has not been used in exit calculations.

2 Exit Diagram (Representative of 300 Seats, re: 203d)

Scale- 1/8" = 1'-0"

LS architects
LAIDLAW SCHULTZ

PROJECT
Port Theater Building - Remodel
2905 East Coast Highway
Newport Beach, CA 92625

DRAWING DESCRIPTION
Assembly/Theater Notes and Exit Diagram

DATE	ISSUE/REVISION	REVIEW
11.08.07	Progress Print	
12.05.07	Progress Print	
12.20.07	Plan Check	
01.22.08	Plan Check #2	
02.07.08	Plan Check #3	
02.27.08	Plan Check #4	
03.14.08	Plan Check #5	
01.05.10	Bulletin 10C 7-Plancheck Correction	
01.13.10	Bulletin 10C 8-Plancheck Corrections	

LICENSED ARCHITECT
LARRY H. SCHULTZ
C-22287
March-2011
RENEWAL
STATE OF CALIFORNIA

A.002e
SHEET NO

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2111 Bayside Avenue
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(949) 645-3083 Fax (949) 645-8534
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Net Public Area: First Floor – 5,719 sf
Second Floor – 1,772 sf
Total – 7,491 sf

Floor Area (Assembly w/o Fixed Seats:
First Floor – 1,925 sf
Occupancy – A-1 Assembly w/o fixed seats 5 net
Occupant Load – 1,925 /5 =385 Occupants + 43 Seats = 428 Occupants
Note: 488 Occupants Approved under permit(475 assembly occupants + 13 fixed seats approved = 488 occupants)

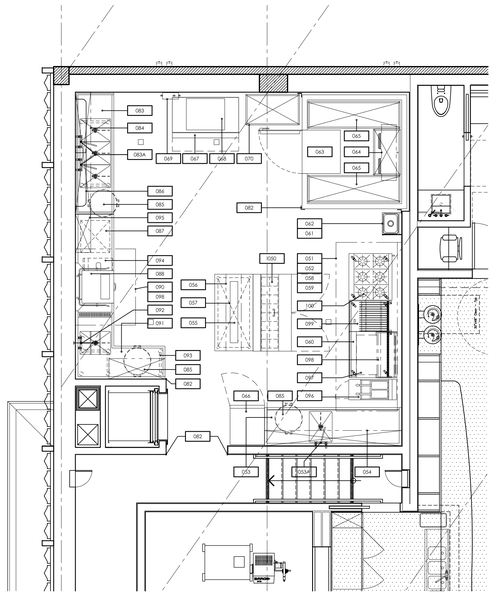
Plumbing Fixtures:	Required per CBC:	Lav	WC	Urinal	Provided:	Lav	WC	Urinal
Men:		1	1	1		3	3	2
Women:		1	4	0		3	5	0
Drinking Fountains:	2				2			

5 Notes

050	Sandwich Prep Refrigerator	083	Scullery Sink
051	Exhaust Hood (New)	083A	Faucet, Wall Mount
052	Exhaust system & Make-up Air (New)	084	Shelf, Wall Mount
053	Prep Table with sink	085	Trash Receptacle
053A	Faucet, wall Mount	086	Pot Rack, Wall mount
054	Shelf, Wall mount	087	Clean Dishtable
055	Warmer, Food Overhead	088	Warewasher, High Temp
058	Fire System (New)	090	Exhaust system
059	Wall Flashing/ Hood Trim	091	Soiled Dishtable
060	Refrigerator, Shorty (New)	092	Pre Rinse Faucet, Wall Mount
061	Soap & Towel Dispenser	093	Slant Rack Shelf
062	Hand Sink	094	Enclosure Panel
063	Walk-In Cooler (10'-0") Remote	095	Shelf, Wall Mount
064	Evaporator Coil	096	Fryer, Deep Fat, Gas (New)
065	Cooler Shelving	097	Griddle (36" wide max), Gas (New)
066	Freezer, Reach-in (New)	098	Cheese Melter, Gas
067	Bin, Ice	099	Broiler (24" wide max), Under-fired/gas (New)
068	Ice Maker		
069	Filter System, Icemaker	100	Range with conv. oven (New)
070	Dry Storage Shelving		
082	Corner Guards		

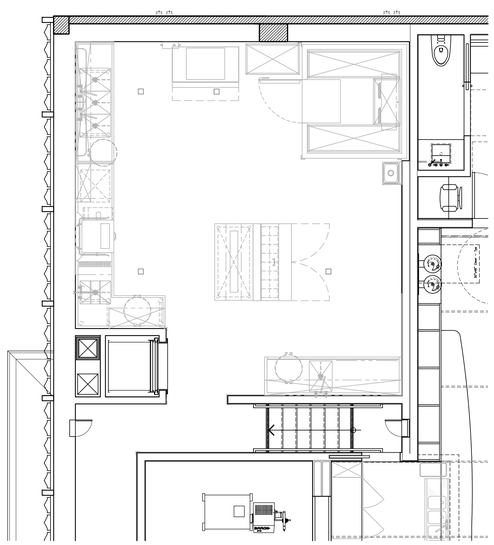
Note: All items not noted as (New) are existing

4 Kitchen Appliances



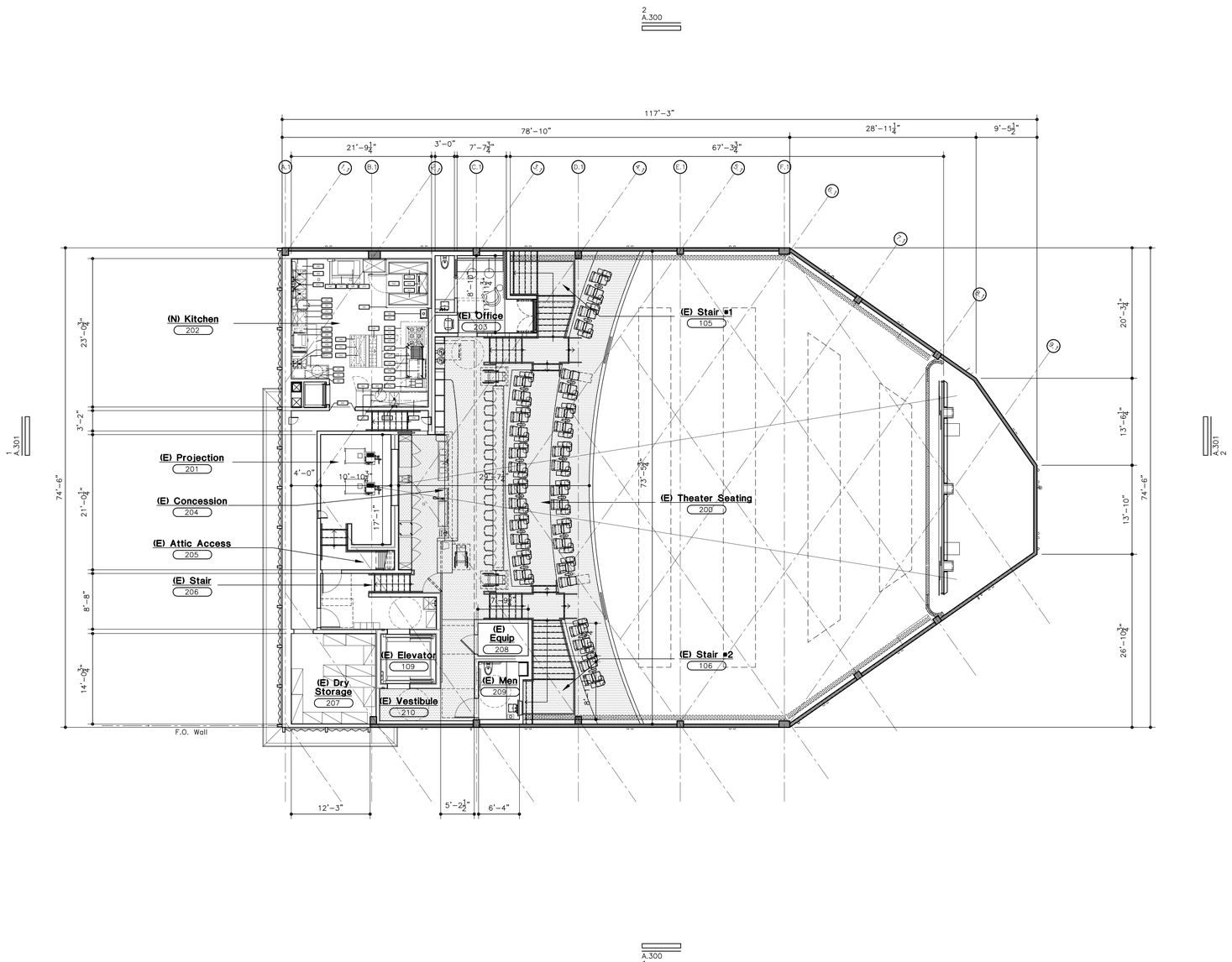
2 New Kitchen

Scale- 1/4" = 1'-0"



2 Existing Kitchen

Scale- 1/4" = 1'-0"



1 Second Level Construction Plan

Scale- 1/8" = 1'-0"

LS architects
LAIDLAW SCHULTZ

PROJECT
Port Theater Building - Remodel
2905 East Coast Highway
Newport Beach, CA 92625

DRAWING DESCRIPTION
Construction Floor Plan-Mezzanine Level

DATE	ISSUE/REVISION	REVIEW
05.29.2012	Use Permit	
08.24.2012	Use Permit	
08.30.2012	Use Permit	
11.21.2012	Back Check	

North

A.201a

SHEET NO.

LICENSED ARCHITECT
CRAIG N. SCHULTZ
C-22287
RENEWAL
March-2013
STATE OF CALIFORNIA

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3111 Second Avenue
Corona del Mar, CA 92625-2322
(949) 645-9992 Fax: (949) 645-9554
www.LSarchitects.com

78

CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT
December 6, 2012 Meeting
Agenda Item 5

SUBJECT: Uptown Newport Village - (PA2011-134)
4311-4321 Jamboree Road

- Environmental Impact Report No. ER2012-001
- Planned Community Development Plan Amendment No. PD2011-003
- Planned Community Development Plan Adoption No. PC2012-001
- Traffic Study No. TS2012-005
- Tentative Tract Map No. NT2012-002
- Affordable Housing Implementation Plan No. AH2012-001
- Development Agreement No. DA2012-003

APPLICANT: Shopoff Management, Inc. (Uptown Newport LP)

PLANNER: Rosalinh Ung, Associate Planner
(949) 644-3208, rung@newportbeachca.gov

PROJECT SUMMARY

A proposed mixed-use residential planned community on 25.05-acre project site for the development of up to 1,244 residential units, 11,500 square feet of retail use, and two acres of public park space.

RECOMMENDATION

1) Conduct a public hearing; and

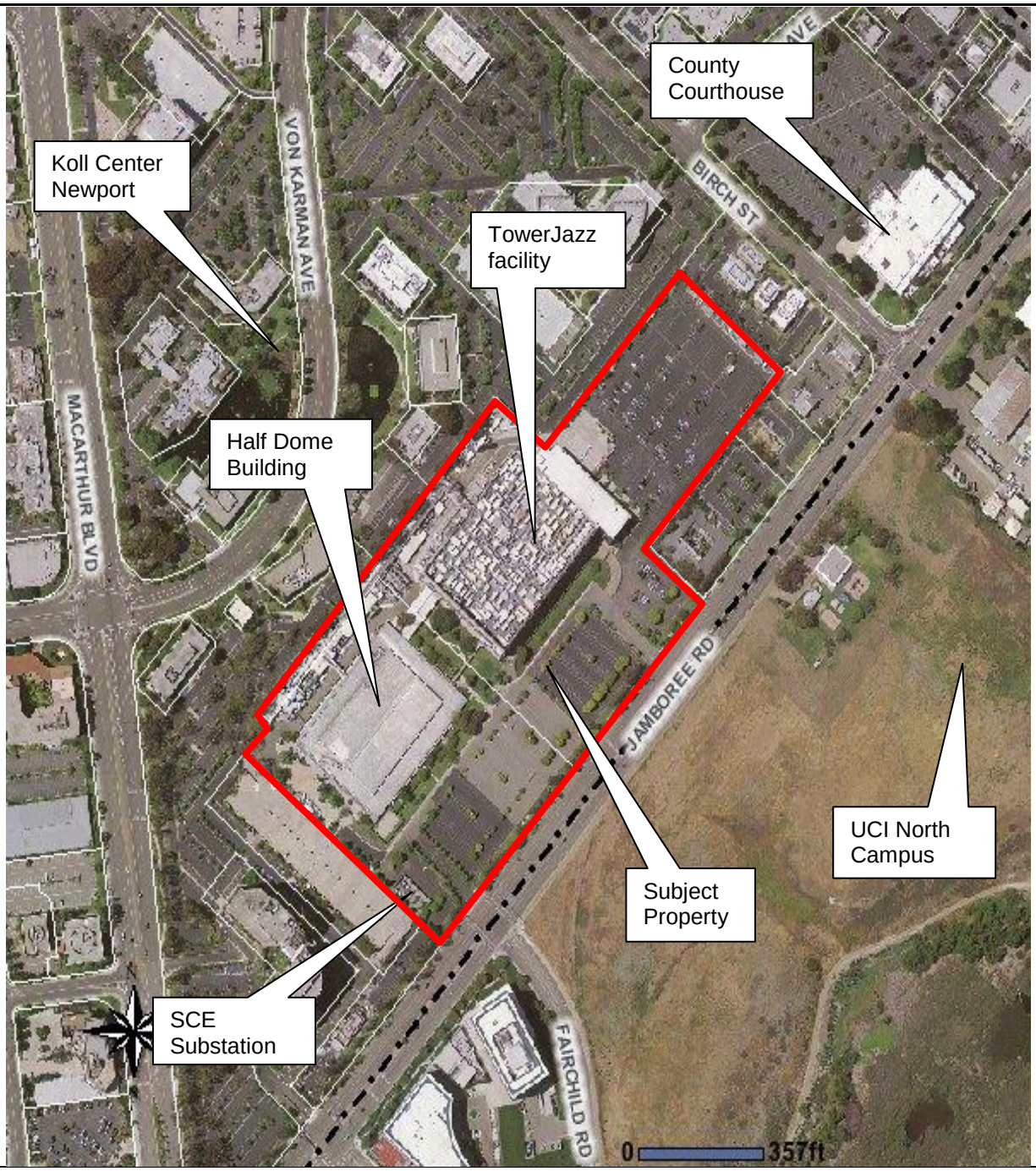
2) Adopt Resolution No. ___ (Attachment No. PC 1) recommending the City Council take the following actions:

   a. Certification of Environmental Impact Report No. ER2012-001 (SCH#2010051094); and

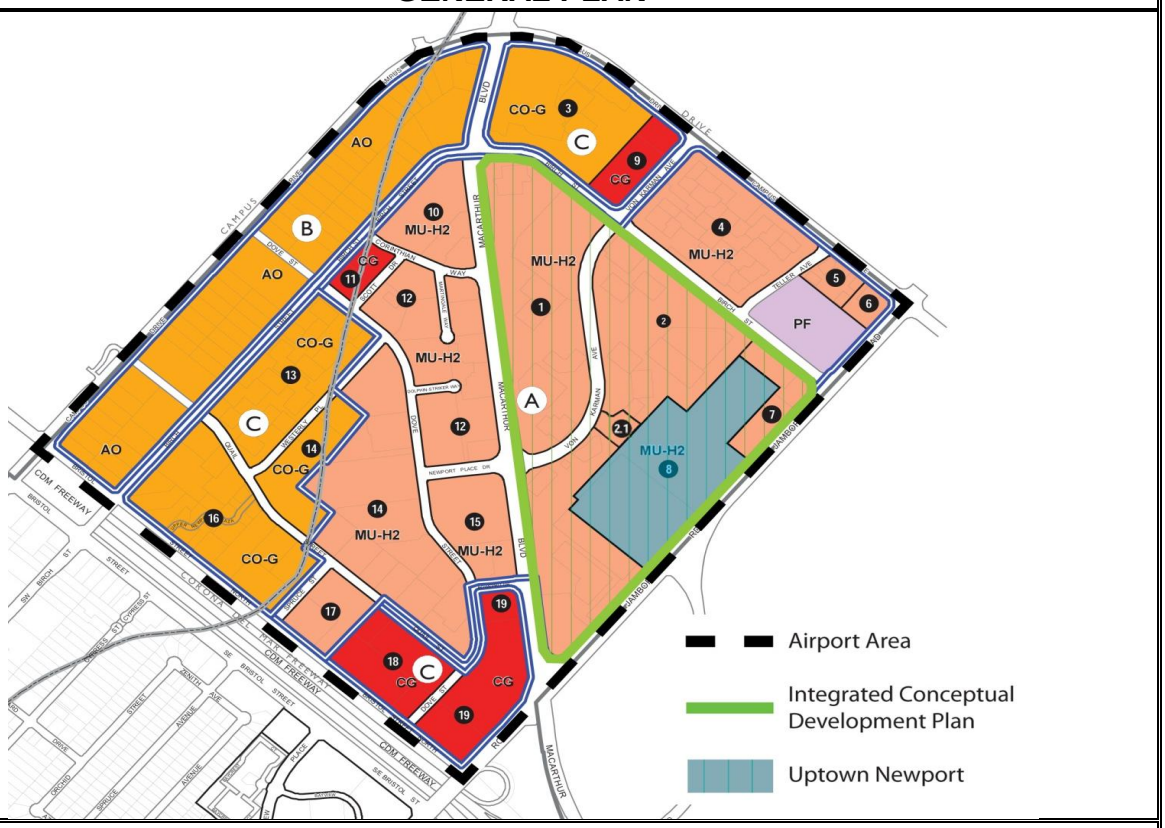
   b. Approval of Planned Community Development Plan Amendment No. PD2011-003, Planned Community Development Plan Adoption No. PC2012-001, Traffic Study No. TS2012-005, Tentative Tract Map No. NT2012-002, Affordable Housing Implementation Plan No. AH2012-001, and Development Agreement No. DA2012-003.

GENERAL VICINITY MAP

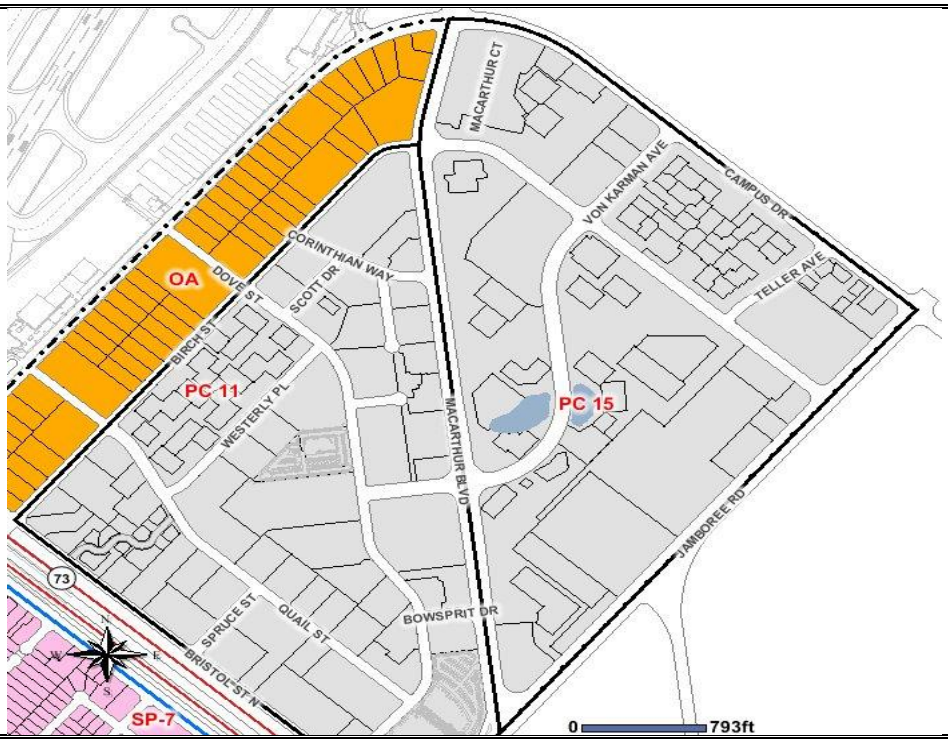
DETAIL VICINITY MAP



GENERAL PLAN

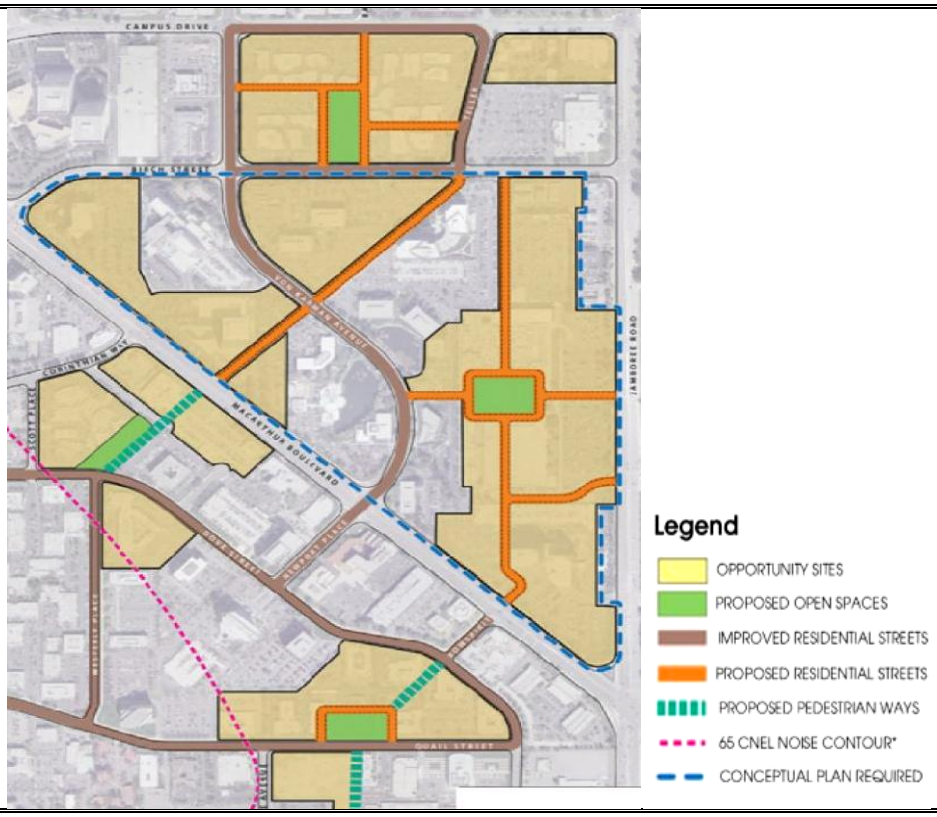


ZONING



GENERAL PLAN FIGURE LU22

GENERAL PLAN FIGURE LU23



LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	MU-H2 (Mixed-Use Horizontal 2)	Industrial Site 1 of PC 15 (Koll Center Newport Planned Community)	Office/Industrial
NORTH	MU-H2	PC 15	Office Developments
SOUTH	UCI North Campus	UCI North Campus	UCI North Campus
EAST	MU-H2/UCI North Campus	PC15 & UCI North Campus	Office/Commercial Developments & UCI North Campus
WEST	MU-H2	PC 15	Office Developments

INTRODUCTION

Project Setting

The subject property is located within the Airport Area and approximately 25.05 acres in size. The property is currently developed with two office/industrial buildings that are being leased to TowerJazz Semiconductor. The northernmost building located at 4321 Jamboree Road ranges from 40 to 50 feet in height and 311,452 square feet in size. The southernmost “Half Dome” building located at 4311 Jamboree Road, is approximately 25 feet in height and 126,675 square feet in size. A Southern California Edison (SCE) substation is located at the southwest corner of the property and it presently serves the existing industrial uses. The balance of the site is developed with landscaping and surface parking lots. Vehicular access to the project site is provided by two driveways from Jamboree Road (one signalized) and one driveway from Birch Street.

The site is surrounded to the north, west, and south by commercial/office uses within the Koll Center Newport office park. To the north are clusters of office buildings ranging from 1 to 15 stories in height, and three restaurants. To the west are office buildings ranging from 1 to 4 stories high, landscaped areas, and two man-made lakes. To the south are two 20-story office buildings, surface parking, and a fast-food restaurant. Jamboree Road forms the eastern boundary of the project site, and beyond Jamboree Road to the east is undeveloped open space within the North Campus of the University of California, Irvine. The North Campus is designated for mixed-use development with office, commercial and retail, university and non-university related residential and support uses. The San Joaquin Freshwater Marsh Reserve is approximately 875 feet southeast of Jamboree Road.

Project Description

The proposed Uptown Newport project consists of the removal of existing office and industrial uses over time in two primary phases and the construction of a mixed use community consisting of 1,244 residential units, 11,500 square feet of neighborhood-serving retail space, and approximately two acres of park space. Residential product types would be for-sale and rental with a mix of townhomes, mid- and high-rise apartment or condominiums. Of the 1,224 housing units, 185 units would be set aside for affordable housing. Proposed buildings would range from 30 feet to 75 feet in height; with several residential towers up to 150 feet high. Vehicular access to the site would be from Jamboree Road, Birch Street, and Von Karman Avenue.

Phase 1 will include demolition of the existing single-story office building "Half Dome", and development of the westerly portion of the property and the frontage along Jamboree Road. Phase 1 will include up to 680 residential units and up to 11,500 square feet of retail space, and is projected to commence in 2013 and to be completed in 2018. Phase 2 will include demolition of the existing TowerJazz building, and development of the remaining 564 residential units on the easterly portion of the property.

Timing for Phase 2 construction would be contingent on the existing lease of the TowerJazz facility, which will expire in March 2017, but could be extended to March 2027 by TowerJazz. It is conservatively assumed that Phase 2 construction could commence as early as Spring 2017, with project build-out through the year 2021.

The applicant, Shopoff Management, Inc. on behalf of Uptown Newport LP, is the master developer and would be responsible for the project implementation including the followings:

- Demolition, site preparation, and rough grading;
- Backbone storm drain, sanitary sewer, water distribution, and utility systems;
- Street improvements within the development, including street paving, curb and gutter, sidewalk/bike improvements, and lighting;
- Common area fencing and walls;
- Two (2), 1 acre neighborhood parks;
- Landscape improvements within common areas and paseos, project entries, and Jamboree Road sidewalk/bike trail improvements
- Community signage

The application consists of the following components:

- Environmental Impact Report No. ER2012-001 (SCH#2010051094): An Environmental Impact Report (EIR) to evaluate the environmental impacts resulting

from the proposed project, in accordance with the California Environmental Quality Act of 1970 (CEQA), as amended (Public Resources Code Section 21000 et seq.), and the State CEQA Guidelines for Implementation of CEQA (California Code of Regulations, Title 14, Section 15000 et seq.).

- Planned Community Development Plan Amendment No. PD2011-003: An amendment to Planned Community Development Plan #15 (Koll Center Newport Planned Community) to remove the subject property from the Koll Center Newport Planned Community, pursuant to Chapter 20.66 (Amendments) of the Municipal Code.
- Planned Community Development Plan Adoption No. PC2012-001: A Planned Community Development Plan (PCDP) adoption to establish the allowable land uses, general development regulations, and implementation and administrative procedures, which would serve as zoning document for the construction of up to 1,244 residential units, 11,500 square feet of retail commercial, and 2.05 acres of park space, pursuant to Chapter 20.56 of the Municipal Code. The PCDP has three (3) components: 1) Land Uses, Development Standards & Procedures; 2) Phasing Plan; and 3) Design Guidelines.
- Tentative Tract Map No. NT2012-002: A tentative tract map to establish lots for residential development purposes pursuant to Title 19 of the Municipal Code.
- Traffic Study No. TS2012-005. A traffic study pursuant to Chapter 15.40 (Traffic Phasing Ordinance) of the Municipal Code.
- Affordable Housing Implementation Plan No. AH2012-001: A program specifying how the proposed project would meet the City's affordable housing requirements, pursuant to Chapter 19.53 (Inclusionary Housing) and Chapter 20.32 (Density Bonus) of the Municipal Code.
- Development Agreement No. DA2012-003: A Development Agreement between the applicant and the City of Newport Beach describing development rights and public benefits, pursuant to Section 15.45.020.A.2.a & c of the Municipal Code and General Plan Land Use Policy LU6.15.12.

Background

On October 4, 2012, a study session was held for the proposed project to provide the Planning Commission and the public an opportunity to review and discuss the Draft Environmental Impact Report (DEIR) and proposed project. During the study session, the Planning Commission provided both oral and written comments on the proposed zoning documents, tentative tract map, and master site plan. The Planning Commission also commented on the overall approval process for the project implementation and expressed the need to review the master site development plans (preliminary grading, street improvement, landscape, wall/fence, lighting and signage plans) prior to recordation of any final subdivision maps. A discussion of vehicular and pedestrian connectivity between the Koll Center and project site also occurred. Comments by the general public were also considered.

DISCUSSION

Environmental Review

A DEIR has been prepared to evaluate the environmental impacts resulting from the proposed project, in accordance with the California Environmental Quality Act of 1970 (CEQA), as amended (Public Resources Code Section 21000 et seq.), and the State CEQA Guidelines for Implementation of CEQA (California Code of Regulations, Title 14, Section 15000 et seq.).

The DEIR was released for public review and comment on September 10, 2012. The 45-day public review period ended on October 24, 2012. During that period the City received 26 comment letters from governmental agencies, regional organizations, and individuals. In accordance with State CEQA Guidelines, the City has evaluated all substantive comments received on the Draft EIR, and has prepared written responses to these comments.

The Final EIR, consists of the DEIR, public comments, responses to comments, Mitigation Monitoring and Report Program, and revisions to the DEIR, is attached as Attachment PC 1B.

On the basis of the entire environmental review record, the proposed project will have a less than significant impact upon the environment with the incorporation of mitigation measures through the implementation of Mitigation, Monitoring and Reporting Program, with the exception of the following significant and unavoidable impacts:

- Air Quality – Short term construction-related emission for Phases 1 and 2 of the project
- Land Use – A determination of inconsistency with the John Wayne Airport Environs Land Use Plan (AELUP) by the Airport Land Use Commission (ALUC) (discussed below)
- Noise – Construction-related noise impacts for Phase 1 and Phase 2 of the project

The DEIR identified three (3) significant environmental impacts that cannot be mitigated to a less than significant level through the adoption of mitigation measures or project alternatives. Therefore, if the Planning Commission chooses to support the project, the Planning Commission will need to decide whether the benefits of the proposed project outweigh the identified significant environmental impacts. If the Planning Commission believes the overriding considerations, including project benefits, outweigh these unavoidable impacts, the Planning Commission may make a recommendation to the City Council to adopt the Statement of Overriding Considerations (Attachment PC 1C),

which states the reasons that support its actions as part of their review of the Final EIR and the proposed project.

General Plan and Integrated Conceptual Development Plan

The subject property has a General Plan Land Use Element designation of Mixed-Use Horizontal 2 (MU-H2), which provides for a horizontal intermixing of uses that may include regional commercial office, multifamily residential, vertical mixed-use buildings, industrial, hotel rooms, and ancillary neighborhood commercial uses. The MU-H2 designation applies to a majority of properties in the Airport Area outside the high noise levels from John Wayne Airport. The MU-H-2 allows a maximum of 2,200 residential units as replacement of existing office, retail, and/or industrial uses at a maximum density of 50 units per adjusted gross acre. A total of 550 of these units are identified as additive units meaning they are not replacement units. These 550 units may be constructed as infill on existing surface parking lots or areas not used as occupiable buildings on properties within the Conceptual Development Plan Area (east of MacArthur Boulevard), as depicted on Figure LU22 Airport Area of the Land Use Element. The Conceptual Development Plan Area has strong potential for the introduction of new residential development and is further identified in Figure LU23 Airport Area Residential Village Illustrative Concept Diagram. Figures LU22 and LU23 are shown on page 5 of the staff report.

Prior to any residential development within the Airport Area, the General Plan Land Use Policy LU 6.15.11 requires the preparation of a Conceptual Development Plan to:

> *"Demonstrate the compatible and cohesive integration of new housing, parking structures, open spaces, recreational amenities, pedestrian and vehicular linkages, and other improvements with existing non-residential structures and uses."*

In September of 2010, the City approved the Koll-Conexant Integrated Conceptual Development Plan (ICDP), which provides a framework for the redevelopment of the 25-acre subject site (formally known as Conexant), and for the redevelopment of a 15-acre portion of the 75-acre Koll Center Newport office park between Birch Street and Von Karman Avenue with new residential development and open space, carefully integrated with the existing office buildings and parking structures.

The ICDP allocates a total of up to 1,504 new residential units: 1,244 of which are planned and could be developed on the property and the remaining 260 on the Koll property. All 260 of the new residential units on the Koll site would be "additive" units since no existing office or industrial uses would be removed. On the property site, up to 632 units would replace existing industrial and office uses that are planned to be demolished. The remaining 290 units would be additive. Also, on the property site includes the ability to construct up to 322 density bonus units onsite, to provide affordable housing in addition to that needed to satisfy the City's inclusionary housing

requirements. Together, the two properties would use all of the 550 additive units prescribed for the Conceptual Development Plan area by the General Plan.

The approval of the ICDP was a pre-requisite for the preparation of the regulatory documents, pursuant to General Plan Policy LU6.15.11. The ICDP is aimed at fulfilling the policies of the General Plan, ensuring cohesive and livable neighborhoods oriented to parks and pedestrian ways, and a finer-grained network of pedestrian-friendly streets. The ICDP also establishes the direction for each of the property owners to separately prepare and submit a regulatory plan for their holdings as a basis for environmental review, public hearings and City action.

Regulatory Plans must be in substantial compliance with the intent of the ICP, particularly in terms of the number of additive residential units (except for any density bonuses for affordable units) and the connectivity between the Koll and subject property.

The subject property has a maximum development limit of 442,775 square feet per Anomaly No. 8 of the General Plan Land Use Element. In order to accommodate the proposed development, the applicant is requesting to convert only the existing office and industrial square footage of 438,127 to residential and commercial retail uses and forfeit the remaining unused square footage of 4,648. The conversion results in a total of 632 residential units and 11,500 square feet of retail commercial to be developed as replacement units for redevelopment of the existing office/industrial uses. The application of the conversion factors is documented in a report titled “Airport Area Residential & Mixed Use Adjustment Factors for Traffic Analyses in Newport Beach” prepared by Richard M. Edmonston, dated March 10, 2009.

Additionally, General Plan Land Use Policy 6.15.7 allows a maximum density of 50 units per net acre average over the total area of each residential village in the Airport Area. The net acreage is to be exclusive of existing and new rights-of-way, public pedestrian ways and neighborhood parks. The project has a net developable residential land area of 18.46 acres, which could allow for a maximum of 922 dwelling units (18.46 x 50 du/ac) inclusive of 290 additive and 632 replacement units (62 less units converted to 11,500 sf. of retail). The 290 “additive” units have been allocated to the subject property in accordance with General Plan Land Use Element and ICDP. This density is consistent with General Plan policies.

And lastly, up to 322 density bonus units are proposed based on the maximum 35% allowance pursuant to Chapter 20.32 (Density Bonus) of the Municipal Code. All together, a total of 1,244 residential units are being proposed for the project.

The table below illustrates the project’s proposed replacement, additive and density bonus residential units.

	Phase 1 Units	Phase 2 Units	Total Units
Replacement Units			
Half Dome Building - 126,675 sf.	276	0	**276**
TowerJazz Building - 311,452 sf.	0	418	**418**
Total Replacement Units	**276**	**418**	**694**
Additive Units	290	0	**290**
Sub-Total Units	566	418	**984**
Less Units Converted to 11,500 sf. of Retail	-62	0	**-62**
Base Units Before Density Bonus	**504**	**418**	**922**
Density Bonus (35% Requested)	**176**	**146**	**322**
Total Units	**680**	**564**	**1,244**
Affordable Units (20%)	100	85	185
Market Rate Units	580	479	1,059

As of note, the density bonus units are not a part of the 2,200 units assigned to the MU-H2 properties and therefore, the remaining developable residential units for other MU-H2 designated properties within the Airport Area would be 1,278 residential units (2,200-922). The project is eligible for a density bonus of up to 35 percent above and beyond the allowable base residential units in accordance with Government Code Sections 65915 through 65917 and Chapter 20.32 Density Bonus of the Municipal Code.

The General Plan Land Use policies promote the introduction of residential and mixed-use development within the Airport Area, provided that such development contributes to the creation of viable neighborhood clusters with appropriate infrastructure, pedestrian-oriented features and open spaces, and with a pattern of development that offers a strong sense of community and livability. A complete consistency analysis of each of the applicable General Plan policies could be found in the Land Use Section of the Final Environmental Impact Report. The analysis concludes that the project is consistent with each of the adopted goals and policies.

Koll Center Newport Planned Community Development Plan Amendment

The subject property is currently zoned Planned Community and subject to the Koll Center Newport Planned Community (PC-15) regulations. The site is designed Industrial Site 1 which allows light industrial, office, and commercial uses; and residential is not permitted. In order to accommodate the proposed development, the applicant is requesting an amendment to PC-15 to remove the property and all relevant development standards pertaining to Industrial Site 1. The redlined PC-15 Planned Community Development Plan (Attachment No. PC 1D) illustrates the proposed deletions.

Uptown Newport Planned Community Development Plan Adoption

To be consistent with the General Plan and ICDP, the applicant submitted the draft Uptown Newport Planned Community Development Plan (PCDP) that will serve as the zoning document for the entire project. It establishes the allowable land uses, development regulations, and implementation and administrative procedures, consistent with the ICDP and in compliance with the PCDP requirements of the Newport Beach Municipal Code.

The draft PCDP consists of three (3) components: Land Use Development Standards and Procedures, Phasing Plan, and Design Guidelines. The Land Use Development Standards and Procedures document provides land use development regulations, site development standards, and planned community development plan implementation process. The use of the City's density bonus provisions for affordable housing and for the transfer of development rights from other properties are being addressed in this document. The Phasing Plan describes how the project development will be evolved in two primary phases which include demolition, on-site improvements, and off-site improvements. The Design Guidelines document identifies site planning standards, architectural guidelines, site development and infrastructure criteria, landscape design guidelines and signage allowance for the entire project.

The proposed site plan of PCDP and tentative tract map dictate the location and configuration of residential development, major network of streets and pedestrian ways, and locations of parks and open space. The site plan is also identified pedestrian connectivity between the Koll property and subject property, vehicular and pedestrian access to Birch Street via an existing access easement, and an emergency access to Von Karman Avenue via an existing access easement.

During the October 4, 2012, study session, drafts of the proposed Uptown Newport PCDP were considered, and the Planning Commission provided a number of comments pertaining to the project's approval and implementation processes, overall permitted uses, parking standards, tentative tract map, master site plan, design guidelines, and phasing plan. Staff has worked with the applicant to incorporate a number of revisions to Uptown PCDP that are intended to address the issues. The revised PCDP documents (Land Uses Development Standards & Procedures, Phasing Plan and Design Guidelines) are provided in Attachment PC 1E and the more substantive revisions summarized below.

<u>Land Uses Development Standards & Procedures (PC Text)</u>

- Duration of Existing Industrial Uses

Existing industrial uses on the property would continue to be operated as nonconforming uses until the termination of TowerJazz's lease, which expire in March 2017, unless TowerJazz exercises options to extend the lease until 2027. The applicant indicated that they will not extend the lease and has made this commitment within the Development Agreement.

- Permitted Land Use Regulations and Their Interface with Residential Uses

The proposed land use regulation table has been expanded to allow more neighborhood-serving retail uses, to benefit the local residents and businesses.

- Parking Provisions, On- and Off-Street

As proposed, parking for the entire development will be provided within parking structures which will be encapsulated (i.e., wrap style architecture), below grade (i.e., podium style), or screened (i.e., podium with a portion of the garage wall above grade with landscape screening). Parking for the residential and retail uses including their visitors, employees and service staff will be provided within these parking structures. Surface parking is not proposed, except for on-street parking along the residential streets. On-street visitor parking is provided and made available to adjacent to retail uses and residents throughout the project. The parking management plan to deviate from the parking standards has been removed from the PCDP.

- Preliminary Site Plan

The preliminary site plan has been revised as follow:

- Widening of the vehicular travel lanes at the primary entry Fairchild intersection to provide additional lane width. Two inbound travel lanes are provided (12 feet-wide and 16 feet wide), and two outbound lanes are provided (12-feet wide and 14 feet wide);
- Widening of "E" Street from 24 feet to 32 feet with a cul-de-sac at the end with parking on one side. "E" Street will provide access to the Phase 1 neighborhood park and residential parcels adjacent to the streets as well as provide emergency access to Von Karman Avenue;
- F" Street has been shifted to the west to align with the a traffic roundabout circle on "B" Street resulting the elimination of "G" Street, and to allow for future vehicular and/or pedestrian connection between the Uptown Newport project and the Koll Center Newport as envisioned by the City of Newport Beach General Plan;
- A traffic roundabout has been provided on "B" Street to provide an alternative for residents and guests to exit the project and go east on Jamboree Road at the

Fairchild intersection, additional traffic calming along “B” Street and enhance vehicular circulation within the project; and

- D” Street has been shifted southerly to provide functional-sized parcels;

A Phase 1 Site Plan is also provided to depict the overall development within Phase 1.

The overall location and size of the neighborhood parks will not be altered. Each of the parks will be a minimum of one-acre in size, having public streets on at least two sides and be connected with adjacent residential parcels by pedestrian walkways, paseos, and residential streets, and a minimum dimension no less than 150 feet in order to promote useable and cohesive open space. The proposed design features of the parks are consistent with General Plan Land Use Policy LU6.15.13 and LU6.15.14. Furthermore, the parks will be deeded to the City upon completion of each phase. These parks along with common landscape areas such as pedestrian paseos and greenbelts and Jamboree Road parkway landscaping will be improved and maintained by the applicant under the master association maintenance agreement.

- Master Site Development Plan Approval Process

The PCDP has been revised to clarify the process for approval of subsequent implementing projects. This includes a master site development plan that will require review and approval by the Planning Commission. The purpose of the master site development plan is to ensure that as project is developed in phases consistently is maintained with the Uptown Newport PCDP, Development Agreement, environmental mitigation measures, and applicable City codes and standards. In addition this process will ensure that the infrastructure improvements are constructed and completed in a complete and cohesive manner.

Master Site Development Plans for subsequent phases of this project will include the following preliminary plans:

1. Grading
2. Street improvements
3. Landscape and plant palette
4. Public parks and paseos
5. Master wall/fence
6. Master lighting (streets & common areas)
7. Signage

Subsequent to the adoption of the master site development plans by the Planning Commission, individual site development review applications will be submitted for review and approval by the Community Development Director. This process is required prior to the issuance of a grading or building permit for the following:

1. New buildings
2. Neighborhood parks and paseos
3. On-site recreational amenities

Design Guidelines

The Design Guidelines have been revised to provide additional clarity and details to articulate the quality intent of the proposed architecture and landscape standards, and to provide the regulatory framework and standards for implementing projects through the site development review process set forth in the PCDP.

In addition to the above revisions, the applicant has submitted a list of responses to Commissioner Tucker's study session list of issues dated October 4, 2012. The applicant's response list is attached as Attachment PC 3.

Phasing Plan

The Phasing Plan has been revised to provide a minimum and maximum range for Phases 1 and 2; reaffirm the role of the master developer in completing the master site improvements within each phase; and provide additional details in response to questions and comments raised during the study session.

Tentative Tract Map

The proposed Tentative Tract Map No. 17438 (Attachment PC 1H) is the implementing subdivision map for the project. The Tentative Tract Map describes the subdivision of the project site into lots for public dedication, conveyance for financing purposes, and conveyance to future builders. The Tentative Tract Map also describes the plan for grading, roadways, infrastructure, and other public improvements to serve the subdivision.

Approval of the proposed Tentative Tract Map in conjunction with the PCDP would permit rough and precise grading, site remediation, construction of roadways, drainage and water quality improvements, backbone infrastructure, and utilities, including domestic water and sewer facilities. Future development of buildings may involve subsequent tentative and final maps.

Section 19.12.070 of the Municipal Code establishes findings that must be made in order to approve a tentative map. These findings and facts in support of findings are provided in Attachment PC 1F.

Staff has recommended an extensive list of conditions of approval (Attachment PC 1G) to ensure consistency with other components of the proposed project and compliance with City policies and regulations.

Traffic Phasing Ordinance

Chapter 15.40 (Traffic Phasing Ordinance, or TPO) of the Municipal Code requires a traffic study to be prepared and findings be made prior to issuance of building permits if a proposed project will generate in excess of 300 average daily trips (ADT). The TPO traffic study differs from the cumulative traffic analyses in the EIR in that, typically, the TPO's focus is on conditions one year after project occupancy, or five years after project approval for larger projects that are not expected to be completed within five years. The entire Uptown Newport project is not anticipated to be completed within five years of approval. Therefore, the TPO analysis addresses only Phase 1 of the project since it is planned to be completed within the next five years (Attachment PC 1J). A separate TPO analysis for Phase 2 of the project will be required to prepare prior to the issuance of building permits within Phase 2.

Phase 1 will generate an additional 5,012 daily trips, 317 during the AM peak hour and 443 during the PM peak hour. At the project's build-out (Phase 2), the Project is anticipated to generate 8,286 daily trips, 542 during the AM peak hour and 727 during the PM peak hour. Traffic patterns to and from the site due to the change in land use are accounted for (e.g. residential use and office/industrial have near reverse AM and PM trip generation). As a result, while the proposed project increases in daily trips, there is a reduction of trips on some intersection movements and an increase on others in each of the morning and evening peak hours.

The analysis concludes that there is no significant impact to the studied intersections. Furthermore, the TPO requires findings that, based on the weight of the evidence in the administrative record, including the traffic study, the proposed project complies with the TPO. These findings and facts in support of findings are provided in Attachment PC 1I.

Affordable Housing Implementation Plan

The Municipal Code requires the preparation of an Affordable Housing Implementation Plan (AHIP) pursuant to Chapter 19.54 Inclusionary Housing and Chapter 20.32 Density Bonus. The purpose of the plan is to prescribe the project's obligation to provide affordable housing. The applicant has requested a 35 percent bonus density and the City is obligated to allow it provided the project includes the construction of certain amounts of affordable housing depending upon the income level targeted.

	Units
Maximum Units allowed by the General Plan	922
35% Bonus Density	322
Affordable Housing Obligation:	
• Minimum Very Low Income (11%), or	102
• Minimum Low Income (20%), or	185
• Minimum Moderate Income (40%)	369

Low and very-low income units can be available to rent while moderate-income units are restricted to ownership. If a combination of income levels is constructed, the AHIP specifies the following equivalency factors:

- A very-low income unit shall be deemed to be the equivalent of 3.6 moderate-income units or 1.8 low-income units.
- A low-income unit shall be the equivalent of 2 moderate-income units.
- For example, if 30 very-low income units are constructed, either 131 low-income or 261 moderate-income units would be required to complete the affordability requirements. If 89 low-income units are constructed, 191 moderate-income units are required.

Affordable rentals will be restricted for a minimum of 30 years and moderate-income ownership opportunities will be made affordable to the initial buyer. When those units sells in the future, the City will be entitled to the initial subsidy minus some accrued equity pursuant to an equity-sharing formula prescribed in the Municipal Code and State Density Bonus Law.

The AHIP provides for the following phasing of construction of affordable housing:

- One-third of the total affordable units must be either under construction or completed prior to occupancy of 50 percent of the market-rate units.
- The next one-third of the total affordable units must be must be either under construction or completed prior to occupancy of 75 percent of the market-rate units.
- The remaining one-third of the affordable units be under construction or completed prior to occupancy of the remaining market rate units.
- Additionally, since the project will be constructed in two phases, each phase will be required to provide the pro-rata share of affordable housing based upon the final number of houses constructed in each phase.

The proposed construction of affordable housing in accordance with the draft AHIP (Attachment PC 1K) is consistent with Chapter 19.54 (Inclusionary Housing) and Chapter 20.32 (Density Bonus).

Development Agreement

General Plan Land Use Policy LU6.15.12 and ICDP require a development agreement for all projects that include infill residential units in the Airport Area.

The proposed development agreement (Attachment PC 1L) between the applicant and the City describes the development rights and public benefits to be provided by the applicant. The agreement would vest the proposed project's development approvals to

allow build-out of the project site under the development standards and requirements in place at the time of project approval. The proposed term of the agreement is 15 years, with two 5-year extensions.

Airport Land Use Commission Consistency Determination

California Public Utilities Code Section 21676(b) and John Wayne Airport Environs Land Use Plan (AELUP) Section 4.11 require the City to refer the Uptown Newport project to the Airport Land Use Commission (ALUC) for consistency determination with the AELUP due to the proposed zoning amendments (planned community development amendment and adoption).

On October 18, 2012, the ALUC found the proposed project to be inconsistent with the AELUP on a 4-1-1 vote. During the meeting, ALUC expressed their concerns with the proximity of the residential towers to the airport and based their decision on Section 2.1.3 of the John Wayne AELUP, which states "the ALUC may utilize criteria for protection aircraft traffic patterns at individual airports which may differ from those contained in FAR Part 77, should evidence of health, welfare or air safety surface sufficient to justify such an action."

As a final review authority on legislative acts, the City Council may, after a public hearing, choose to overrule the ALUC's decision by following the procedure established in Public Utilities Code Sections 21676 and 2176.5. This two-step procedure requires the City Council to conduct two separate noticed public meetings. The initial step is to notify ALUC and State Division of Aeronautics of the City's intention to override the ALUC's determination by adopting a resolution of intent at least 45 days in advance of the overruling; and the second meeting is to make specific findings that the proposed overruling is consistent with the purposes stated in Public Utilities Code Section 21670.

The hearing date for the City Council consideration on the resolution of intent has been scheduled for December 11, 2012. The Council's adoption of the notification resolution does not constitute the project's approval nor does it predispose the City's future action on the project. In the event that the Planning Commission does not conclude their deliberation and project recommendations to the City Council, this matter will be continued on the City Council calendar at a future date.

<u>Alternatives</u>

Staff believes the findings for approval can be made and the facts in support of the required findings are presented in the draft resolution (Attachment No. PC1). The following alternatives are available to the Planning Commission should the facts are not in evidence of support for the project application:

1. The Planning Commission may suggest specific changes to the master site plan, tentative tract map, and/or the draft PCDP that are necessary to alleviate any

concerns. If any additional requested changes are substantial, the item could be continued to a future meeting. Should the Planning Commission choose to do so, staff will return with a revised resolution incorporating new findings and/or conditions.

2. If the Planning Commission believes that there are insufficient facts to support the findings for approval, the Planning Commission may deny the application and provide facts in support of denial to be included in the attached draft resolution for denial (Attachment No. PC 2).

Public Notice

Public notice of this meeting has been provided in the following manner: 1) mailing to property owners within 300 feet of the property and to project interest groups; 2) posting of the site; and 3) noticing through the City's Select Alert System. The mailing, posting of the site, and notification occurred at a minimum 10 days in advance of the meeting, consistent with the provisions of the Municipal Code. The environmental assessment process has also been noticed consistent with the California Environmental Quality Act. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:

Rosalinh Ung
Associate Planner

Submitted by:

Kimberly Brandt, AICP
Director

ATTACHMENTS

PC 1 Draft Resolution of Approval containing the following exhibits
- A. Legal Description
- B. Final Environmental Impact Report
- C. Findings of Facts and Statement of Overriding Considerations
- D. Revised Planned Community Development Plan #15 (Koll Center Newport)
- E. Draft Uptown Newport Planned Community Development Plan dated November 29, 2012
- F. Required Findings for TTM No. 17438
- G. TTM No. 17438 Conditions of Approval
- H. Tentative Tract Map No. 17438
- I. Required Findings for Traffic Study No. TS2012-005
- J. Traffic Study No. TS2012-005
- K. Uptown Newport Affordable Housing Implementation Plan

L. Draft Development Agreement
PC 2 Draft Resolution of Denial
PC 3 List of Responses to Commissioner Tucker
PC 4 Site Plan (Phase 1 Master Site Plan and Master Site Plan)
PC 5 Correspondence

Attachment No. PC 1

Draft Resolution of Approval

RESOLUTION NO. ___

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH RECOMMENDING CERTIFICATION OF FINAL ENVIRONMENTAL IMPACT REPORT NO. ER2012-001, ADOPTION OF STATEMENT OF OVERRIDING CONSIDERATIONS, AND APPROVAL OF PLANNED COMMUNITY DEVELOPMENT PLAN AMENDMENT NO. PD2011-003, PLANNED COMMUNITY DEVELOPMENT PLAN ADOPTION NO. PC2012-001, TENATIVE TRACT MAP NO. NT2012-002, AFFORDABLE HOUSING IMPLEMENTATION PLAN NO. AH2012-001, TRAFFIC STUDY NO. TS2012-005, AND DEVELOPMENT AGREEMENT NO. DA2012-003 FOR THE 25.05 ACRE PLANNED COMMUNITY KNOWN AS UPTOWN NEWPORT LOCATED AT 4311-4321 JAMBOREE ROAD (PA2011-134)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Uptown Newport LP ("Uptown Newport" or "Applicant") with respect to a 25.05-acre property generally located on the north side of Jamboree Road between Birch Street and the intersection of Von Karman Avenue and MacArthur Boulevard, legally described on Exhibit A, which is attached hereto and incorporated herein by reference, (the "Property") requesting approval for the development of up to 1,244 residential dwelling units, 11,500 square feet of retail commercial uses and 2.05 acres of parklands (the "Project"). The following approvals are requested or required in order to implement the project as proposed:

    a. Planned Community Development Plan Amendment No. PD2011-003: An amendment to Planned Community Development Plan #15 (Koll Center Planned Community) to remove the subject property from the Koll Center Planned Community, pursuant to Chapter 20.66 (Amendments) of the Municipal Code.

    b. Planned Community Development Plan Adoption No. PC2012-001: A Planned Community Development Plan (PCDP) adoption to establish the allowable land uses, general development regulations, and implementation and administrative procedures, which would serve as the zoning document for the construction of up to 1,244 residential units, 11,500 square feet of retail commercial, and 2.05 acres of park space to be built in two separate phases on a 25.05-acre site, pursuant to Chapter 20.56 of the Municipal Code. The PCDP has three (3) components: 1) Land Uses, Development Standards & Procedures; 2) Phasing Plan; and 3) Design Guidelines.

    c. Tentative Tract Map No. NT2012-002: A tentative tract map to establish lots for residential development purposes pursuant to Title 19 of the Municipal Code.

    d. Traffic Study No. TS2012-005: A traffic study pursuant to Chapter 15.40 (Traffic Phasing Ordinance) of the Municipal Code.

e. Affordable Housing Implementation Plan No. AH2012-001: A program specifying how the proposed project would meet the City's affordable housing requirements, pursuant to Chapter 19.53 (Inclusionary Housing) and Chapter 20.32 (Density Bonus) of the Municipal Code.

f. Development Agreement No. DA2012-003: A Development Agreement between the applicant and the City of Newport Beach describing development rights and public benefits, pursuant to Section 15.45.020.A.2.a of the Municipal Code and General Plan Land Use Policy LU6.15.12.

2. The Property has a General Plan designation of Mixed-Use District Horizontal-2 (MU-H2), and the Property is located within the Airport Business Area, for which the Airport Business Area Integrated Conceptual Development Plan ("ICDP") has been adopted. The ICDP allocates a maximum of 1,244 residential units and up to 11,500 square feet of retail to be developed on the Property.

3. The Property is currently located within the City of Newport Beach ("City") Koll Center Newport Planned Community and is designated as Industrial Site 1.

4. On October 4, 2012, the Planning Commission held a study session for the project in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, on the DEIR and Project.

5. A public hearing was held on December 6, 2012, in the City Hall Council Chambers, at 3300 Newport Boulevard, Newport Beach, California. A notice of the time, place and purpose of the aforesaid meeting was provided in accordance with CEQA and the Newport Beach Municipal Code ("NBMC"). The DEIR, draft Responses to Comments, draft Mitigation, Monitoring and Reporting Program, staff report, and evidence, both written and oral, were presented to and considered by the Planning Commission at the scheduled hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. Pursuant to the California Environmental Quality Act, Public Resources Code Section 21000, et seq. ("CEQA"), the CEQA Guidelines (14 Cal. Code of Regulations, Sections 15000 et seq.), and City Council Policy K-3, the Project could have a significant effect on the environment, and thus warranted the preparation of an Environmental Impact Report ("EIR").

2. On December 8, 2011, the City, as lead agency under CEQA, prepared a Notice of Preparation ("NOP") of the EIR and mailed that NOP to public agencies, organizations and persons likely to be interested in the potential impacts of the proposed Project.

3. On December 15, 2011, the City held a public scoping meeting to present the proposed Project and to solicit input from interested individuals regarding environmental issues that should be addressed in the EIR.

4. The City thereafter caused to be prepared a Draft Environmental Impact Report (No. ER2012-001, SCH No. 2010051094) ("DEIR") in compliance with CEQA, the State CEQA Guidelines and City Council Policy K-3, which, taking into account the comments it received on the NOP, described the Project and discussed the environmental impacts resulting there from.

5. The DEIR was circulated for a 45-day comment period beginning on September 10, 2012 and ending October 24, 2012.

6. On the basis of the entire environmental review record, the proposed Project will have a less than significant impact upon the environment with the incorporation of mitigation measures, with the exception of the following significant and unavoidable impacts:

   A. Air Quality – Short term construction-related emission for Phases 1 and 2 of the project

   B. Land Use - A determination of inconsistency with the John Wayne Airport Environs Land Use Plan (AELUP) by the Airport Land Use Commission (ALUC)

   C. Noise - Construction-related noise impacts for Phase 1 and Phase 2 of the project

7. The mitigation measures identified in the DEIR are feasible and reduce potential environmental impacts to a less than significant level, with the exception of those impacts identified above. The mitigation measures would be applied to the Project through the Mitigation, Monitoring and Reporting Program.

8. The record supports a Statement of Overriding Considerations pursuant to CEQA in that the Project includes public benefits that outweigh the air quality, land use and noise impacts of the proposed Project.

9. The FEIR, consisting of the DEIR, Comments and Responses to Comments, Revisions to DEIR, and Mitigation Monitoring and Report Program attached as Exhibit B, was considered by the Planning Commission in its review of the proposed Project.

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

SECTION 3. FINDINGS.

1. The proposed project is consistent with the goals and policies of the Newport Beach General Plan and Integrated Conceptual Development Plan. The Planning

Commission concurs with the conclusion of the consistency analysis of the proposed project with these goals and policies provided in the DEIR.

2. Findings of Fact and Statement of Overriding Considerations for the Final Environmental Impact Report are provided in Exhibit C.

3. Findings and facts in support of such findings for the approval of the Tentative Tract Map in accordance with NBMC Section 19.12.070 are provided in Exhibit F.

4. Findings and facts in support of such findings for the approval of the Traffic Study in accordance with NBMC Section 15.40.030 are provided in Exhibit I.

5. The proposed affordable housing implementation plan (AHIP) is consistent with the intend to implement affordable housing goals within the City pursuant to Government Code Section 65915-65918 ("State Bonus Density Law"), Title 19, Chapter 19.54 (Inclusionary Code), and Title 20, Chapter 20.32 (Density Bonus Code) of the Newport Beach Municipal Code. The State Density Bonus Law and the City's Density Bonus Code provide for an increase in the number of units of up to thirty-five percent (35%) above the maximum number of units allowed by the General Plan provided the Project constructs a minimum number of affordable units depending upon what income category is served. At the maximum density bonus of 35%, the Project could accommodate up to 322 additional units above the 922 base units allowed by the General Plan for a total of 1,244 total units.

6. In accordance with NBMC Section 15.45.020.A.2.a and c, a development agreement is required pursuant to General Plan Policy LU 6.15.12 as the project: 1) requires a zoning code amendment that includes the development of more than fifty (50) residential units and 2) includes new non-residential development in Statistical Area L4 (Airport Area). The Development Agreement includes all the mandatory elements for consideration and public benefits that are appropriate to support conveying the vested development rights consistent with the General Plan and Government Code Section 65867.5.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach determines that, based on all information, both oral and written, provided to date, that there has not been any no new significant information, data, or changes to the Project which either result in the creation of a new significant environmental impact, or the need to adopt a new mitigation measure, or a substantial increase in the severity of an environmental impact, or in a finding that the draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

2. The Planning Commission of the City of Newport Beach hereby recommends to the City Council certification of the Uptown Newport Final Environmental Impact Report

No. ER2012-001 (SCH No. 2010051094), attached hereto and incorporated herein by reference as Exhibit B, based upon the draft Findings of Fact and Statement of Overriding Considerations including Project benefits that outweigh the air quality, land use and noise impacts of the proposed Project attached hereto as Exhibit C and incorporated herein by reference.

3. The Planning Commission of the City of Newport Beach hereby recommends to the City Council approval and adoption of:

   a. Planned Community Development Plan Amendment No. PD2011-003, attached hereto as Exhibit D and incorporated herein by reference;

   b. Planned Community Development Plan Adoption No. PC2012-001, consisting of three documents: 1) Land Uses, Development Standards & Procedures, 2) Phasing Plan, and 3) Design Guidelines, attached hereto as Exhibit E and incorporated herein by reference;

   c. Tentative Tract Map No. NT2012-002, attached hereto as Exhibit H and incorporated herein by reference, and subject to the conditions set forth in Exhibit G, which is attached hereto and incorporated herein by reference;

   d. Traffic Study No. TS2012-005, attached hereto as Exhibit J and incorporated herein by reference.

   e. Affordable Housing Implementation Plan No. AH2012-001, attached hereto as Exhibit K and incorporated herein by reference; and

   f. Development Agreement No. DA2012-003, attached hereto as Exhibit L and incorporated herein by reference;

PASSED, APPROVED AND ADOPTED THIS 6TH DAY OF DECEMBER, 2012.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY:_____
Michael Toerge, Chairman

BY:_____
Fred Ameri, Secretary

EXHIBIT A
LEGAL DESCRIPTION

Being a subdivision of Lots 1 and 2 of Tract No. 7953, in the City of Newport Beach, County of Orange, State of California, as shown on a map recorded in Book 310, Pages 7 to 11 inclusive, of Miscellaneous Maps, recorded of said County.

EXHIBIT B
UPTOWN NEWPORT

FINAL ENVIRONMENTAL IMPACT REPORT ER2012-001
(SCH No. 2010051094)

Consists of:

1. Volume I: Draft Environmental Impact Report (EIR)
    a. and Appendix A dated September 2012

2. Volume II: Appendices B through H dated September 2012

3. Volume III: Appendices I though O dated September 2012

4. Final EIR dated November 29, 2012

    a. Responses to Comments

    b. Revisions to the Draft EIR

5. Mitigation Monitoring and Reporting Program dated November 29, 2012

The Final Environmental Impact Report is available for review at the Planning Division of Community Development Department or at http://newportbeachca.gov/index.aspx?page=2029

EXHIBIT C

A. FINDINGS AND FACTS IN SUPPORT OF FINDINGS FOR THE UPTOWN NEWPORT PROJECT FINAL ENVIRONMENTAL IMPACT REPORTSTATE CLEARINGHOUSE NO. 2010051094

1. <u>INTRODUCTION</u>

The California Environmental Quality Act, Public Resources Code Section 21081, and the State CEQA Guidelines, 14 California Code of Regulations, Section 15091 (collectively, CEQA) require that a public agency consider the environmental impacts of a project before a project is approved and make specific findings. The State CEQA Guidelines Section 15091 provides:

(a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the EIR.

2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can or should be adopted by such other agency.

3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

(b) The findings required by subdivision (a) shall be supported by substantial evidence in the record.

(c) The finding in subdivision (a)(2) shall not be made if the agency making the finding has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives. The finding in subsection (a)(3) shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.

(d) When making the findings required in subdivision (a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.

(e) The public agency shall specify the location and custodian of the documents or other materials which constitute the record of the proceedings upon which its decision is based.

(f) A statement made pursuant to Section 15093 does not substitute for the findings required by this section.

State CEQA Guidelines Section 15093 further provides:

(a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposal project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

(b) Where the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. This statement of overriding considerations shall be supported by substantial evidence in the record.

(c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

Having received, reviewed, and considered the Draft Environmental Impact Report (Draft EIR) and the Final Environmental Impact Report (Final EIR) for the Uptown Newport project, SCH No. 2010051094 (collectively, the EIR), as well as all other information in the record of proceedings on this matter, the following Findings and Facts in Support of Findings (Findings) and Statement of Overriding Considerations (SOC) are hereby adopted by the City of Newport Beach (City) in its capacity as the CEQA Lead Agency.

These Findings set forth the environmental basis for the discretionary actions to be undertaken by the City for the development of the project. These actions include the approval of the following for Uptown Newport:

- Environmental Impact Report No. ER2012-001 (SCH#2010051094).
- Planned Community Development Plan Amendment No. PD2011-003
- Planned Community Development Plan Adoption No. PC2012-001. The PCDP has three components: 1) Land Uses, Development Standards & Procedures; 2) Phasing Plan; and 3) Design Guidelines.
- Tentative Tract Map No. NT2012-002. A tentative tract map to establish lots for residential development purposes pursuant to Title 19 of the Municipal Code.

- Traffic Study No. TS2012-005. A traffic study pursuant to Chapter 15.40 (Traffic Phasing Ordinance) of the Municipal Code.
- Affordable Housing Implementation Plan No. AH2012-001.
- Development Agreement No. DA2012-003.

These actions are collectively referred to herein as the project.

A. Document Format

These Findings have been organized into the following sections:

(1) Section 1 provides an introduction to these Findings.

(2) Section 2 provides a summary of the project, overview of the discretionary actions required for approval of the project, and a statement of the project's objectives.

(3) Section 3 provides a summary of previous environmental reviews related to the project area that took place prior to the environmental review done specifically for the project, and a summary of public participation in the environmental review for the project.

(4) Section 4 sets forth findings regarding the environmental impacts that were determined to be—as a result of the Initial Study, Notice of Preparation (NOP), and consideration of comments received during the NOP comment period—either not relevant to the project or clearly not at levels that were deemed significant for consideration at the project-specific level.

(5) Section 5 sets forth findings regarding significant or potentially significant environmental impacts identified in the EIR that the City has determined are either not significant or can feasibly be mitigated to a less than significant level through the imposition of Project Design Features, standard conditions, and/or mitigation measures. In order to ensure compliance and implementation, all of these measures will be included in the Mitigation Monitoring and Reporting Program (MMRP) for the project and adopted as conditions of the project by the Lead Agency. Where potentially significant impacts can be reduced to less than significant levels through adherence to Project Design Features and standard conditions, these findings specify how those impacts were reduced to an acceptable level. Section 5 also includes findings regarding those significant or potentially significant environmental impacts identified in the EIR that will or may result from the project and which the City has determined cannot feasibly be mitigated to a less than significant level.

(6) Section 6 sets forth findings regarding alternatives to the proposed project.

B. Custodian and Location of Records

The documents and other materials that constitute the administrative record for the City's actions related to the project are at the City of Newport Beach Community Development Department, 3300 Newport Boulevard, Newport Beach, California 92658. The City of Newport Beach is the custodian of the Administrative Record for the project.

2. PROJECT SUMMARY

A. Project Location

The 25.05-acre project site is within the Airport Area of the City of Newport Beach, County of Orange, California. It is situated approximately 0.6 mile southeast of John Wayne Airport and occupies Assessor's Parcel Nos. 445-131-02 and 445-131-03. It is on the west side of Jamboree Road between Birch Street and the intersection of Von Karman Avenue and MacArthur Boulevard. The two existing onsite industrial buildings are at 4311 and 4321 Jamboree Road.
Regional access to the site is from State Route 73 (SR-73) via Jamboree Road. Vehicular access to the site is from Jamboree Road, Birch Street, and Von Karman Avenue. MacArthur Boulevard and Von Karman Avenue pass west of the site, and Birch Street passes to the north.

B. Project Description

Proposed Site Plan and Land Use

At buildout, Uptown Newport is intended to be a multifamily residential community with neighborhood-serving retail uses. The project site is within the Airport Business Area, for which the Airport Business Area Integrated Conceptual Development Plan (ICDP) has been implemented (General Plan Land Use Policy LU 6.15.11). Consistent with the ICDP and allocated residential units and commercial square footage, the site plan includes up to 1,244 residential units, 11,500 square feet of retail, and 2 acres of planned park area. The land use summary by phase is summarized in Table 1, *Uptown Newport Land Use Summary*.

Table 1
Uptown Newport Land Use Summary

	Phase 1	Phase 2	Total
Number of Units	680	564	1,244
Developable Area (ac)	8.65	10.02	18.67
Park Area (ac)	1.03	1.02	2.05
Retail (sf)	11,500	0	11,500
Right of Way Area (ac)	2.61	1.72	4.33
Total Area (ac)	**12.29**	**12.76**	**25.05**

Housing

A variety of housing developments are anticipated. Residential product types would be for sale and rent with a mix of apartments, townhouses, and condominiums. Residential buildings may include low-rise row-houses and 4- and 5-story apartments or condominiums featuring a range of floor plan sizes. Mid-rise to high-rise buildings are also envisioned. High rise buildings would not exceed 150 feet in height. Live-work units would also be a permitted use. Of the total 1,244 residential units, up to 184 units would be set aside for affordable housing.

Commercial

A retail component would provide neighborhood-serving retail and services. Permitted uses would include but not be limited to restaurants and retail uses such as bakeries, clothing/boutique shops, jewelry, and convenience stores. Business, medical, dental, and professional offices would be permitted uses as well as personal service uses such as dry cleaners, hair salons, optometry, and postal services. The permitted and conditional uses for Uptown Newport are detailed in the Land Uses, Development Standards and Procedures section of the Planned Community Development Plan (PC Development Plan).

Parks

The two 1-acre minimum park areas would be principal focal points for the development. The parks would be privately maintained but publicly accessible. In addition to the neighborhood parks, public open space areas, private open space area, and ancillary amenities would be provided to serve residents and visitors.

Circulation

The development would be accessed from two intersections at Jamboree Road and one access from Birch Street. An emergency access would be provided to Von Karman Avenue via Koll Center Newport office park through an existing access drive. An internal pedestrian and open space network is envisioned to connect plazas, courtyards, parks, paseos, and retail uses. Minimum five-foot-wide sidewalks would be provided on both sides of internal streets.

Operations

At buildout, Uptown Newport is projected to house approximately 2,724 residents and employ approximately 26 people in the retail component of the project. The hours of the retail and office uses would be typical of neighborhood-serving uses and would be governed by the PC Development Plan. As envisioned, the project could also host a variety of special events and temporary uses throughout the year, including street fairs, farmers' markets, parades, trade shows, car shows, pageants, community concerts, outdoor displays, and recreation/entertainment events, subject to an applicable Special Event Permit issued by the City.

General Phasing

The project would be developed in two primary phases. The first phase of the project is projected to commence in 2013 and be completed by 2018. Timing for Phase 2 would be contingent on the existing lease of the TowerJazz building, which is currently set to expire in March 2017, but could be extended to as late as March 2027. The analysis in the Draft EIR conservatively assumed that Phase 2 could commence as early as spring 2017 with buildout through 2021.

The operation of the TowerJazz facility, an existing semiconductor manufacturing facility, is expected to continue as an interim use after the development of Phase 1. The Draft EIR therefore addressed the potential impacts of the Phase 1 development (an interim condition with 680 residential units and 11,500 square feet of commercial uses) operating adjacent to the TowerJazz facility. Similarly, an SCE substation at the northwest corner of Fairchild Road and Jamboree Road would remain after Phase 1 development and be eliminated during Phase 2 development.

C. Discretionary Actions

Implementation of the portion of the project within the City of Newport Beach will require several actions by the City, including

- **Environmental Impact Report No. ER2012-001 (SCH#2010051094).** An Environmental Impact Report (EIR) to evaluate the environmental impacts resulting from the proposed project, in accordance with the California Environmental Quality Act of 1970 (CEQA), as amended (Public Resources Code Sections 21000 et seq.), and the State CEQA Guidelines for Implementation of CEQA (California Code of Regulations, Title 14, Sections 15000 et seq.).

- **Planned Community Development Plan Amendment No. PD2011-003.** An amendment to Planned Community Development Plan #15 (Koll Center Newport Planned Community) to remove the subject property from the Koll Center Newport Planned Community, pursuant to Chapter 20.66 (Amendments) of the Municipal Code.

- **Planned Community Development Plan Adoption No. PC2012-001.** A Planned Community Development Plan (PCDP) adoption to establish the allowable land uses, general development regulations, and implementation and administrative procedures, which would serve as the zoning document for the construction of up to 1,244 residential units, 11,500 square feet of retail commercial, and 2.05 acres of park space, pursuant to Chapter 20.56 of the Municipal Code. The PCDP has three (3) components: 1) Land Uses, Development Standards & Procedures; 2) Phasing Plan; and 3) Design Guidelines.

- **Tentative Tract Map No. NT2012-002.** A tentative tract map to establish lots for residential development purposes pursuant to Title 19 of the Municipal Code.

- **Traffic Study No. TS2012-005.** A traffic study pursuant to Chapter 15.40 (Traffic Phasing Ordinance) of the Municipal Code.

- **Affordable Housing Implementation Plan No. AH2012-001.** A program specifying how the proposed project would meet the City's affordable housing requirements, pursuant to Chapter 19.53 (Inclusionary Housing) and Chapter 20.32 (Density Bonus) of the Municipal Code.

- **Development Agreement No. DA2012-003.** A Development Agreement between the applicant and the City of Newport Beach describing development rights and public benefits, pursuant to Section 15.45.020.A.2.a & c of the Municipal Code and General Plan Land Use Policy LU6.15.12.

The Final EIR would also provide environmental information to responsible agencies, trustee agencies, and other public agencies that may be required to grant approvals and permits or coordinate with the City of Newport Beach as a part of project implementation. These agencies include, but are not limited to:

- **Airport Land Use Commission of Orange County (ALUC).** The project is within the boundaries of the Airport Environs Land Use Plan (AELUP). The overseeing agency, ALUC, must review the proposed project and determine its consistency with the AELUP. The ALUC considered the project at its October 18, 2012, public hearing and voted to find the project inconsistent with the Commission's AELUP. Approval of the project would require the Newport Beach City Council to override this determination with a two-thirds vote.

- **Irvine Ranch Water District (IRWD).** Approval of the Water Supply Assessment (WSA) for the proposed project is needed from IRWD at the time of project approval by the City.

- **Regional Water Quality Control Board (RWQCB).** The Santa Ana RWQCB would approve the project's compliance with the National Pollution Discharge Elimination System (NPDES) Statewide General Construction Activity permit (2009-0009-DWQ) and Municipal Separate Stormwater Sewer System (MS4) permit. In addition, the RWQCB is the agency with lead oversight of the project site's remediation and is responsible for clearing the site for residential development.

- **South Coast Air Quality Management District (SCAQMD).** The project would require permitting by SCAQMD for Rules 201 (permit to construct), 402 (nuisance odors), 403 (fugitive dust), 1113 (architectural coatings), 1403 (asbestos emissions from demolition), and 1186 (street sweeping).

D. Statement of Project Objectives

The statement of objectives sought by the project and set forth in the Final EIR is provided as follows:

1. Implement the goals and policies that the Newport Beach General Plan has established for the Airport Area and the Integrated Conceptual Plan Development Plan.

2. Develop a mixed-use residential village characterized by a diversity of building and housing types that is consistent with the prescribed minimum density of 30 dwelling units and maximum of 50 dwelling units per net acre average over the 25.05 acre project site.

3. Develop up to 11,500 square feet of retail commercial uses to serve local residents, businesses and visitors.

4. Provide housing in close proximity to jobs and supporting services, with pedestrian-oriented amenities that facilitate walking and enhance livability.

5. Integrate neighborhood parks inter-connected by pedestrian walkways to encourage a sense of community.

6. Develop an attractive, viable project that yields a reasonable return on investment.

7. Provides for the phased transition from existing industrial and office uses to a mixed-use residential village.

8. Provide beneficial site and improvements including implementing a Water Quality Management Plan.

3. ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION

The Final EIR includes the Draft Environmental Impact Report (Draft EIR) dated September 10, 2012, written comments on the Draft EIR that were received during the 45-day public review period, and written responses to those comments and clarifications/changes to the EIR. In conformance with CEQA and the State CEQA Guidelines, the City conducted an extensive environmental review of the Uptown Newport project:

- Completion of the Notice of Preparation (NOP), which was released for a 30-day public review period from December 8, 2011, through January 9, 2012. The NOP was sent to all responsible agencies, trustee agencies, and the Office of Planning Research and posted at the Orange County Clerk-Recorder's office and on the City's website on December 8, 2011.
- During the NOP review period, a Scoping Meeting was held to solicit additional suggestions on the content of the Uptown Newport EIR. Attendees were provided an opportunity to identify verbally or in writing the issues they felt should be addressed in the EIR. The scoping meeting was held on Thursday, December 15, 2011, at Newport Beach City Hall at 3300 Newport Boulevard, Newport Beach, CA 92658. The notice of the public scoping meeting was included in the NOP.
- Preparation of a Draft EIR by the City that was made available for a 45-day public review period (September 10, 2012, to October 24, 2012). The Draft EIR consisted of

three volumes: Volume I contains the text of the Draft EIR and analysis of the Uptown Newport project and Appendix A, Initial Study and Notice of Preparation, and NOP Comment Letters. Volumes II and III contain the technical appendices. The Notice of Availability (NOA) for the Draft EIR was published in the September 9, 2012, edition of the *Daily Pilot*, a newspaper of general circulation. The NOA was sent to all interested persons, agencies and organizations. The Notice of Completion (NOC) was sent to the State Clearinghouse in Sacramento for distribution to public agencies. The NOA was posted at the Orange County Clerk-Recorder's office on September 10, 2012. Copies of the Draft EIR were made available for public review at the City of Newport Beach Community Development Department, Newport Beach Central Branch Library, Newport Beach Balboa Branch Library, Newport Beach Mariners Branch Library, and Newport Beach Corona del Mar Branch Library. The Draft EIR was available for download via the City's website: http://www.newportbeachca.gov.

- Preparation of a Final EIR, including the comments and Responses to Comments on the Draft EIR. The Final EIR contains: comments on the Draft EIR, responses to those comments, clarifications/revisions to the Draft EIR, and appended documents. The preliminary Response to Comments were provided to City Planning Commissioners on November 21 and November 30, 2012, and posted on the City's website. The Final EIR was released on November 30, 2012. In compliance with Section 15088(b) of Title 14 of the California Code of Regulations (State CEQA Guidelines), the City has met its obligation to provide written Responses to Comments to public agencies at least 10 days prior to certifying an EIR.
- The Environmental Quality Affairs Committee (EQAC) scheduled a meeting on October 1, 2012, to review and comment on the Draft EIR. The meeting was not held due to the lack of quorum in attendance. EQAC members were encouraged to submit their comments individually on the Draft EIR.
- A Planning Commission Study Session was held for the proposed project and Draft EIR on October 4, 2012.
- A Planning Commission public hearing was held on December 6, 2012. A notice for this meeting was published in the *Daily Pilot*, mailed to all property owners within 300 feet of the project site and to all interested persons, agencies and organizations, and posted at the project site a minimum of 10 days in advance of this hearing, consistent with the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

For purposes of CEQA and these Findings, the Record of Proceedings for the proposed project consists of the following documents and other evidence, at a minimum:

- All information submitted to the City by the Applicant and its representatives relating to the project and/or the Final EIR, including but not limited to the Uptown Newport Specific Plan, Tentative Tract Map, AHIP, Development Agreement, and the Traffic Study pursuant to the Traffic Phasing Ordinance;
- NOP and all other public notices issued by the City in conjunction with the proposed project;
- The Scoping Meeting notes held during the 30-day NOP period;

- The Final EIR, including the Draft EIR and all appendices, the Responses to Comments document, and all supporting materials referenced therein. All documents, studies, EIRs, or other materials incorporated by reference in the Draft EIR and Final EIR. The reports and technical memoranda included or referenced in the Response to Comments of the Final EIR;
- All written comments submitted by agencies and members of the public and testimony provided at the October 4, 2012, Planning Commission Study Session during the 45-day public review comment period on the Draft EIR;
- All responses to written comments submitted by agencies and members of the public provided at the December 6, 2012, Planning Commission Public Hearing;
- All testimony provided by agencies and members of the public at the Planning Commission public hearing on December 6, 2012;
- All final City Staff Reports relating to the Draft EIR, Final EIR, and the project;
- All other public reports, documents, studies, memoranda, maps, or other planning documents relating to the project, the Draft EIR, and the Final EIR prepared by the City, consultants to the City, or Responsible or Trustee Agencies.
- The Mitigation Monitoring and Reporting Program (MMRP) adopted by the City for the project; the Ordinances and Resolutions adopted by the City in connection with the proposed project; and all documents incorporated by reference therein;
- These Findings of Fact and Overriding Considerations adopted by the City for the project, any documents expressly cited in these Findings of Fact;
- Any other relevant materials required to be in the record of proceedings by Public Resources Code Section 21167.6(e).

The documents and other material that constitute the record of proceedings on which these findings are based are located at the City of Newport Beach Community Development Department. The custodian for these documents is the City of Newport Beach. This information is provided in compliance with Public Resources Code Section 21081.6(a)(2) and 14 California Code Regulations Section 15091(e).

4. ENVIRONMENTAL ISSUES THAT WERE DETERMINED NOT TO BE POTENTIALLY AFFECTED BY THE PROPOSED PROJECT

Impacts Determined Less than Significant in the Initial Study

As a result of the Notice of Preparation circulated by the City on December 8, 2011, in connection with preparation of the EIR, the City determined, based upon the threshold criteria for significance, that the project would have no impact or a less than significant impact on the following potential environmental issues, and therefore, determined that these potential environmental issues would not be addressed in the Draft EIR. Based upon the environmental analysis presented in the EIR, and the comments received by the public on the Draft EIR, no substantial evidence was submitted to or identified by the City which indicated that the project would have an impact on the following environmental areas:

(a) *Aesthetics.* The project would not substantially damage scenic resources, including, but not limited to, trees, rock outcropping, and historic buildings within a scenic highway.

(b) *Agriculture and Forest Resources:* The project site does not contain Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. No portion of the project site is covered by a Williamson Act Contract. Additionally, the project site does not include forest resources, including timberlands, and is not zoned for agriculture.

(c) *Biological Resources.* The project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community or have an effect on federally protected wetlands. It would not conflict with any local policies or ordinances protecting biological resources, or conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

(d) *Geology and Soils.* The project would not expose people or structure to potential substantial adverse effects involving rupture of a known earthquake fault as delineated on the most recent Alquist-Priolo Earthquake Zoning Map or based on other substantial evidence of a known fault, or expose people or structures to landslides. The proposed project would not use septic systems or alternative waste water disposal systems.

(e) *Hazards and Hazardous Materials.* The proposed project would not emit hazardous emissions or handle hazardous materials, substances or waste within one-quarter mile of an existing or proposed school. The closest school is UCI which is greater than one-quarter mile from the project site.

(f) *Hydrology and Water Quality.* The proposed project site is not within a 100-year flood hazard area and would not expose people or structures to significant risk of loss, injury or death involving flooding, or failure of a levee or dam. The project site is not subject to risks related to a seiche, tsunami or mudflows.

(g) *Land Use and Planning.* The project would not conflict with any habitat conservation plan or natural community conservation plan.

(h) *Mineral Resources:* The project would not impact mineral resources of local, regional, or statewide importance.

(i) *Population or Housing.* There is not existing housing on the project site, and therefore, the project would not displace housing or people necessitating the construction of replacement housing.

(j) *Recreation.* The project includes the development of two onsite parks. The potential impacts of developing these parks are addressed in association with the development of the entire site (e.g., grading, air quality, noise, etc.) within the respective areas of the DEIR.

(k) *Transportation/Traffic.* The project would not result in a change in air traffic patterns or result in increased traffic levels or involve design features that would result in substantial safety risks. Project access roads would meet the requirements for fire access pursuant to the 2010 California Fire Code and adequate emergency access would be provided.

(l) *Utilities and Services Systems.* The project would comply with federal, state and local statutes and regulations related to solid waste.

Impacts Determined to be Less than Significant in the DEIR

The following impacts were evaluated in the DEIR and determined to be less than significant solely through adherence to the project design and adherence to the provisions of the Planned Community Development Plan (PCDP) and standard conditions of the City of Newport Beach.

Since the DEIR specifically evaluated the environmental impacts associated with each development phase, Phase 1 and Phase 2, the Findings are also presented by project phase. Where the Findings for Phase 1 and Phase 2 are the same, they are presented under a combined heading.

Phase 1

Based upon the environmental analysis presented in the EIR and the comments received by the public on the Draft EIR, no substantial evidence was submitted to or identified by the City indicating that Phase 1 (only) of the project would have an impact on the following environmental areas:

(a) *Hazards and Hazardous Materials:* The existing Southern California Edison substation would not cause significant impacts related to electric and magnetic field health hazards.

Phase 2

Based upon the environmental analysis presented in the EIR and the comments received by the public on the Draft EIR, no substantial evidence was submitted to or identified by the City indicating that Phase 2 (only) of the project would have an impact on the following environmental areas:

(b) *Hazards and Hazardous Materials:* After the removal of the TowerJazz manufacturing facility, residents would not be at risk from accidental release of chemicals stored at the TowerJazz facility.

Phases 1 and 2

Based upon the environmental analysis presented in the EIR, and the comments received by the public on the Draft EIR, no substantial evidence was submitted to or identified by the City indicating that the project (Phases 1 and 2) would have an impact on the following environmental areas:

(a) *Aesthetics and Visual Resources:* The project would not have a substantial adverse effect on scenic vistas, alter the visual appearance of the site, cause shade/shadow impacts, or generate additional light or glare in the project area.

(b) *Biological Resources:* The project would not directly impact sensitive, threatened, or endangered species or affect sensitive species listed in a local or regional plan or policy.

(c) *Cultural Resources:* The project would not impact historic resources or disturb any known human remains.

(d) *Geology and Soils:* The project would not have any significant impacts related to strong seismic ground shaking, liquefaction hazards, soil erosion, or soil subsidence.

(e) *Greenhouse Gas Emissions:* Phase 1 of the project would not produce GHG emissions that exceed the per capita threshold of the South Coast Air Quality Management District. At buildout (Phase 2), the project would result in a net decrease in GHG emissions. The project would not conflict with the plans adopted for the purpose of reducing GHG emissions.

(f) *Hydrology and Water Quality:* The project would reduce the amount of impervious surfaces on the site, reducing stormwater volumes and peak flow rates. The project would not have significant impacts related to increases in onsite pollutants during construction or after project development.

(g) *Land Use and Planning:* The project would not divide an established business community.

(h) *Noise and Vibration:* The project traffic would not cause a substantial increase in noise levels and the project site is outside the 65 dBA CNEL noise contour for John Wayne Airport.

(i) *Population and Housing:* The project would not result in substantial increase in population or housing.

(j) *Public Services:* The project would not create significant impacts related to fire protection, police protection, school, or library services.

(k) *Recreation:* The project would meet the City's parkland dedication requirements, and physical impacts to recreational and park spaces would not be significant.

(l) *Transportation and Traffic:* The project-generated traffic would not conflict with applicable City plans governing the performance of the area-wide circulation system; result in traffic impacts per the City's traffic phasing ordinance analysis requirements; cause significant impacts to the Congestion Management Plan facilities or state highways intersections; result in level of service impacts along freeway segments; or conflict with adopted policies, plan, or programs for alternative transportation. The construction-generated traffic would not detrimentally impact levels of service at intersections and roadways in the service area.

(m) *Utilities and Service Systems:* Project-generated wastewater would not exceed the capacity of existing sewer pipelines and treatment plants; the project would be adequately served by existing water supply and delivery systems; stormwater flow would be reduced in comparison with existing conditions; the Frank R. Bowerman

landfill would have sufficient capacity to accommodate project-generated solid waste; and the project would substantially reduce onsite electricity and natural gas consumption.

5. FINDINGS REGARDING POTENTIALLY SIGNIFICANT ENVIRONMENTAL EFFECTS

The following potentially significant environmental impacts were analyzed in the EIR, and the effects of the project were considered. Because of environmental analysis of the project and the identification of project design features; compliance with existing laws, codes, and statutes; and the identification of feasible mitigation measures (together referred herein as the Mitigation Program), some potentially significant impacts have been determined by the City to be reduced to a level of less than significant, and the City has found—in accordance with CEQA Section 21081(a)(1) and State CEQA Guidelines Section 15091(a) (1)—that "Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment. This is referred to herein as "Finding 1." Where the City has determined—pursuant to CEQA Section 21081(a)(2) and State CEQA Guidelines Section 15091(a)(2)—that "Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency," the City's finding is referred to herein as "Finding 2."

Where, as a result of the environmental analysis of the project, the City has determined that either (1) even with the identification of project design features, compliance with existing laws, codes and statutes, and/or the identification of feasible mitigation measures, potentially significant impacts cannot be reduced to a level of less than significant, or (2) no feasible mitigation measures or alternatives are available to mitigate the potentially significant impact, the City has found in accordance with CEQA Section 21081(a)(3) and State CEQA Guidelines Section 15091(a)(3) that "Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report." This is referred to herein as "Finding 3."

A. Air Quality

(1) **Potential Impact:** Short-term construction emissions generated by the Uptown Newport project would result in NO_X emissions that exceed South Coast Air Quality Management District's regional significance thresholds and would cumulatively contribute to the nonattainment designations of the South Coast Air Basin.

Phases 1 and 2

Finding: 3. Mitigation measures would not reduce construction emission levels to less than significant levels. The City hereby makes Finding 3 and determines that this impact is significant and unavoidable.

Facts in Support of Finding

Phases 1 and 2: Mitigation Measure 2-1 would reduce NO_X generated by exhaust. Table 5.2-16 shows construction emissions with adherence to Mitigation Measures 2-1 and 2-2. Use of newer construction equipment would reduce construction emissions onsite. However, onsite emissions in addition to offsite emissions generated by haul trucks would generate substantial quantities of NO_X and would continue to exceed SCAQMD's regional significance threshold during site preparation (year 2014 for Phase 1 and years 2017 and 2018 for Phase 2) and when construction activities of various phases overlap (year 2017 and 2018). Off-road construction equipment and on-road haul trucks for demolition, soil export, and construction materials are the primary source of NO_X emissions. Therefore, of the eight years of construction, project-related construction activities would only exceed SCAQMD's threshold for three years because significant off-road equipment use and haul trucks are not necessary during vertical building construction. Therefore, Impact 5.2-2 would remain significant and unavoidable.

Mitigation Measures

MM 2-1 The construction contractor shall use construction equipment rated by the United States Environmental Protection Agency as having Tier 3 or higher exhaust emission limits for equipment over 50 horsepower that are onsite for more than 5 days. Tier 3 engines between 50 and 750 horsepower are available for 2006 to 2008 model years. After January 1, 2015, equipment over 50 horsepower that are onsite for more than 5 days shall be equipment meeting the Tier 4 standards, if available. A list of construction equipment by type and model year shall be maintained by the construction contractor onsite. A copy of each unit's certified Tier specification shall be provided at the time of mobilization of each applicable unit of equipment. Prior to construction, the City of Newport Beach shall ensure that all demolition and grading plans clearly show the requirement for United States Environmental Protection Agency Tier 3 or higher emissions standards for construction equipment over 50 horsepower during ground-disturbing activities. In addition, equipment shall properly service and maintain construction equipment in accordance with the manufacturer's recommendations. Construction contractors shall also ensure that all nonessential idling of construction equipment is restricted to five minutes or less in compliance with California Air Resources Board's Rule 2449.

MM 2-2 The construction contractor shall implement the following measures or provide evidence to the City of Newport Beach that implementation would not be feasible:

- If electricity is not available onsite, generators, welders, and air compressors shall use alternative fuels (i.e., electric, natural gas, propane, solar).

- Construction parking shall be configured to minimize traffic interference.
- Construction trucks shall be routed away from congested streets and sensitive receptors.
- Construction activities that affect traffic flow on the arterial system shall be scheduled to off-peak hours to the extent practicable.
- Temporary traffic controls, such as a flag person(s), shall be provided, where necessary, to maintain smooth traffic flow.
- Large shipments of construction materials and/or equipment requiring use of heavy-heavy duty tractor trailers (e.g., 53-foot truck) shall use EPA-certified SmartWay trucks.

MM 2-3 Prior to issuance of a grading permit, the construction contractor shall provide a statement to the City of Newport Beach that the construction contractor shall support and encourage ridesharing and transit incentives for the construction crew, such as carpools, shuttle vans, transit passes, or secured bicycle parking for construction workers.

City of Newport Beach Standard Conditions

There are no specific City-adopted standard operating conditions of approval related to air quality that are applicable to the proposed project at this time; however, project-specific conditions of approval may be applied to the project by the City during the discretionary approval (site development review, tentative tract map, etc.), subsequent design, and/or construction process.

(2) **Potential Impact:** Construction activities associated with the Uptown Newport project could expose sensitive receptors to substantial pollutant concentrations of $PM_{2.5}$.

Phases 1 and 2 Finding: 1. Mitigation measures would reduce construction impacts to sensitive receptors. Thereby, the City makes Finding 1 and impacts are mitigated to less than significant levels.

Facts in Support of Finding

Phases 1 and 2: Mitigation Measures 2-4 through 2-5 would reduce particulate matter concentration generated from exhaust and fugitive dust during construction activities. Table 5.2-17 shows project-related construction emissions compared to SCAQMD's LSTs with adherence to Mitigation Measures 2-1 through 2-6. Mitigation Measure 2-1 would require use of newer construction equipment, and Mitigation Measure 2-4 would require additional fugitive dust control measures to be implemented during ground-disturbing activities. Mitigation Measure 2-5 requires diesel particulate filters installed on equipment used for site improvements during Phase 2 or prohibits overlap of site improvements associated with Phase 2 during construction of Phase 1. As shown in

the table, Mitigation Measures 2-1 through 2-6 would reduce localized construction emissions below the localized significance thresholds. Therefore, Impact 5.2-4 would be less than significant.

Mitigation Measures

MM 2-4 The construction contractor shall prepare a dust control plan and implement the following measures during ground-disturbing activities for fugitive dust control in addition to South Coast Air Quality Management District Rule 403 to reduce particulate matter emissions. The City of Newport Beach shall verify compliance that these measures have been implemented during normal construction site inspections.

- During all grading activities, the construction contractor shall reestablish ground cover on the construction site through seeding and watering.
- During all construction activities, the construction contractor shall sweep streets with Rule 1186–compliant, PM10-efficient vacuum units on a daily basis if silt is carried over to adjacent public thoroughfares or occurs as a result of hauling.
- During all construction activities, the construction contractor shall maintain a minimum 24-inch freeboard on trucks hauling dirt, sand, soil, or other loose materials, and tarp materials with a fabric cover or other cover that achieves the same amount of protection.
- During all construction activities, the construction contractor shall water exposed ground surfaces and disturbed areas a minimum of every three hours on the construction site and a minimum of three times per day. Recycled water should be used, if available.
- During site preparation, the construction contractor shall stabilize stockpiled materials. Stockpiles within 300 feet of occupied buildings shall not exceed 8-feet in height, must have a road bladed to the top to allow water truck access, or must have an operational water irrigation system that is capable of complete stockpile coverage.
- During all construction activities, the construction contractor shall limit onsite vehicle speeds on unpaved roads to no more than 15 miles per hour.

MM 2-5 The construction contractor during Phase 2 activities shall adhere to one of the following if construction of Phase 1 overlaps with construction of Phase 2:

- The construction contractors shall install Level 2 Verified Diesel Emission Control Strategies (VDES) diesel particulate filters (DPF) on large off-road equipment that have engines rated 50 hp or greater during grading, utilities installation, paving, and concrete activities that overlap with Phase 1 building construction. A list of construction equipment by type and model year and type of DPF shall be maintained by the construction contractor onsite. Or

- Phase 2 site improvements (grading, utilities installation, paving, and concrete construction subphases) shall not overlap with Phase 1 building construction.

- The City of Newport Beach shall verify compliance that one of these measures has been implemented during normal construction site inspections.

MM 2-6 The construction contractor shall post a sign at the entrance to the construction site. The sign shall identify the designated contact person, telephone number, and email address for construction-related complaints. Upon receipt of a compliant, the complaint shall be investigated and corrective action shall be taken, if needed. The construction contractor shall file a report to the City of Newport Beach of the nature of the compliant and action taken to remedy the complaint within two working days. A log of the complaints and resolutions to the complaints shall be maintained onsite.

<u>City of Newport Beach Standard Conditions</u>

There are no specific City-adopted standard operating conditions of approval related to air quality that are applicable to the proposed project at this time; however, project-specific conditions of approval may be applied to the project by the City during the discretionary approval (site development review, tentative tract map, etc.), subsequent design, and/or construction process.

B. Biological Resources

(1) Potential Impact: The proposed project would remove habitat that could be used for nesting by migratory birds.

Phases 1 and 2

Finding: 1. The City hereby makes Finding 1 and determines that this impact is less than significant with the incorporation of the proposed mitigation measures.

Facts in Support of Finding

Phases 1 and 2: Mitigation Measure 3-1 requires survey and identification of any active nests in or near the project site by a qualified biologist during construction. Compliance with the requirements of Mitigation Measure 3-1 would reduce potential impacts to migratory birds to less than significant levels.

Mitigation Measures

MM 3-1 Prior to any proposed actions during the breeding season, January 31st through September 15th, the monitoring biologist shall conduct a pre-construction survey(s) to identify any active nests in and near the project area no more than three days prior to project initiation. If the biologist does not find any active nests that would be potentially impacted, the proposed action may proceed. Any active nests observed during the survey shall be mapped on a recent aerial photograph, including documentation of GPS coordinates. If the biologist finds an active nest within or adjacent to the action area and determines that the nest may be impacted, the biologist shall delineate an appropriate buffer zone around the nest using temporary plastic fencing or other suitable materials, such as barricade tape and traffic cones. The buffer zone shall range from a 300- to 500-foot radius at the discretion of the biologist. Only activities approved by the qualified biologist shall take place within the buffer zone until the nest is vacated. Once the nest is no longer active, the proposed action may proceed within the buffer zone.

City of Newport Beach Standard Conditions

There are no specific City-adopted standard operating conditions of approval related to biological resources that are applicable to the proposed project at this time; however, project-specific conditions of approval may be applied to the project by the City during the discretionary approval (site development review, tentative tract map, etc.), subsequent design, and/or construction process.

C. Cultural Resources

(1) Potential Impact: Development of the project site, including excavation as deep as 15 feet, could impact archaeological and/or paleontological resources.

Phases 1 and 2

Finding: 1. The City hereby makes Finding 1 and determines that this impact is less than significant with the incorporation of the proposed mitigation measures.

Facts in Support of Finding

Phases 1 and 2: Mitigation Measure 4-1 requires a professional archaeologist to be retained to monitor ground-disturbing activities, determine potential to disturb cultural resources, and halt construction activities if necessary. Mitigation Measure 4-2

requires an Orange County–certified professional paleontologist to be retained during ground-disturbing activities to assess potential impacts to paleontological resources and prepare a paleontological mitigation plan if required. The requirements set forth in Mitigation Measures 4-1 and 4-2 would reduce paleontological impacts to less than significant levels.

Mitigation Measures

MM 4-1 Prior to the issuance of grading permits, the project applicant shall demonstrate to the Community Development Department that an Orange County–certified professional archaeologist has been retained to monitor any potential impacts to archaeological or historic resources throughout the duration of any ground-disturbing activities at the project site. The archeologist shall develop a Cultural Resources Awareness Training program, which shall provide examples of the types of resources that might be encountered and detail procedures to be implemented in that event. The qualified archeologist shall be present at the pregrade meeting to present the training program to all earthmoving personnel and their supervisors and to discuss the monitoring, collection, and safety procedures of cultural resources, if any are found. If subsurface cultural resources are inadvertently discovered during ground-disturbing activities, the construction contractor shall ensure that all work stops within 25 feet of the find until the qualified archeologist can assess the significance of the find and, if necessary, shall develop appropriate treatment or disposition of the resources in consultation with the City of Newport Beach and a representative of the affected Native American tribe (Gabrielino). The archeological monitor shall have the authority to halt any project-related activities that may be adversely impacting potentially significant cultural resources. Suspension of ground disturbances in the vicinity of the discoveries shall not be lifted until an archeological monitor has evaluated the discoveries to assess whether they are classified as significant cultural resources, pursuant to the California Environmental Quality Act.

MM 4-2 Prior to the issuance of grading permits, the project applicant shall demonstrate to the Community Development Department that an Orange County–certified professional paleontologist has been retained to monitor any potential impacts to paleontological resources throughout the duration of any ground-disturbing activities at the project site. The paleontologist shall review the project's final plans and develop and implement a Paleontological Mitigation Plan, which shall include the following minimum elements:

- All earthmoving activities eight-feet or more below the current surface shall be monitored full-time by a qualified paleontological monitor.

- If fossils are discovered, the paleontological monitor has the authority to temporarily divert work within 25 feet of the find to allow recovery of the fossils and evaluation of the fossil locality.

- Fossil localities shall require documentation including stratigraphic columns and samples for micropaleontological analyses and for dating.

- Fossils shall be prepared to the point of identification and evaluated for significance.

- Significant fossils shall be cataloged and identified prior to being donated to an appropriate repository.

- The final report shall interpret any paleontological resources discovered in the regional context and provide the catalog and all specialists' reports as appendices.

City of Newport Beach Standard Conditions

The following City-adopted standard operating conditions of approval would apply to the proposed project:

- The City of Newport Beach has standard conditions requiring a qualified archaeologist and a paleontologist to observe construction activities and to establish procedures for redirecting work, evaluating resources, and recommending appropriate actions. More specific requirements have been prepared for this project by the cultural resources consultant, and in lieu of the standard conditions, are included in the mitigation measures below.

D. Geology and Soils

(1) Potential Impact: Development of the project could expose people and structures to hazards arising from expansive soils.

Phases 1 and 2

Finding: 1. The City hereby makes Finding 1 and determines that this impact is less than significant with the incorporation of the proposed mitigation measures.

Facts in Support of Finding

Phases 1 and 2: On the project site, sandy to silty clays from onsite borings were found to have medium to high expansion indices. During grading operations within approximately the upper five feet of soils, the mixing and placement of various onsite soils as engineered, compacted fills would reduce hazards from expansive soils. However, additional testing of soil for expansion potential shall be conducted before the design-building phases of buildings in the Uptown Newport project.

Mitigation 6-1 requires soil testing for expansion potential to be conducted by a professional engineering geologist or registered geotechnical engineer. Compliance with the requirements of this mitigation measure would reduce expansive soil impacts to a less than significant level.

Mitigation Measures

MM 6-1 Prior to issuance of any grading permits for the project, the project applicant shall have soil testing for expansion potential conducted by a professional engineering geologist or registered geotechnical engineer. The geologist or engineer shall prepare a report describing the sampling and testing; findings; any hazards related to the findings; and recommendations for reducing any hazards identified. The project applicant shall submit a copy of the report to the City of Newport Beach Community Development Department for review and approval by the City Building Division.

City of Newport Beach Standard Conditions

There are no specific City-adopted standard operating conditions of approval related to geology and soils that are applicable to the proposed project at this time; however, project-specific conditions of approval may be applied to the project by the City during the discretionary approval (site development review, tentative tract map, etc.), subsequent design, and/or construction process.

E. Hazards and Hazardous Materials

(1) Potential Impact: Prior to the demolition of the TowerJazz manufacturing facility in Phase 2 of the project, residents of Phase 1 of the project could be at risk from an accidental release of chemicals stored at the TowerJazz facility.

Phase 1

Finding: 1. The City hereby makes Finding 1 and determines that this impact would be reduced to less than significant levels with the incorporation of the proposed mitigation measures. (Under Phase 2, this impact is not potentially significant.)

Facts in Support of Finding

Phase 1: The provisions of Mitigation Measures 7-1 through 7-4 would reduce the hazards impacts of the TowerJazz facility to residents during the first phase of the project. These mitigation measures require compliance for specific sections of the California Fire Code and City of Newport Beach Fire Department standards, emergency notification and disclosures, and new requirements for the use of extremely hazardous substances at the TowerJazz facility. Compliance with the provisions of Mitigation Measures 7-1 through 7-4 would reduce the risk of potential exposure of Phase 1 residents to hazards on the project site, and impacts would be less than significant.

Mitigation Measures

MM 7-1 In compliance with CFC Section 381.1 (Amendment), prior to issuance of building permits for Phase 1, the project applicant shall submit a geologic study from a state-licensed and department-approved individual or firm to the Newport Beach Fire Department Fire Prevention Division for review and approval (due to the proximity of the proposed project to a semiconductor facility).

MM 7-2 Prior to issuance of any building permit for Phase 1, the applicant shall demonstrate compliance with CFC Section 27041.1 (Amendment), which prohibits the storage of any amount of extremely hazardous substances equal to or greater than the disclosable amounts listed in Appendix A, Part 355, Title 40, of the Code of Federal Regulations in a residential zone or adjacent to property developed with residential uses. Compliance shall be demonstrated to the satisfaction of the Newport Beach Fire Department and shall include the following:

- Installation of a new anhydrous ammonia tank at a minimum distance of 200 feet from the nearest existing or proposed residential structure (including the adjacent Koll property project). The new tank shall be approved by the Newport Beach Fire Department, and the tank and installation shall include mitigation safeguards such as: automatic shut-off valves, excess flow valves, restrictive flow orifices, toxic gas detection system, automatic sprinkler system, water deluge system, alarm system, and double containment piping. An updated Offsite Consequence Analysis (OCA) shall be prepared to the satisfaction of the Fire Department prior installation of the new tank.

- In the event a new anhydrous ammonia tank is not installed or the existing tank relocated, no residential structures shall be constructed within 200 feet of the anhydrous ammonia tank.

- Demonstration of maintenance of industry best practices and provision of minimum EPGR-2 separation distances as defined by the EPA for any extremely hazardous substances (EHS) in excess of disclosable amounts. The use of the term “adjacent to” (per CFC Section 27041.1 (Amendment) shall be interpreted to be a greater distance than an offsite consequence analysis would require as a safe EPGR-2 (or an equivalent and accepted standard) separation distance (ibid).

MM 7-3 Prior to the issuance of occupancy permits, the applicant shall demonstrate to the satisfaction of the City of Newport Beach Fire Department that the following disclosures and emergency notification procedures/programs are in place:

- Disclosure to potential Uptown Newport residences that hazardous chemicals are used and stored at the adjacent TowerJazz facility.

- Inclusion of property manager or authorized representative of the Uptown Newport residential community to the emergency notification list of the TowerJazz Business Emergency Plan.

- Program to inform/train the property manager or authorized representative of the Uptown Newport residential community in emergency response and evacuation procedures and to incorporate ongoing coordination between the Uptown Newport representative and TowerJazz to assure proper action in the event of an accident at the facility (shelter in place and/or evacuation routes).

- Upgrade TowerJazz emergency alarm system to include concurrent notification to Uptown Newport residents of chemical release. Provisions of the alarm system and emergency notification procedure shall be reviewed and approved by the City of Newport Beach Fire Department.

MM 7-4 Prior to the introduction of a new extremely hazardous substance (EHS) or increase in quantity of any existing EHS at TowerJazz, an updated OCA shall be prepared and reviewed and authorized by the City of Newport Beach Fire Department. Any new EHS shall be appropriately located and the installation designed with all necessary mitigation safeguards specified by the City of Newport Beach Fire Department.

<u>City of Newport Beach Standard Conditions</u>

The project would be subject to the Newport Beach Fire Department Guidelines and City of Newport Beach Fire Code (City Municipal Code Chapter 9.04). Specific Conditions of Approval pursuant to these requirements would be specified by the Newport Beach Fire Department, and would include compliance with the following California Fire Code (CFC) requirements:

- Sections 318.1 (Amendment). A geological study from a state-licensed and department-approved individual or firm will be required due to the proximity of the proposed project to a semiconductor manufacturing facility.

- Section 2704.1.1 (Amendment). No person shall use or store any amount of extremely hazardous substances equal to or greater than the disclosable amounts as listed in Appendix A, part 355, Title 40 of the Code of Federal Regulation in a residential zone or adjacent to property developed with residential uses.

(2) **Potential Impact:** The project site is included on a list of hazardous material sites. Project development, including soil disturbance from site grading and construction activities, could pose substantial hazards to people or the environment through the release of hazardous materials.

Phase 1

Finding: 1. The City hereby makes Finding 1 and determines that this impact (migration of VOCs from TowerJazz) would be reduced to less than significant levels with the incorporation of the proposed mitigation measures.

Phase 2

Finding: 1. The City hereby makes Finding 1 and determines that this impact (contaminated soil disturbance from removal of TowerJazz) would be reduced to less than significant levels with the incorporation of the proposed mitigation measures.

Facts in Support of Finding

Phase 1: Based on conclusion in the ESA and Vapor Intrusion HRA, contamination of the Phase 1 portion of the site is limited to potential migration of VOCs from the Phase 2 portion of the site. A “No Further Action” declaration or a Letter of Allowance for residential construction for Phase 1 must be is provided by the RWQCB in order for impacts to be considered less than significant. Mitigation Measure 7-5 requires issuance of this letter prior to the issuance of building permits. (A “No Further Action” letter, dated November 1, 2012, was issued by the RWQCB for Phase 1 and is included as an Appendix to Final EIR.)

Mitigation Measure

MM 7-5 Prior to the issuance of building permits for development within Phase 1, the project applicant shall obtain a “No Further Action” declaration or Letter of Allowance for residential construction for Phase 1 from the Regional Water Quality Control Board.

City of Newport Beach Standard Conditions

See the City of Newport Beach Standard Conditions listed under E.1.
Phase 2: Soil disturbance from site grading and construction activities within the Phase 2 portion of the site could result in the release of hazardous materials that could impact Phase 1 residents and nearby office occupants. Phase 2 development could not occur until the RWQCB provides a “No Further Action” declaration or a Letter of Allowance for residential construction. The provisions of Mitigation Measures 7-6 and 7-7 would reduce potential impacts to less than significant levels.

Mitigation Measures

MM 7-6 The project applicant shall submit copies of applicable reports and plans as submitted to the RWQCB for remedial activities within the Phase 2 portion of the project site to the City of Newport Beach Community Development Department. Such copies shall include remediation action plans and annual soil and groundwater remediation progress reports.

MM 7-7 Prior to the issuance of building permits for development within Phase 2, the project applicant shall obtain a "No Further Action" declaration or Letter of Allowance for residential construction for Phase 2 from the Regional Water Quality Control Board.

City of Newport Beach Standard Conditions

See City of Newport Beach Standard Conditions listed under E.1.

(3) **Potential Impact:** Demolition of onsite buildings could result in a health risk due to the release of hazardous building materials, including asbestos and lead paint.

Phases 1 and 2

Finding: 1. Both phases of development require the demolition of buildings that likely contain asbestos-containing material (ACM) and/or lead-based paint (LBP). Mitigation Measure 7-8 would reduce impacts related to ACM and LBP to less than significant levels.

Facts in Support of Finding

Phases 1 and 2: Mitigation Measure 7-8 requires compliance with LBP and ACM regulations and documentation of testing. This would reduce the potential LBP and ACM impacts to less than significant levels.

Mitigation Measures

MM 7-8 Prior to issuance of demolition permits, the project applicant shall have the following inspections and assessments conducted for the Half Dome building (Phase 1) and TowerJazz building (Phase 2) and shall provide the Community Development Department with a copy of the report of each investigation or assessment.

- The applicant shall retain a certified lead inspector/assessor to inspect buildings onsite including any structures at the SCE substation for lead-based paint (LBP). The inspector/assessor's report shall describe regulatory requirements for lead containment applicable to any LBP discovered onsite.

- The applicant shall retain a licensed or certified asbestos consultant to inspect buildings onsite including any structures at the SCE substation for asbestos-containing materials (ACM). The

asbestos consultant's report shall include requirements for abatement, containment, and disposal of ACM in South Coast Air Quality Management District Rule 1403.

City of Newport Beach Standard Conditions

See City of Newport Beach Standard Conditions listed under E.1.

(4) **Potential Impact:** Future residents and visitors of Phase 1 of the project would not be exposed to unacceptable levels of VOCs as a result of vapor intrusion into buildings. The health risk associated with potential soil vapor intrusion of VOCs for future Phase 2 residents is undetermined.

Phase 1

Finding: 1. The City hereby makes Finding 1 and determines that this impact would be reduced to less than significant levels with the incorporation of the proposed mitigation measures.

Phase 2

Finding: 1. The City hereby makes Finding 1 and determines that this impact would be reduced to less than significant levels with the incorporation of the proposed mitigation measures.

Facts in Support of Finding

Phase 1: Phase 1 development could not occur until the Regional Water Quality Control Board (RWCQB), as lead oversight for the remediation of the project site, has cleared the site for residential development. The RWQCB may issue a "No Further Action" declaration or Letter of Allowance for residential construction for Phase 1, as stated in Mitigation Measure 7-3. Compliance with this requirement would reduce impacts to less than significant levels. (A "No Further Action" letter, dated November 1, 2012, was issued by the RWQCB for Phase 1 and is included as an Appendix to Final EIR).

Mitigation Measure 7-3 applies to this impact.

Phase 2: The Environmental Site Assessment (ESA) concluded that potential soil vapor intrusion of VOCs north and northwest of the TowerJazz building would be a significant concern for development of Phase 2 and recommended additional soil-gas characterization of the site. Mitigation Measures 7-9 and 7-10 require additional health risk assessments pursuant to the RWQCB requirements and the remediation of any soil and groundwater contamination. Again, the RWQCB must issue a "No Further Action" declaration or Letter of Allowance for residential construction. Compliance with the requirements in Mitigation Measures 7-9 through 7-10 would reduce impacts to less than significant levels.

Mitigation Measures

MM 7-9 Prior to the issuance of building permits for Phase 2, the project applicant shall retain a registered environmental assessor or other professional qualified to conduct a human health risk assessment (HHRA) of potential volatile organic compound contamination. The HHRA shall be conducted under the guidance and review of the Regional Water Quality Control Board. Approval of tentative tract map(s) for Phase 2 shall not occur until the project applicant obtains a "No Further Action" declaration or a Letter of Allowance for residential construction from the Regional Water Quality Control Board.

MM 7-10 Prior to issuance of a building permits for Phase 2 development, the project applicant shall demonstrate to the Community Development Department that contamination in soil and groundwater on Phase 2 has been remediated to meet the cleanup goal for the site for total volatile organic compounds set by the State Water Resources Control Board and shall have obtained a "No Further Action" declaration or Letter of Allowance for residential construction from the Regional Water Quality Control Board.

City of Newport Beach Standard Conditions

See City of Newport Beach Standard Conditions listed under E.1.

(5) **Potential Impact:** The existing SCE substation may present health hazards related to electric and magnetic fields (EMF) and/or upon demolition, release of hazardous materials.

Phase 2 Finding: 1. The City hereby makes Finding 1 and determines that this impact would be reduced to less than significant levels with the incorporation of the proposed mitigation measures. (Under Phase 1, this impact is not potentially significant.)

Facts in Support of Finding

Phase 2: The demolition of the SCE substation presents risks of exposure to PCBs and related material. Mitigation Measure 7-11 requires certified inspection and the establishment of a mitigation program should PCBs or other hazardous materials be identified. Compliance with this mitigation measure would reduce impacts to less than significant levels.

Mitigation Measures

MM 7-11 Prior to the issuance of demolition permits for Phase 2, the construction dates for the SCE Substation shall be confirmed. If the facility was constructed prior to the 1980's, a certified inspector approved by the City

of Newport Beach Fire Department shall be retained to test for PCBs and related hazardous materials. If PCBs or other hazardous materials are determined to be present, a mitigation program to abate, contain and dispose of the materials shall be prepared and approved by the City Fire Department. Such program shall be implemented prior to the issuance of Phase 2 building permits.

Mitigation Measures 7-9 and 7-10 also apply to this impact.

City of Newport Beach Standard Conditions

See City of Newport Beach Standard Conditions listed under E.1.

F. Land Use and Planning

(1) Potential Impact: Project implementation would potentially conflict with applicable plans adopted for the purpose of avoiding or mitigating and environmental effect. The Airport Land Use Commission has determined that the project is inconsistent with the Airport Environs land Use Plan (AELUP) for John Wayne Airport.

Phases 1 and 2

Finding: 3. The City hereby makes Finding 3 and determines that there are no mitigation measures to reduce this impact to less than significant levels. This impact is significant and unavoidable and would require the adoption of a Statement of Overriding Considerations.

Facts in Support of Finding

Phases 1 and 2: Due to the proximity of the proposed project to the Orange County John Wayne Airport, the project must be consistent with the Airport Land Use Commission's (ALUC) regulations. Since the proposed project requires an amendment to the Koll Center Newport PCDP and adoption of its own zoning (PCDP), a consistency determination by ALUC is required prior to the Newport Beach City Council taking action on the project. The ALUC considered the proposed project at its October 18, 2012, public hearing and voted to find the project inconsistent with the Commission's AELUP for John Wayne Airport (JWA) and AELUP for heliports. The Commission based their inconsistency decision on Section 2.1.1 of the JWA AELUP, which states: "the Commission may utilize criteria for protecting aircraft traffic patterns at individual airports which may differ from those contained in FAR Part 77, should evidence of health, welfare, or air safety surface sufficient to justify such an action." Since the ALUC has made the determination that Uptown Newport is not consistent with the AELUP, approval of the project will require a two-thirds vote to override this determination. No mitigation measures are available to reduce the potentially significant impact. This impact is a significant unavoidable adverse impact and would require a Statement of Overriding Considerations.

City of Newport Beach Standard Conditions

There are no specific City-adopted standard operating conditions of approval related to land use and planning that are applicable to the proposed project at this time. However, project-specific conditions of approval may be applied to the project by the City during the discretionary approval (site development review, tentative tract map, etc.), subsequent design, and/or construction process. Additionally, other applicable standard conditions are encompassed in the topical conditions that affect land use compatibility, including air quality, noise, and traffic.

G. Noise and Vibration

(1) Potential Impact: The proposed project would introduce new stationary noise sources that would result in small noise increases in the vicinity of noise-sensitive land uses.

Phases 1 and 2

Finding: 1. The City hereby makes Finding 1 and determines that this impact would be reduced to less than significant levels with the incorporation of the proposed mitigation measures.

Facts in Support of Finding

Phases 1 and 2: Proposed noise-sensitive uses would be exposed to noise levels from subterranean parking garage activity and truck deliveries exceeding thresholds stated in the City's Municipal Code for residential uses. Mitigation Measures 10-1 and 10-2 would require design and operation practices that limit noise generation. Compliance with these mitigation measures would reduce impacts to less than significant levels.

Mitigation Measures

MM 10-1 The parking lot surface of all parking garages shall be textured to eliminate tire squeal noise. Ventilation equipment for the parking garages shall be designed to meet the City's noise limits for Zone III, not exceed a daytime maximum of 60 dBA L_{eq} (or 80 dBA L_{max}) and a nighttime maximum of 50 dBA L_{eq} (or 70 dBA L_{max}). This can be accomplished by selecting quieter equipment or by enclosing ventilation equipment.

MM 10-2 Truck deliveries shall be restricted to the daytime hours between 7 AM and 10 PM.

City of Newport Beach Standard Conditions

The following City-adopted standard operating conditions of approval would apply to the proposed project:

- The project must comply with the exterior noise standards for residential uses of the Noise Ordinance. The exterior noise level standard is 65 dBA between the hours of 7:00 AM and 10:00 PM and 60 dBA between the hours of 10:00 PM and 7:00 AM. An acoustic study shall be performed by a qualified professional that demonstrates compliance with these standards of the Noise Ordinance. This acoustic study shall be performed and submitted to the Community Development Department as part of the Site Development Review permit application for each residential structure. If the exterior noise levels exceed applicable standards, additional mitigation shall be required, which may include the installation of additional sound attenuation devices as recommended by the acoustic study and subject to the approval of the Community Development Director.

- The operator of the proposed commercial uses shall be responsible for the control of noise generated by the subject facility including, but not limited to, noise generated by patrons, food service operations, and mechanical equipment. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than noise limits specified in Table 5.10-3 for the specified time periods unless the ambient noise level is higher.

- All mechanical equipment shall be screened from view of adjacent properties and adjacent public streets for each residential structure, as authorized by a Site Development Review permit, and shall be sound-attenuated in accordance with Chapter 10.26 of the Newport Beach Municipal Code, Community Noise Control.

- The City of Newport Beach Municipal Code Chapter 10.32, Sound-Amplifying Equipment requires a permit for use of any sound-amplifying equipment and regulates the volume so sound-amplifying equipment is not a nuisance to persons. The use of sound-amplifying equipment is prohibited outdoors between the hours of 8 PM and 8 AM.

- The City of Newport Beach General Plan Noise Element, thru Policy N 3.2, requires that residential development in the airport area be outside of the 65 dBA CNEL noise contour no larger than shown in the 1985 JWA Master Plan and require residential developers to notify prospective purchasers or tenants of aircraft overflight and noise.

(2) **Potential Impact:** Proposed onsite noise-sensitive uses would be exposed to exterior noise levels from vehicular traffic and from operation of the TowerJazz facility exceeding the 65 dBA CNEL standard for residential and park uses.

Phase 1: Exposure of patios and balconies facing the TowerJazz to noise levels of 65 dBA.

Phase 2: Exposure of patios and balconies facing Jamboree Road to noise levels of 65 dBA.

Phase 1

Finding: 1. The City hereby makes Finding 1 and determines that this impact would be reduced to less than significant levels with the incorporation of the proposed mitigation measures.

Phase 2

Finding: 1. The City hereby makes Finding 1 and determines that this impact would be reduced to less than significant levels with the incorporation of the proposed mitigation measures.

Facts in Support of Finding

Phases 1: Residential patios and balconies facing the TowerJazz facility and constructed during Phase 1 would be exposed to noise levels above 65 dBA CNEL. Mitigation Measure 10-3 would reduce noise levels from operation of the TowerJazz facility and provide noise reduction at the common and private exterior living areas to meet the 65 dBA CNEL exterior noise standard. With implementation of Mitigation Measures 10-3, this impact would be less than significant.

Mitigation Measure

MM 10-3 Prior to issuance of building permits for Phase 1, a detailed acoustical study based on architectural plans shall be prepared by a qualified acoustical consultant and submitted to the Community Development Department for review and approval. The study shall demonstrate that all residential units would meet the 65 dBA CNEL exterior noise standard for all patios, balconies, and common outdoor living areas (playgrounds, parks, and swimming pools). The necessary noise reduction may be achieved by implementing noise control measures at the TowerJazz facility and at the receiver locations, as described in detail in the Technical Memorandum provided by Wilson Ihrig and Associates (Appendix J). The technical memorandum includes noise control measures that would be implemented at the rooftop mechanical equipment and at the cooling towers of the TowerJazz facility, summarized below:

- Rooftop Mechanical Equipment Noise Control
    - Exhaust Fan Noise Control: The exhaust fan noise can be most effectively controlled by constructing noise barriers

around three sides of each of the exhaust stacks, such that the barriers would be located between the stacks and the future Phase 1 development. In addition to a barrier, sound levels can be reduced by modifying the exhaust stack and fan.

- Other Equipment: Other specific pieces of rooftop equipment can be treated with barriers lined with acoustical absorption. Ducts and pipes that radiate significant noise can be treated by adding mass to the duct walls, or lined with acoustical absorption or lead-loaded vinyl.

- Screen: The performance of the existing sheet metal parapet wall/screen can be enhanced by treating the upper eight feet of the screen with acoustical absorption.

- Cooling Towers Noise Control

  - Relocation: Moving the cooling towers away from the Phase 1 development would be an effective approach to noise control.

  - Replacement: Replacement of the existing cooling towers can be considered, as new towers would have new coils with improved air flow and efficiency.

  - Additional Cooling Towers: Additional cooling towers would reduce the cooling demand on individual units, allowing the fans to operate at lower speed.

  - Fan Noise: The cooling tower fans appear to be the primary noise source. The fan noise emanates from the top of the cooling towers and from the coils. Waterfall noise, though not readily apparent, also transmits through the coils to the exterior. The following provisions may be applied to the existing cooling towers to reduce cooling tower noise: coil replacement, variable frequency drives, tip seals, aerodynamic fan blades, treatment of the discharge stack, acoustical louvers, and sound barriers.

The measures described above, or some combination thereof, would reduce the exterior noise levels at units facing the TowerJazz facility to 65 dBA CNEL. The property owner/developer shall implement these noise control measures at the TowerJazz facility and demonstrate with noise level measurements that noise from the operation of mechanical equipment at the TowerJazz facility would not exceed 65 dBA CNEL at the property boundary or at the nearest receptors.

In addition, the final grading and building plans shall incorporate the required noise barriers at common exterior areas and patios (glass/Plexiglas patio enclosures, wall, berm, or combination wall/berm) and at balconies (glass or Plexiglas balconies enclosure). Patio enclosures for units facing the TowerJazz facility would need acoustical absorption to absorb sound in the balcony. The property owner/developer shall install these barriers and enclosures.

City of Newport Beach Standard Conditions

See the City of Newport Beach Standard Conditions listed under G.1.

Phase 2: Residential patios and balconies constructed during Phase 2 and facing Jamboree Road would be exposed to noise levels above 65 dBA CNEL. Mitigation Measure 10-4 would reduce noise levels from Jamboree Road and provide noise reduction at the common and private exterior living areas to meet the 65 dBA CNEL exterior noise standard. With implementation of Mitigation Measure 10-4, this impact would be less than significant.

Mitigation Measures

MM 10-4 Prior to issuance of building permits for Phase 2, a detailed acoustical study based on architectural plans shall be prepared by a qualified acoustical consultant and submitted to the Community Development Department to demonstrate that all residential units would meet the 65 dBA CNEL exterior noise standard for all patios, balconies, and common outdoor living areas. The necessary noise reduction may be achieved by implementing noise control measures at the receiver locations. The final grading and building plans shall incorporate the require noise barriers (patio enclosure, wall, berm, or combination wall/berm), and the property owner/developer shall install these barriers and enclosures.

City of Newport Beach Standard Conditions

See the City of Newport Beach Standard Conditions listed under G.1.

(3) **Potential Impact:** Proposed noise-sensitive uses would be exposed to interior noise levels exceeding the 45 dBA CNEL standard.

Phases 1 and 2

Finding: 1. The City hereby makes Finding 1 and determines that this impact would be reduced to less than significant levels with the incorporation of the proposed mitigation measures.

Facts in Support of Finding

Phases 1 and 2: Standard residential windows and doors would not provide the required exterior-to-interior noise reduction to meet the interior noise level of 45 dBA CNEL. Mitigation Measures 10-5 and 10-6 would incorporate noise reduction measures in the building construction for each individual residential structure to provide the necessary exterior-to-interior noise reduction to meet the 45 dBA CNEL interior noise standard. With implementation of Mitigation Measures 10-5 and 10-6, this impact would be less than significant.

Mitigation Measures

MM 10-5 Prior to issuance of building permits for each residential structure located within Phase 1, a detailed acoustical study based on architectural plans shall be prepared by a qualified acoustical consultant and submitted to the Community Development Department to demonstrate that all residential units would meet the 45 dBA CNEL interior noise standards for habitable rooms (i.e., bedrooms, living rooms, dens, kitchens) due to exterior noise from traffic, aircraft overflights, and stationary noise from the TowerJazz facility. The report shall evaluate the effects of the precise building placement and design materials used for construction. It shall describe and quantify the noise sources impacting the buildings, the amount of outdoor to indoor noise reduction provided by the structure, and any upgrades required to meet the interior noise standard. This standard must be achieved with the windows closed in conjunction with a fresh air mechanical ventilation or air conditioning system, and it may require upgraded construction methods and materials. According to the preliminary assessment provided by Wilson Ihrig and Associates, the required noise reduction at units facing the TowerJazz facility would be achieved with acoustically rated doors and windows with a Sound Transmission Class (STC) no greater than 35. The measures described in the report shall be incorporated into the architectural plans for the buildings and implemented with building construction.

MM 10-6 Prior to issuance of building permits for each residential structure located within Phase 2, a detailed acoustical study based on architectural plans shall be prepared by a qualified acoustical consultant and submitted to the Community Development Department to demonstrate that all residential units would meet the 45 dBA CNEL interior noise standards for habitable rooms (i.e., bedrooms, living rooms, dens, kitchens) with exterior noise from traffic and aircraft overflights. The report shall evaluate the effects of the precise building placement and design materials used for construction. It shall describe and quantify the noise sources impacting the buildings, the amount of outdoor to indoor noise reduction provided by the structure, and any upgrades required to meet the interior noise standard. This standard must be achieved with the windows closed in conjunction with a fresh air mechanical ventilation or air conditioning system, and it may require upgraded construction

methods and materials. The measures described in the report shall be incorporated into the architectural plans for the buildings and implemented with building construction.

City of Newport Beach Standard Conditions

See the City of Newport Beach Standard Conditions listed under G.1.

Potential Impact: Construction of the Uptown Newport project would generate vibration levels that exceed the FTA criterion for human annoyance at nearby residential structures and affect the operation of vibration-sensitive equipment at the TowerJazz facility. **Phase 1**
Finding: 1. The City hereby makes Finding 1 and determines that this impact would be reduced to less than significant levels with the incorporation of the proposed mitigation measures.

Phase 2

Finding: 1. The City hereby makes Finding 1 and determines that this impact would be reduced to less than significant levels with the incorporation of the proposed mitigation measures.

Facts in Support of Finding

Phase 1: The operation of construction equipment during Phase 1 construction would generate vibration that exceeds thresholds for annoyance and architectural damage at the TowerJazz facility, thus with the potential to adversely interfere with the operation of vibration-sensitive equipment at the TowerJazz facility. Mitigation Measures 10-7 and 10-8 would incorporate vibration control measures during construction. With Mitigation Measures 10-7 and 10-8, feasible vibration control provisions can be incorporated to reduce Phase 1 construction vibration to acceptable levels at the TowerJazz facility.

Mitigation Measures

MM 10-7 During Phase 1 construction, the construction contractor shall implement a vibration control program to reduce vibration levels at the TowerJazz facility. The Technical Memorandum prepared by Wilson Ihrig and Associates includes several measures to control vibration at the TowerJazz facility, outlined below:

- Pile Driving:
    - Augured piles shall be employed to the extent possible. Impact and vibratory pile drivers shall not be used during construction unless TowerJazz is consulted to avoid excessive vibration during operation of sensitive equipment. Constant frequency pile drivers might be acceptable if operated at sufficient distance from the

TowerJazz facility and if demonstrated to not impact TowerJazz operations.

- Heavy Construction Equipment:
  - Within 200 feet of the TowerJazz facility, wheel loaders and dozers shall be employed rather than the track-laying heavy equipment. Contractor training and notification should be conducted to minimize dozer blades and buckets being dropped on the ground for wheeled equipment operated within 200 feet of the TowerJazz facility.
  - Static rollers should be employed where compacting is required. To avoid excessive vibration during operation of sensitive equipment, vibratory rollers should not be used unless TowerJazz is consulted and ground vibration produced by such rollers is found to be acceptable to TowerJazz operations.
  - Hoe rams shall be not be used to break up concrete grade slabs within 100 feet of the TowerJazz facility and office uses adjacent to the project site. Concrete slabs can be sawed and lifted away to another location where they may be broken up by the hoe ram.
- Haul Trucks: Haul trucks shall be routed away, to the extent possible, from the TowerJazz facility.
- Lay-Down Areas: Lay-down areas include material storing areas such as piles, steel shapes, and other heavy items. The lay-down area should be located in portions of the construction site that are at least 200 feet away from the TowerJazz facility.
- Vibration Monitoring: Vibration monitoring shall be conducted in the TowerJazz building during development and construction of Phase 1. Vibration monitors shall be located in select locations where sensitive equipment is located in consultation with TowerJazz. The most appropriate location for monitoring would be at the building foundations along the exterior sides facing the construction work. Recommended thresholds for vibration monitoring have been developed based on past vibration monitoring at the TowerJazz facility during the seismic retrofit and on the vibratory characteristics of construction equipment that are anticipated to be used during construction of Phase 1. Recommended thresholds for vibration monitoring are:
  - A vibration level of 0.125 in/sec will trigger a warning that will notify the construction operator and TowerJazz;

- A vibration level of 0.250 in/sec will trigger a warning that will notify the construction operator and TowerJazz of excessive vibration and that the construction activity that is causing the excessive vibration should be stopped.

- Construction activity may recommence upon satisfactory assessment that the continued construction activity will not substantially affect the use of vibration- sensitive equipment or interfere with operations at the TowerJazz facility. Final protocol for notification to TowerJazz and construction equipment operators will be determined and documented in a vibration monitoring plan prepared prior to construction.

MM 10-8 Augured piles shall be employed to the extent possible. Impact and vibratory pile drivers shall not be used during construction within 75 feet of any building.

City of Newport Beach Standard Conditions

See the City of Newport Beach Standard Conditions listed under G.1.

Phase 2: The operation of construction equipment during Phase 2 construction would generate vibration that exceeds thresholds for annoyance and architectural damage at the Phase 1 offices and residences. Mitigation Measure 10-8 would incorporate vibration control measures during construction. With Mitigation Measure 10-8, feasible vibration control provisions can be incorporated to reduce Phase 2 construction vibration to acceptable levels at the offices and residences.
Mitigation Measure 10-8 applies to this impact.

(4) **Potential Impact:** Construction activities at Uptown Newport would substantially elevate the daytime noise environment in the vicinity of nearby uses.

Phases 1 and 2

Finding: 3. The City hereby makes Finding 3 and determines that although mitigation measures are able to reduce the significance of this impact, the impact is not avoided. This impact would be significant and unavoidable.

Facts in Support of Finding

Phases 1 and 2: During construction of Phase 1, construction activity would have the potential to cause annoyance and interfere with activities at the office buildings and the TowerJazz facility facing the construction area. In addition, construction of Phase 2 would result in high noise levels at the residential uses built during project Phase 1 and at existing office buildings adjacent to the project site. Mitigation Measures 10-9 to 10-12 would reduce noise levels from construction activities at the nearby uses during Phase 1 and Phase 2. However, because of the height of the buildings adjacent to the

project site, sound walls blocking line of sight between construction activities and nearby noise-sensitive receptors would be infeasible. Because many of the residential areas overlook proposed construction activities, sound walls would not be effective at these locations. Despite the application of mitigation measures, nearby noise-sensitive uses would be temporarily exposed to elevated noise levels during construction activities. This impact would remain significant and unavoidable, and a statement of overriding considerations would be required.

Mitigation Measures

MM 10-9 The construction contractor shall ensure that all construction equipment onsite is properly maintained and tuned to minimize noise emissions.

MM 10-10 The construction contractor shall ensure that construction equipment is fit with properly operating mufflers, air intake silencers, and engine shrouds no less effective than as originally equipped by the manufacturer.

MM 10-11 The construction contractor shall locate all stationary noise sources (e.g., generators, compressors, staging areas) as far from residential and recreational receptor locations as is feasible.

MM 10-12 Material delivery, soil haul trucks, equipment servicing, and construction activities shall be restricted to the hours set forth in the City of Newport Beach Municipal Code, Section 10.28.040.

City of Newport Beach Standard Conditions

See the City of Newport Beach Standard Conditions listed under G.1.

6. FINDINGS REGARDING ALTERNATIVES

A. Alternatives Considered and Rejected During the Scoping/Project Planning Process

The following is a discussion of the land use alternatives considered during the scoping and planning process and the reasons why they were not selected for detailed analysis in the DEIR.

1. Alternative Project Location

CEQA requires that the discussion of alternatives focus on alternatives to the project or its location that are capable of avoiding or substantially lessening any significant effects of the project. Only locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR (CEQA Guidelines Section 15126.6[f][2][A]). Key factors in evaluating the feasibility of potential offsite locations for EIR project alternatives include:

- if it is in the same jurisdiction;
- whether development as proposed would require a General Plan Amendment;
- whether the project applicant could reasonably acquire, control, or otherwise have access to the alternative site (or the site is already owned by the proponent) (CEQA Guidelines Section 15126.6[f][1]).

Since the project applicant does not own or control other property within the City, the evaluation of potential alternate sites focused on sites that could accommodate a development similar to the proposed project without a General Plan Amendment within the City limits.

In addition to the Airport Area, three other areas in the City allow mixed use similar to the proposed project. These include a strip of parcels along the northern side of Coast Highway in the Mariner's Mile Corridor, a number of parcels along the northern end of Newport Center fronting San Joaquin Hills Road, and a number of interior parcels of the Cannery Village area. As shown in the City's General Plan Land Use Element in Figures LU26, "Mariner's Mile," LU21, "Newport Center/Fashion Island," and LU19, "Balboa Peninsula, Lido Village, Cannery Village, McFadden Square," these areas are designated Mixed Use Horizontal 1 (MU-H1), Mixed Use Horizontal 3 (MU-H3), and Mixed Use Horizontal 4 (MU-H4), respectively. The allowed residential density for these areas, however, is less than allowed for the proposed project site. The MU-H1 and MU-H4 designations permit a density of 20.1 to 26.7 dwelling units per net acre (du/acre), and the areas designated MU-H3 are only permitted a maximum of 450 dwelling units. These areas of mixed-use designation do not have adequate size or density to accommodate a project similar to Uptown Newport, which would include 1,244 dwelling units at a density of 50 du/acre.

Other sites within the Airport Area could accommodate the proposed project without a General Plan Amendment (see Draft EIR Figures 3-3, Aerial Photograph, and 3-4, Airport Area Planning Designations). There are other parcels with the same land use designation (Mixed-Use Horizontal-2 [MU-H2]) as the proposed project site. However, these parcels are developed, privately owned, and currently occupied. Also, as described in Section 4.0 of the Draft EIR, Environmental Setting, an application for development of the adjacent Koll Center site has been filed with the City. There are no vacant parcels within the Airport Area of sufficient size to accommodate a project similar to Uptown Newport.

In general, any development of similar size and type proposed by the project within the Airport Area could experience ongoing operational impacts similar to the proposed project, including air quality (regional), greenhouse gas emissions, population/housing, public services, recreation, transportation/traffic, and utilities/service systems. Demolition impacts, including air quality, greenhouse gas (GHG) emissions, and noise, therefore, could likely not be avoided. However, without a detailed analysis, site-specific impacts for an alternate Airport Area site, including aesthetics, biological resources, cultural resources, geology/soils, hydrology/water quality, and hazards/hazardous materials, cannot be directly compared. With the exception of hazards/hazardous materials, these impacts would be anticipated to be similar to the project site.

An alternate location within the Airport Area would likely eliminate the unique impacts associated with the development of the TowerJazz site and inherent incompatibility of the semiconductor manufacturing facility with the interim residential use for Phase 1 of the proposed project. The significant impacts associated with this adjacency, however, including operational noise and potential hazards, are less than significant for the proposed project upon mitigation.

Development of the proposed project at another location within the Airport Area would not eliminate the significant construction-related air quality and noise impacts or significant land use impact pending a consistency determination of the project with the AELUP.

For these reasons, the City determined that an alternative development site for the proposed project would not be a feasible alternative (CEQA Guidelines Section 15126.6[f][2][B]).

2. Optional Project Phasing Alternative

This alternative was considered for its potential to reduce or eliminate significant impacts related to the concurrent operation of the TowerJazz facility adjacent to Phase 1 residences that would occur under the proposed project. Under this alternative, demolition of the Half Dome building and Phase 1 site improvements and building construction would proceed as currently defined for the proposed project. Building occupancy of Phase 1 residential structures, however, would be postponed until expiration of the TowerJazz lease and cessation of the semiconductor manufacturing operation.

Under the proposed project, it is anticipated that the earliest residential units in Phase 1 could be constructed and ready for occupancy as early as mid-2015 (the entire phase is anticipated to be complete by 2018). Under the Optional Project Phasing alternative, no residences could be occupied until at least 2017; if TowerJazz renewed the lease, Phase 1 residences could not be occupied until 2027. This alternative, however, would allow the retail operations in Phase 1 (11,500 square feet, including an upscale restaurant) to commence operation.
The Optional Phasing Alternative would reduce the following project-related significant impacts associated with the adjacency of occupied residential uses and the TowerJazz operation: operational noise and hazards (potential chemical release). Under the proposed project, this interim condition could exist for 6 to 12 years assuming occupancy of some Phase 1 units as early as mid-2015 and extension of the TowerJazz lease to 2027. This alternative would not reduce the construction-related impacts of Phase 2 demolition and development on Phase 1 residents, nor potential hazards related to building demolition of final Phase 2 area, since these activities would occur after Phase 1 occupancy. Moreover, it would not reduce or eliminate the potentially significant vibration impact of Phase 1 construction on sensitive TowerJazz equipment.

This alternative would not modify the impact significance of construction-related air quality or noise impacts, or the significant land use impact (AELUP consistency finding).

Although this alternative has the potential to eliminate significant impacts related to the adjacency of Phase 1 residents during TowerJazz operation, it was rejected for further analysis. Both the impacts that would be eliminated under this alternative would be mitigated to less than significant under the proposed project. Although Phase 1 residential units could

be constructed, occupancy would be postponed until 2017 under the best case for this alternative (up to 2 years for some of the units) and potentially until 2027 under the lease option (at least 9 years for all of Phase 1 residents and up to 12 years for some units). It would not be economically feasible for the project applicant to incur the development cost for this extended period of time without a return on investment. Moreover, property and building maintenance costs would be incurred while the residential buildings remained vacant. And finally, vacant buildings would not be desirable for the City and may be subject to vandalism and/or other criminal activity.

B. Alternatives Selected for Analysis

Based on the criteria listed above, the following three alternatives have been determined to represent a reasonable range of alternatives that could potentially attain most of the basic objectives of the project and have the potential to avoid or substantially lessen one or more of the significant effects of the project. These alternatives are analyzed in detail in the following sections.

- Hotel/Office/Commercial Alternative
- Office/Commercial/Residential Alternative
- Reduced Density Alternative

Additionally, this section analyzes the No Project Alternative, as required by CEQA.

An EIR must identify an “environmentally superior” alternative, and where the No Project Alternative is identified as environmentally superior, the EIR is required to identify as environmentally superior an alternative from among the others evaluated. Each alternative's environmental impacts are compared to the proposed project and determined to be environmentally superior, neutral, or inferior. However, only significant and unavoidable impacts are used in making the final determination of whether an alternative is environmentally superior or inferior to the proposed project. Only the impacts involving air quality (short-term construction related), land use and planning, and noise (short-term construction related) were found to be significant and unavoidable. Section 7.8 identifies the environmentally superior alternative.

The proposed project is analyzed in detail in Chapter 5 of the DEIR.

1. <u>Alternatives Comparison</u>

Table 2, *Statistical Summary Comparison*, identifies information regarding dwelling units, proposed land uses, and population and employment projections, and also provides the jobs-to-housing ratio for the proposed project and each of the alternatives.

Table 2
Statistical Summary Comparison

	Proposed Project	No Project Alternative	Hotel/Office/ Commercial Alternative	Office/Commercial/ Residential Alternative	Reduced Density Alternative
Land Use Statistics					
Dwelling Units	1,244 DU	—	—	830 DU	561 DU
Commercial/Retail	11,500 sf	—	20,000 sf	7,000 sf	11,500 sf
Office	—	126,675 sf	160,000 sf	100,000 sf	—
Industrial	—	311,452 sf	0	0	0
Hotel (Rooms)	—	—	174	—	—
Park Space	2.05 ac	—	1.52 ac	1.40 ac	2.05 ac
Population [1]	2,724	—	—	1,818	1,229
Employment					
Commercial [2]	26	—	44	16	26
Office [3]	—	135	455	284	—
Hotel [4]	—	—	96	—	—
Industrial	—	3,000			
Total	26	3,135	595	300	26
Jobs-to-Housing Ratio [5]	1.78	1.91	1.85	1.88	1.81

1 Assumes 2.19 persons per household as determined in 2010 Census for Newport Beach (Census 2012).

2 Assumes 450 square feet per employee, per SCAG's Employment Density Study Summary Report (2001).

3 Assumes 352 square feet per employee for low-rise office uses, per SCAG's Employment Density Study Summary Report (2001).

4 Assumes 1,804 square feet per employee, per SCAG's Employment Density Study Summary Report (2001). Since SCAG's report does not provide a square foot per hotel employee rate for Orange County, the regional rate of 1,804 was used to develop the number of employees for this alternative.

5 Jobs-to-housing ratio is based on SCAG projections for the City of Newport Beach in 2035, similar to what was analyzed for the proposed project in Section 5.11, *Population and Housing*.

For each of the alternatives analyzed herein, with the exception of the No Project Alternative, the following components/elements would be similar to the proposed project:

- Development would be consistent with the City's General Plan and would require the preparation of a regulatory plan (i.e., Planned Community Development Plan) and related implementation plans (Phasing Plan and Design Guidelines).

- Development would occur in two primary phases, and the phase boundaries would be the similar to the boundaries shown in Figure 3-6 of the Draft EIR, *Site Plan and Phasing Plan*.

- Operation of the TowerJazz facility would continue as an interim use after the development of Phase 1 and would be demolished under Phase 2.

- Phase 1 would commence in 2014 and be completed by 2018. Timing for Phase 2 would be contingent on the existing lease of the TowerJazz building, which is currently set to expire in March 2017, but could be extended to as late as March 2027.

- The Southern California Edison (SCE) substation would remain during the initial operation of Phase 1 to serve the electricity needs of the TowerJazz facility, and would be demolished in Phase 2.

- The overall project acreage (25.05 acres) and acreage by phase (12.29 for Phase 1 and 12.76 for Phase 2) would remain the same.

- The overall land use mix would be trip neutral as required by the City's General Plan (by definition, projects consistent with allowed uses under the General Plan would be trip neutral).

- Parking would include a mix of surface and structure parking (subterranean and above-ground).

- Vehicular and pedestrian site access would be similar.

- Building heights would be regulated by the Federal Aviation Administration (FAA) regulations and standards outlined in the required regulatory plan.

Table 3 provides a comparison of the vehicle trips that would be generated by the proposed project and each of the alternatives.

Table 3
Trip Generation Comparison

	Trip Generation Estimates						
		AM Peak Hour			PM Peak Hour		
	Daily	In	Out	Total	In	Out	Total
Proposed Project	9,033	134	511	644	537	292	829
No Project	747	90	12	102	15	88	102
Hotel/Office/Commercial Alternative	3,983	289	76	365	126	278	404
Commercial/Office/Residential Alternative	6,805	223	362	584	362	311	672
Reduced Density Alternative	4,139	64	233	297	236	135	370

a) No Project Alternative

Description: Under the No Project Alternative, no development would occur on the project site, the existing buildings and structures onsite (TowerJazz building, Half Dome building, and Southern California Edison substation) would remain and not be demolished, and the TowerJazz facility would continue operating. All other site improvements (e.g., parking areas, landscaping, sidewalks) would also remain in their existing condition. It is assumed for this alternative that the TowerJazz facility would remain onsite and operate indefinitely.
Environmental Effects: A full discussion of the No Project Alternative's environmental impacts as compared to the proposed project is set forth in Section 7.4.1 of the Draft EIR, which is hereby incorporated by reference. In comparison to the proposed project, the No Project Alternative would reduce impacts to air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, land use and planning, noise, and vibration, public services, and recreation. This alternative would eliminate the

significant unavoidable construction-related impacts for air quality and noise, as well as the significant, unavoidable land use and planning impact related to the inconsistency finding by AELUP for the Uptown Newport project. Aesthetic and transportation and traffic impacts under this alternative would be similar to the proposed project. GHG impacts would be substantially greater for the No Project Alternative, and population/housing and utilities/services impacts would also be greater than the proposed project. Overall, the No Project Alternative would have less environmental impacts than the proposed project and would eliminate all its significant, unavoidable impacts.

Ability to Achieve Project Objectives: The No Project Alternative would not achieve any of the objectives of the proposed project, because it would not implement the goals and objectives that the City's General Plan and ICDP have established for the project site. The General Plan's policies for the Airport Area and the ICDP call for the orderly evolution of this area from a single-purposed business park to a mixed-use district with cohesive residential villages integrated within the existing fabric of the office, industrial, retail, and airport-related businesses. This alternative would not provide housing in close proximity to jobs and supporting services, with pedestrian-oriented amenities that facilitate walking and enhance livability.

Feasibility: Since the No Project Alternative would allow the existing land uses (TowerJazz facility, Half Dome building, and Southern California Edison substation) to continue operating on the project site, the feasibility of this alternative would rely on the economic feasibility of indefinite operation of the TowerJazz manufacturing operation. No changes to the existing conditions would occur, and all operations would continue indefinitely.

Finding: In comparison to the proposed project, the No Project Alternative would reduce impacts to air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, land use and planning, noise and vibration, public services, and recreation. This alternative would eliminate the significant unavoidable construction-related impacts for air quality and noise, as well as the significant, unavoidable land use and planning impact related to the inconsistency finding by AELUP for the Uptown Newport project. Aesthetic and transportation and traffic impacts under this alternative would be similar to the proposed project. GHG impacts would be substantially greater for the No Project Alternative, and population/housing and utilities/services impacts would also be greater than the proposed project. From a policy perspective, this alternative would fail to provide the City with additional housing opportunities, including affordable housing, which is an identified need in the City's Housing Element. It would also fail to implement the Airport Business Area Integrated Conceptual Development Plan (ICDP), which calls for the redevelopment of the project with residential villages integrated with the existing fabric of the office, industrial, retail, and airport-related businesses. Overall, the No Project Alternative would have fewer environmental impacts than the proposed project and would eliminate all its significant, unavoidable impacts, making it the environmentally superior alternative. However, since the No Project Alternative fails to meet project objectives, provide affordable housing, and implement the ICDP, it has been rejected by the City in favor of the proposed project.

b) Hotel/Office/Commercial Alternative

Description: This alternative was selected for its potential to eliminate impacts associated with the adjacency of residential uses to the operating TowerJazz manufacturing facility during Phase 1. Land use incompatibility concerns associated with the proximity of residential uses to TowerJazz include noise and hazards. Under this alternative, Phase 1 would include up to 174 hotel rooms (including conference, banquet facility, etc.), and Phase 2 would provide up to 160,000 square feet of office uses and 20,000 square feet of commercial uses, as shown in Table 2, *Statistical Summary Comparison*. This alternative could potentially include subterranean parking for one or more of the uses.

Phase 1

The Half Dome building and other associated site improvements, including parking areas, landscaped and common areas, and other hardscape improvements, would be demolished. Upon demolition, this phase would include the development of up to 174 hotel rooms (including conference, banquet facility, etc.) and other associated site improvements, including parking areas, drive aisles, walkways, landscaping, and common areas. The hotel rooms could be accommodated within low- and midrise buildings with a maximum building height of 75 feet.

Phase 2

Under Phase 2, the TowerJazz building, northern parking area, and other remaining site improvements would be demolished to develop 160,000 square feet of office uses and 20,000 square feet of commercial uses and other associated site improvements, including parking areas, drive aisles, walkways, landscaping, and common areas. The office and commercial uses could be accommodated within low- and midrise buildings with a maximum building height of 75 feet.

Environmental Effects: A full discussion of the Hotel/Office/Commercial Alternative's environmental impacts compared to the proposed project's is set forth in Section 7.5.2 of the Draft EIR, which is hereby incorporated by reference. In comparison to the proposed project, the Hotel/Office/Commercial Alternative would reduce impacts to air quality, GHG, hazards, noise, public services, recreation, and utilities and services. As shown in Table 3, this alternative would substantially reduce traffic trips, reducing average daily trips by approximately 56 percent in comparison to the proposed project. In comparison to the proposed project, however, peak trips would contribute to the existing peak trip patterns (AM peak into site, PM peak departure), so overall traffic impacts would be similar to the proposed project. It would comply with CFC Section 2704.1.1 (Amendment), since it would not locate residents adjacent to extremely dangerous chemicals and thus would eliminate a potentially significant impact associated with the project as proposed. This impact, however, would be mitigated to less than significant, so this alternative would not eliminate a significant, unavoidable impact. Land use and planning, and population and housing impacts for this alternative would be greater than for the proposed project; aesthetics, biological resource, cultural resources, geology and soils, and hydrology/water quality impacts would be similar. This alternative would not eliminate any of the significant, unavoidable impacts associated with the proposed project.

Ability to Achieve Project Objectives: With the exception of the provision of beneficial site improvements, including implementing a WQMP, the Hotel/Office/Commercial Alternative

would not achieve any of the key objectives of the proposed project. It would not implement the goals and objectives that the City's General Plan and ICDP have established for the project site. The General Plan's policies for the Airport Area and the ICDP call for the orderly evolution of this area from a single-purpose business park to a mixed-use district with cohesive residential villages integrated with the existing fabric of the office, industrial, retail, and airport-related businesses. This alternative would not provide housing in close proximity to jobs and supporting services, with pedestrian-oriented amenities that facilitate walking and enhance livability.

Feasibility: Although the Hotel/Office/Commercial Alternative would be physically feasible, it may not be economically feasible. It is uncertain whether this alternative would yield a reasonable return on investment. Although statistics are not readily available for the demand for hotel units, information does indicate a depressed market demand for office use in the Orange County airport area as of the 4th quarter of 2011 (CBRE 2011). As of that quarter, the office vacancy rate was 24.9 percent, and it was estimated that it would take 8.5 years to absorb all of the available and under-construction Class A office space based on an annual absorption rate (2011) of 769,204 square feet for the Greater Airport area. Office use by Phase 2 of the project could be feasible if the economy picks up. If the office vacancy rate drops to approximately 7 percent, the existing office availability (including under construction) could be absorbed in approximately 4.2 years, and new office uses could be marketable. With a 5.7 percent vacancy rate, the retail market is better than the office market, but still depressed.

Finding: This alternative would only meet one of the eight project objectives, but it would reduce environmental impacts to air quality, GHG, hazards, noise, public services, recreation, and utilities and services. Also, because it does not include the development of residential land uses, it would comply with CFC Section 2704.1.1 (Amendment) regarding the location of residents adjacent to extremely dangerous chemicals (a potentially significant impact associated with the proposed project), and it would be consistent with the AELUP (a significant impact of the proposed project since the Airport Land Use Commission did not grant a consistency finding). It would not eliminate any of the significant, unavoidable impacts associated the proposed project. Moreover, it would not provide affordable housing, an identified need in the City's Housing Element, it would not implement the ICDP, and it may be economically infeasible. For these reasons, the City finds that the proposed project is preferred over this alternative.

c) Office/Commercial/Residential Alternative

Description: This alternative was selected for its potential to eliminate impacts associated with the adjacency of residential uses to the operating TowerJazz manufacturing facility during Phase 1 while still providing residential uses in Phase 2. Land use incompatibility concerns associated with the proximity of residential uses to TowerJazz include noise and hazards. Other impacts that could potentially be reduced by this alternative, although not determined significant for the proposed project, were anticipated to be aesthetics, air quality, and health risk (TowerJazz air emissions).

This alternative would include the development of office, commercial, and residential uses. More specifically, Phase 1 would include up to 100,000 square feet of office uses and 7,000 square

feet of commercial uses, and Phase 2 would include up to 830 dwelling units, as shown in Table 2, *Statistical Summary Comparison*. This alternative could potentially include subterranean parking for one or more of the uses.

Phase 1

Phase 1 would include demolition of the Half Dome building and other associated site improvements, including parking areas, landscaped and common areas, and other hardscape improvements. Upon demolition, this phase would include the development of up to 100,000 square feet of office uses and 7,000 square feet of commercial uses and other associated site improvements, including parking areas, drive aisles, walkways, landscaping, and common areas. The office and commercial uses could be accommodated within low- and midrise buildings with a maximum building height of 75 feet. The commercial land use has been situated with frontage on Jamboree Road and might encompass restaurant uses as does the proposed project.

Phase 2

Under Phase 2, the TowerJazz building, northern parking area, and other remaining site improvements would be demolished to develop up to 830 dwelling units and other associated site improvements, including parking areas, drive aisles, walkways, landscaping, and common areas. As with the proposed project, a variety of housing developments could be anticipated under this alternative. Residential product types could be for sale and/or rent—a mix of apartments, townhouses, and condominiums. Residential buildings may include low-rise rowhouses and 4- and 5-story apartments or condominiums featuring a range of floor plan sizes. Mid- to high-rise buildings are also envisioned. Midrise buildings would not exceed 75 feet in height, and high-rise buildings would not exceed 150 feet in height.
Phase 2 would also include a 1.02-acre neighborhood park similar to proposed project. The park would be privately maintained and publicly accessible. In addition to the neighborhood park, public open space areas, private open space area, and ancillary amenities would be provided to serve residents and visitors, and paseo and walkway connections would be provided onsite and to surrounding areas.

Environmental Effects: A full discussion of the Office/Commercial/Residential's environmental impacts compared to the proposed project's is set forth in Section 7.6.1 of the Draft EIR, which is hereby incorporated by reference. In comparison to the proposed project, the Office/Commercial/Residential Alternative would reduce impacts to air quality, GHG, hazards, noise, public services, recreation, and utilities and services. As shown in Table 3, traffic trips would be reduced by approximately 25 percent in comparison to the proposed project. Since residential uses would not be introduced until Phase 2 after the TowerJazz facility is removed, it would comply with CFC Section 2704.1.1 (Amendment); that is, it would not locate residents adjacent to extremely dangerous chemicals. This would eliminate a potentially significant impact associated with the project as proposed. This impact, however, would be mitigated to less than significant, so it would not eliminate a significant, unavoidable impact. Land use and planning and population and housing impacts for this alternative would be greater than for the proposed project, and aesthetics, biological resource, cultural resources, geology and soils, and hydrology/water quality impacts would be similar.

Ability to Achieve Project Objectives: With the introduction of 830 residential units as part of a mixed-use residential village, this alternative would meet several of the project's objectives. It would be consistent with several of the goals and policies of the General Plan for the Airport Area, although it would not be consistent with the ICDP approved for the site, which provides for the development of 1,244 residential units. This alternative would provide 7,000 square feet of commercial use (or potentially more) and therefore achieve the objective to provide retail commercial to serve local residents, businesses, and visitors. Although less than the proposed project, this alternative would provide housing near jobs and supporting services, with pedestrian-oriented amenities, and would provide the phased transition from the existing use to the office, commercial, and residential uses. It would also provide several of the beneficial impacts of the proposed project, including implementing a WQMP.

Feasibility: As with the Hotel/Office/Commercial Alternative, the Office/Commercial/Residential alternative would be physically feasible but it may not be economically feasible. It is uncertain whether this alternative would be a viable project that could yield a reasonable return on investment. As discussed in Section 6.B.1.b., there is currently a high vacancy rate for offices (24.9 percent). It is highly unlikely that office use in Phase 1 of this alternative would be viable. It is more likely that the 7,000 square feet of commercial use could be absorbed under this alternative.

Finding: The Office/Commercial/Residential Alternative would reduce impacts to air quality, GHG, hazards, noise, traffic, public services, recreation, and utilities and services, and it would meet several of the project's objectives. However, this alternative would increase the land use and planning and population and housing impacts when compared to the proposed project. Based on the ALUC's inconsistency finding for the proposed project, it is anticipated that this alternative would also be inconsistent with the AELUP since it would be place residential uses within the AELUP planning area. It would also be inconsistent with the ICDP, since it does not provide 1,244 units, unlike the proposed project. For these reasons, the City finds that the proposed project is preferred over this alternative.

d) Reduced Intensity Alternative

Description: This alternative evaluates the minimum number of residential units that could be developed on the project site and still comply with the 30 dwelling units/acre minimum density prescribed for the site in the City's General Plan and the ICDP. Based on an estimated, net developable 12.34 acres for the site, 561 units could be developed: 260 dwelling units in Phase 1 and 301 in Phase 2. As with the proposed project, this alternative is assumed to include 11,500 square feet of commercial use in Phase 1.

This alternative was evaluated for its potential to reduce overall long-term operational project impacts due to the substantial reduction in housing units. This alternative was also designed to provide a larger open-space buffer between the TowerJazz facility and Phase 1 to evaluate the potential to minimize compatibility impacts in Phase 1 of the proposed project related to the proximity of the TowerJazz facility and residences.

As with the proposed project, a variety of housing developments could be anticipated under this alternative. Residential product types would be for sale and rent with a mix of apartments, townhouses, and condominiums. Since the number of units would be reduced by 55 percent in comparison to the proposed project, both the overall footprint and height of residential buildings could be reduced in comparison to the proposed project. Residential buildings would include low-rise townhouses and 4- and 5-story apartments or condominiums featuring a range of floor plan sizes. Mid- to high-rise buildings are also envisioned at a maximum height of 75 feet. This alternative would not include any high-rise towers up to 150 feet, as proposed under the proposed project. The commercial component would include neighborhood-serving retail and services.

As with the proposed project, it is assumed that this alternative would include some improved park space that would be available for public use. With the reduction in housing units, it is anticipated that open space acreage could be increased relative to the proposed project (as shown in the conceptual plan, Figure 7-3 of the Draft EIR). As shown in the conceptual layout, approximately eight acres may be available for open space uses. It has not been defined whether the entire open space area would be maintained privately and be available to the public. In addition, public open space areas, private open space areas, and ancillary amenities would be provided to serve residents and visitors, and paseo and walkway connections would be provided onsite and to surrounding areas.

Phase 1

Phase 1 would include demolition of the Half Dome building and other associated site improvements, including parking areas, landscaped and common areas, and other hardscape improvements. Upon demolition, this phase would include the development of up to 260 dwelling units and other associated site improvements, including parking areas, drive aisles, walkways, landscaping, and common areas. The dwelling units could be accommodated in low-, mid- or high-rise buildings or a mix of these building types. Phase 1 would also include up to 11,500 square feet of neighborhood-serving commercial uses and likely improvements to a portion of the open space to serve as a neighborhood park, available also for public use.

Phase 2

Under Phase 2, the TowerJazz building, northern parking area, and other remaining site improvements would be demolished to develop up to 301 dwelling units and other associated site improvements, including parking areas, drive aisles, walkways, landscaping, and common areas. The dwelling units could be accommodated within low-, mid- or high-rise buildings, or a mix of these building types. Phase 2 would also include open space area that could accommodate a neighborhood park, which would be available to the public.

Environmental Effects: In comparison to the proposed project, the Reduced Density Alternative would reduce impacts to air quality, GHG, hazards, noise, public services, recreation, traffic, and utilities and services. Average daily traffic trips would be reduced approximately 54 percent (see Table 3). Since residential uses would still be included in Phase 1, it would not eliminate the significant impacts associated with resident incompatibility with adjacency to the TowerJazz facility during an interim period. It would reduce these impacts,

however, because of both the reduction in units and increased distance to the TowerJazz facility. Impacts to aesthetics, biological resources, cultural resources, hydrology and water quality, and land use and planning would be similar to the proposed project. It would not eliminate any significant impacts of the proposed project, and impacts to population and housing would be considered greater than the proposed project.

Ability to Achieve Project Objectives: With the introduction of 561 residential units and 11,500 square feet of commercial uses as part of a mixed-use residential village, this alternative would meet several of the project's objectives. It would be consistent with several of the goals and policies of the General Plan for the Airport Area, and it would be consistent with the minimum density of 30 du/acres prescribed by the ICDP. It would provide 11,500 square feet commercial use (or potentially more), and therefore achieve the objective to provide retail commercial to serve local residents, businesses, and visitors. Although fewer than the proposed project, this alternative would provide housing near jobs, supporting services, and pedestrian-oriented amenities and would provide the phased transition from the existing use to the office and residential uses. It would also provide several of the beneficial impacts of the proposed project, including implementing a WQMP. It is unlikely, however, that this alternative would be a viable project that could yield a reasonable return on investment. The project would only develop 260 dwelling units in the first phase and overall would include over eight acres in open space, which would not provide a direct return on investment. It is uncertain whether the return from Phase 1 could support the development costs for Phase 2 or that development returns could support the infrastructure and improvements costs required for the overall project.

Feasibility: This alternative is considered physically and environmentally feasible but may not be economically feasible. The project would only develop 260 dwelling units in the first phase and overall would include over eight acres in open space, which would not provide a direct return on investment. It is uncertain whether the return from Phase 1 could support the development costs for Phase 2 or that development returns could support the infrastructure and improvements costs required for the overall project.

Finding: While the Reduced Intensity Alternative would lessen some of the environmental effects of the proposed project, it would not eliminate any significant and unavoidable impacts. In addition, as with the proposed project, it is anticipated that it would be inconsistent with the AELUP, since it would be placing residential land uses within the AELUP planning area. For these reasons, the City finds that the proposed project is preferred over this alternative.

B. STATEMENT OF OVERRIDING CONSIDERATIONS

INTRODUCTION

The City is the Lead Agency under CEQA for preparation, review, and certification of the Final EIR for the Uptown Newport Project. As the Lead Agency, the City is also responsible for determining the potential environmental impacts of the proposed action and which of those impacts are significant, and which can be mitigated through imposition of mitigation measures to avoid or minimize those impacts to a level of less than significant. CEQA then requires the Lead Agency to balance the benefits of a proposed action against its significant unavoidable adverse environmental impacts in determining whether or not to approve the proposed Project. In making this determination the City is guided by State CEQA Guidelines Section 15093 which provides as follows:

> CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposal (sic) project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."
>
> When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.
>
> If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

In addition, Public Resources Code Section 21081(b) requires that where a public agency finds that specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in an EIR and thereby leave significant unavoidable effects, the public agency must also find that overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects of the project.

Pursuant to Public Resources Code Section 21081(b) and the State CEQA Guidelines Section 15093, the City has balanced the benefits of the proposed Project against the following unavoidable adverse impacts associated with the proposed Project and has adopted all feasible mitigation measures with respect to these impacts. The City also has examined alternatives to the proposed Project, none of which both meet the Project

objectives and is environmentally preferable to the proposed Project for the reasons discussed in the Findings and Facts in Support of Findings.

The Newport City of Beach City Council, the Lead Agency for this Project, and having reviewed the Final EIR for the Uptown Newport Project, and reviewed all written materials within the City's public record and heard all oral testimony presented at public hearings, adopts this Statement of Overriding Considerations, which has balanced the benefits of the Project against its significant unavoidable adverse environmental impacts in reaching its decision to approve the Project.

Significant Unavoidable Adverse Environmental Impacts

Although most potential Project impacts have been substantially avoided or mitigated, as described in the Findings and Facts in Support of Findings, there remain some Project impacts for which complete mitigation is not feasible. For some impacts, mitigation measures were identified and adopted by the Lead Agency, however, even with implementation of the measures, the City finds that the impact cannot be reduced to a level of less than significant. The impacts and alternatives are described below and were also addressed in the Findings.

The EIR identified the following unavoidable adverse impacts of the proposed Project:

Air Quality

Phase 1

EIR Impact 5.2-2: Short-term construction emissions generated by the Uptown Newport project would result in oxides of nitrogen (NOx) emissions that exceed the South Coast Air Quality Management District's (SCAQMD) regional significance thresholds during site preparation activities (year 2014 for Phase 1 and year 2017 and 2018 for Phase 2) and when construction activities of various phases overlap (year 2017 and 2018) and would cumulatively contribute to the nonattainment designations of the South Coast Air Basin (SoCAB). Of the eight years of construction, project-related construction activities would only exceed SCAQMD's threshold for three of those years because significant off-road equipment use and haul trucks are not necessary during vertical building construction. Mitigation Measure 2-1 would reduce NOx generated by exhaust. Use of newer construction equipment would reduce construction emissions onsite. However, onsite emissions in addition to offsite emissions generated by haul trucks would generate substantial quantities of NOx and would continue to exceed SCAQMD's regional significance threshold. Therefore, this impact would remain significant and unavoidable.

Phase 2

Same significant and unavoidable impact for Phase 1 applies to Phase 2.

Land Use

Phase 1

EIR Impact 5.9-3: The Airport Land Use commission (ALUC) considered the Uptown Newport project at its hearing held on October 18, 2012 and voted to find the project inconsistent with the Commission's *Airport Environs Land use Plan (AELUP) for John Wayne Airport (JWA) and AELUP for Heliports.* Project approval would require a 2/3 vote by the City Council to override this finding and this impact constitutes a significant, unavoidable impact of the project. No mitigation measures are available that would reduce this impact to less than significant. Therefore, this impact would remain significant and unavoidable.

Phase 2

Same significant and unavoidable impact for Phase 1 applies to Phase 2.

Noise

Phase 1

EIR Impact 5.10-6: During Phase 1 development, construction activity would have the potential to cause annoyance and interfere with activities of occupants at the nearby office buildings adjacent to the project site and at the TowerJazz facility facing the construction area. Because of the height of the office buildings adjacent to the project site, sound walls to block the line of sight between construction activities and nearby offices would be infeasible. Despite the application of mitigation measures, occupants at the offices adjacent to the project site would be temporarily exposed to elevated noise levels during construction activities, and this impact would remain significant and unavoidable.
Phase 2

EIR Impact 5.10-6: The operation of heavy construction equipment during construction of Phase 2 would result in high noise levels at the residential buildings constructed under Phase 1 and at office buildings adjacent to the project site. Because of the height of these buildings, sound walls to block the line of sight between construction activities and nearby residents and office occupants would be infeasible. Despite the application of mitigation measures, nearby noise-sensitive uses would be temporarily exposed to elevated noise levels during construction activities, and this would remain significant and unavoidable.

In addition, the EIR evaluated four alternatives to the Project and analyzed whether these alternatives could avoid or substantially lessen the unavoidable environmental impacts of the proposed Project. While some of the alternatives could lessen or avoid some of the unavoidable impacts of the proposed Project, some of the alternatives also resulted in different and in some cases, increased environmental impacts, consequently, for the reasons set forth in Section 6 of the Facts and Findings, none of the alternatives were determined to be feasible:

- No Project Alternative (Continuation of Existing Land Uses).
- Hotel/Office/Commercial Alternative
- Office/Commercial/Residential Alternative
- Reduced Density Alternative

The City, after balancing the specific economic, legal, social, technological, and other benefits including region-wide or statewide environmental benefits, of the proposed Project, has determined that the unavoidable adverse environmental impacts identified above may be considered acceptable due to the following specific considerations which outweigh the unavoidable, adverse environmental impacts of the proposed Project, in accordance with CEQA Section 21081(b) and State CEQA Guideline Section 15093.

1. Payment of a public benefit fee per residential dwelling unit developed as part of the Project, including an annual adjustment to the public benefit fee based on the Consumer Price Index ("CPI").

2. Park land dedication and improvements consistent with applicable State law and Municipal Code provisions, including the dedication and improvement of over two (2) acres of on-site public parkland.

3. Perpetual annual private maintenance of over two (2) acres of on-site public parks.

4. Improvement of private open space, including paseos and urban plazas that will be accessible to the public and connect the Project and surrounding properties to promote connectivity and pedestrian travel in the Airport Area.

5. Remediation of soil and groundwater contamination on the Property that has existed on-site since the mid-1980's.

6. Reduction in greenhouse gases generated within the Airport Area.

7. Reduction in electric, gas, water and sewer utility usage through the redevelopment of an existing industrial manufacturing site into a residential mixed use project.

8. Reduction of urban runoff volumes and implementation of stormwater runoff water quality facilities that will improve the quality of stormwater runoff entering the Newport Back Bay.

9. Construction of affordable housing units within the Project that will provide affordable housing opportunities to Newport Beach residents.

EXHIBIT D

PLANNED COMMUNITY DEVELOPMENT PLAN AMENDMENT NO. PD2011-003

Consists of:

- Revised Planned Community Development Plan #15 (Koll Center Planned Community) showing the removal (in ~~strike-out~~) of Industrial Site 1 (the Property) with all its references, allowable land uses, and general development regulations including all written text, maps and exhibits.

- Inclusion of a footnote to indicate the removal of Industrial Site 1 and all reference to it by Ordinance No. ____ of the City Council on ____.

- No other change to the Koll Center Planned Community are recommended and it shall remain in full force and effect.

PLANNED COMMUNITY DEVELOPMENT STANDARDS
For Koll Center Newport

Ordinance No. 1449, adopted by the City of Newport Beach August 14, 1972
(Amendment No. 313)

Original draft	May 5, 1972
Amendment (1)	August 14, 1972
Amendment (2)	August 14, 1972
Amendment (3)	August 2, 1973
Amendment (4)	February 7, 1974
Amendment (5)	June 10, 1974
Amendment (6)	May 15, 1975
Amendment (7)	September 8, 1975
Amendment (8)	June 28, 1976
Amendment (9)	January 10, 1977
Amendment (10)	July 11, 1978
Amendment (11)	August 28, 1978
Amendment (12)	October 19, 1978
Amendment (13)	November 10, 1980
Amendment (14)	March 23, 1981
Amendment (15)	October 24, 1984
Amendment (16)	May 14, 1984
Amendment (17)	December 9, 1985
Amendment (18)	July 14, 1986
Amendment (19)	March 23, 1987
Amendment (20)	July 27, 1987
Amendment (21)	June 12, 1989
Amendment (22)	April 25, 1994
Amendment (23)	October 9, 1995
Amendment (24)	February 23, 1998
Amendment (25)	August 10, 1998
Amendment (26)	January 11, 2000
Amendment (27)	January 25, 2000
Amendment (28)	August 9, 2005
Ordinance No. 2006-19 (29)	July 25, 2006
Ordinance No. 2006-21 (30)	October 24, 2006
Ordinance No. 2011-3 (31)	January 25, 2011
Ordinance No. 2011-8(32)	March 8, 2011
Amendment (33)	, 2013

NOTE: See Footnotes beginning on Page 47 for description of amendments.

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Exhibit B..... Grading and Roads
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Exhibit D ..... Water & Sewer
Exhibit E..... Boundary and Topography

PREFACE

It is the intent of this Planned Community Development to provide comprehensive zoning for what is now the Collins Radio property. Planned within this development are a hotel with banquet and convention facilities, a small retail and service center, service stations, restaurants, bars and theater/nightclubs, a site for the proposed Orange County Courthouse with the balance of the acreage developed as a business and professional office park emphasizing open space. ~~Remaining within the park will be the existing Collins Radio facility. It will be incorporated into the park, designed as an integral element, and designated within the light industrial segment.~~

DEVELOPMENT CONSIDERATIONS (1)

This Planned Community Development is a project of The Koll Company. This area is most appropriate for commercial and light industrial uses, and therefore we submit the enclosed air traffic analysis, vehicular analysis, land use analysis and market analysis to substantiate this document. Attached drawings indicate land use, grading and roads, storm drains, water and sewer, topography and traffic analysis.

The site is comprised of approximately ~~179.0~~154.0 acres and is generally bounded on the northeast by Campus Drive, on the southeast by Jamboree Road and on the west by MacArthur Boulevard. (10) (33)

In order to insure development consistent with the master plan concept, a review shall be required. Prior to the issuance of any building permits, a precise development plan shall be submitted by the developer to the Planning Director for review. This precise plan shall conform to the requirements of this Planned Community text and all other applicable codes and regulations and shall be approved prior to submission by The Koll Company. Included in the plan review material shall be:

1. Building Criteria

   a. size
   b. location
   c. height
   d. materials

2. Parking Criteria

   a. areas, including drives and accesses
   b. quantity
   c. size

3. Landscaped Areas

   a. setbacks
   b. walls
   c. plazas
   d. pools, fountains and/or other amenities

4. Signing Criteria

   a. location
   b. size
   c. quantity

5. All other site improvements as directed by the Planning Director and as recommended below. Items 5a through 5e inclusive.

a. Sewage System Criteria

The sewer system in the vicinity of the lake should be revised to conform to the following criteria:

1. All sewer lines should be located such that they will not be under water even when the lake is at its maximum level.

2. Sewer lines shall be located in 15-foot wide (minimum) easements and must be accessible to maintenance vehicles at all times.

3. The depth of sewer lines should not exceed 15 feet, with the possible exception of joining the existing system at MacArthur Boulevard.

b. Pedestrian Circulation

A pedestrian sidewalk system along the public streets shall be constructed throughout the development. The adequacy of such system shall be analyzed independently of any on-site pedestrian walkway system proposed for a particular portion of the development.

c. Bicycle Circulation

A system of bicycle paths coordinated with the City's Master Plan of Bicycle Trails and meeting the approval of the Planning Director and the Director of Parks, Beaches and Recreation shall be developed and maintained within the planned community.

d. Erosion Control

Landscaping plans shall incorporate provisions for Erosion Control on all graded sites which will remain vacant for a considerable period of time prior to commencement of building construction.

e. Traffic Considerations

i. Both MacArthur Boulevard and Jamboree Road shall be widened to provide for 6 through lanes, double left turn lanes at all intersections, and free right turning lanes at all intersections.

ii. Von Karman shall be widened at the intersection with MacArthur Boulevard to provide 6 lanes.

iii. All streets on the site except for Von Karman shall be flared to provide at least 5 lanes at intersections with peripheral streets.

iv. Birch Street shall be flared to 5 lanes at the intersection with Von Karman.

v. Campus Drive shall be widened to provide dual left turn lanes at Von Karman.

vi. Von Karman shall be improved for its full length from MacArthur Boulevard to Campus Drive in conjunction with initial development of areas which do not take primary access from Campus Drive or Jamboree Road.

vii. Access rights to MacArthur Boulevard shall be dedicated to the City except for the Birch Street and Von Karman Avenue intersections. Consideration may be given to providing additional access points at a later date if more detailed traffic studies demonstrate the desirability of such additional access points. Consideration shall be limited to right turn egress and right and left turn ingress. (11)

viii. Traffic signals shall be constructed at the intersections of MacArthur Boulevard with Birch Street and with Von Karman Avenue when the latter two streets are opened. The developer shall be responsible for 50% of the cost of the signal at Von Karman and 50% of the cost of the signal at Birch Street.

ix. A traffic signal shall be constructed at the intersection of Campus Drive and Jamboree Road in conjunction with the initial stages of development. The developer shall be responsible for 25% of the cost of the signal.

x. A traffic signal shall be installed at the intersection of Von Karman and Birch Street, with the developer to be responsible for 100% of the cost. Construction shall be scheduled so that the signal will be completed not later than June 30, 1977. (8)

xi. A traffic signal shall be installed at the intersection of Von Karman and Campus Drive, with the developer to be responsible for 50% of the cost. Construction shall be scheduled so that the signal will be completed not later than December 30, 1976. (8)

A traffic signal shall be installed at the intersection of Jamboree Boulevard and Birch Street, with the developer to be responsible for 50% of the cost. Construction shall

be scheduled so that the signal will be completed not later than June 30, 1977. (8)

In order to accomplish the schedule for construction of these two signals, a cooperative agreement may be entered into between the developer and the City. The agreement shall provide for the developer to advance the nondeveloper share of the funding, if necessary; with provisions for reimbursement by the City. The agreement may also provide for a credit to the developer for funds advanced for the City's share of construction costs for signals constructed elsewhere in the project. (8)

xii. Provision for other traffic signals shall be investigated in conjunction with the process of development at a later date.

xiii. Phasing of Development. 1,651,757 sq. ft. of development was existing or under construction as of October 1, 1978. The additional allowable development in the total approved development plan is 1,058,863 sq.ft. Any further development subsequent to October 1, 1978, in excess of 30% of the additional allowable development, being 317,658 sq. ft., shall be approved only after it can be demonstrated that adequate traffic facilities will be available to handle that traffic generated by the project at the time of occupancy of the buildings involved. Such demonstration may be made by the presentation of a phasing plan consistent with the Circulation Element of the Newport Beach General Plan. (12)

f. Airport (2)

The following disclosure statement of the City of Newport Beach's policy regarding the Orange County Airport shall be included in all leases or subleases for space in the Planned Community Development and shall be included in the Covenants, Conditions and Restrictions recorded against the property.

Disclosure Statement (2)

The Lessee herein, his heirs, successors and assigns acknowledge that:

i. The Orange County Airport may not be able to provide adequate air service for business establishments which rely on such service;

ii. When an alternate air facility is available, a complete phase out of jet service may occur at the Orange County Airport;

iii. The City of Newport Beach may continue to oppose additional commercial air service expansion at the Orange County Airport;

iv. Lessee, his heirs, successors and assigns will not actively oppose any action taken by the City of Newport Beach to phase out or limit jet air service at the Orange County Airport.

GENERAL NOTES

Water within the planned community area will be furnished by the Irvine Ranch Water District.

Prior to or coincidental with the filing of any tentative map or use permit, the developer shall submit a master plan of drainage to the Director of Public Works.

The height of all buildings and structures shall comply with Federal Aviation Authority criteria.

Except as otherwise stated in this ordinance, the requirements of the zoning code, City of Newport Beach, shall apply.

The contents of this supplemental text notwithstanding, no construction shall be proposed within the boundaries of this planned community district except that which shall comply with all provisions of the Building Code and the various mechanical and electrical codes related thereto.

DEFINITIONS

Advertising Surface:

The total area of the face of the structure, excluding supports.

Area of Elevation:

Total height and length of a building as projected to a vertical plane.

Building Line:

An imaginary line parallel to the street right-of-way line specifying the closest point from this street right-of-way that a building structure may be located (except for overhangs, stairs and sunscreens).

Right-of-Way Line:

When reference is made to right-of-way line it shall mean the line which is then established on either the adopted Master Plan of Streets and Highways or the filed Tract Map for Minor Roads as the ultimate right-of-way line for roads or streets.

Side and Front of Corner Lots:

For the purpose of this ordinance, the narrowest frontage of a lot facing the street is the front, and the longest frontage facing the intersecting street is the side, irrespective of the direction in which the structures face.

Sign:

Any structure, device or contrivance, electric or non-electric and all parts thereof which are erected or used for advertising purposes upon or within which any poster, bill, bulletin, printing, lettering, painting, device or other advertising of any kind whatsoever is used, placed, posted, tacked, nailed, pasted or otherwise fastened or affixed.

Commerce:

All those permitted uses as specified in Section II, Group I through VII, inclusive, in this text.

Commercial Land:

The site area upon which any or all commercial permitted uses would exist.

Site Area: (3)

The total land area of the land described in the use or other permit, including footprint lots.

Special Landscaped Street:

Special landscaped streets are designated as MacArthur Boulevard, Jamboree Boulevard and Campus Drive. The landscaping requirements for special landscaped streets and for the remaining streets are described in the following text.

Streets - Dedicated and Private:

Reference to all streets or rights-of-way within this ordinance shall mean dedicated vehicular rights-of-way. In the case of private or non-dedicated streets, a minimum setback from the right-of-way line of said streets of ten (10) feet shall be required for all structures. Except for sidewalks or access drives, this area shall be landscaped according to the setback area standards from dedicated streets contained herein.

Driveway:

Vehicular access ways onto or within private property exclusive of streets, dedicated or private. A minimum separation of five (5) feet shall be maintained between all driveways and buildings.

Footprint Lot: (3)

The area of land required for the building pad, encompassing the peripheral area of the building. Appurtenant and contiguous to the footprint lot shall be all parking, landscape, setbacks and other areas as described and required by this text.

Landscape Area: (4)

The landscape area shall include walks, plazas, water and all other areas not devoted to building footprints or vehicular parking and drive surfaces. In calculating area of required landscaping any off-site landscaping such as landscaped medians or parkways in street rights-of-way shall not be included.

PART I. INDUSTRIAL – Deleted. (33)

~~Section I. Statistical Analysis~~

~~A. Building Sites~~

~~Acreages shown are net buildable land area including landscape setbacks, within property lines. (4) (8)(21)~~

~~Site 1 25.043 acres 25.043 acres~~

~~B. Allowable Building Area~~

~~Site 1 442,775 sq. ft. 10.16 acres~~

~~C. Parking Criteria (8) (21)~~

~~The following statistics are for information only. Development may include but shall not be limited to the following:~~

~~To allow a basis for calculation parking was assumed to be three (3) spaces per one thousand (1000) square feet of building and at one hundred twenty (120) cars per acre.~~

~~Site 1 1,329 cars 11.07 acres~~

~~D. Landscaped Open Space (8) (21)~~

~~Site 1:~~	~~Area~~	~~25.043 acres~~
	~~Building~~	~~10.160 acres~~
		~~14.883 acres~~
	~~Parking area~~	~~11.070 acres~~
	~~Net Open Space~~	~~3.813 acres~~

~~Section II. Light Industrial Permitted Uses~~

~~A. To allow uses primarily engaged in research activities, provided that such activities are confined within a building or buildings and do not contribute excess noise, dust, smoke, vibration, odor, toxic or noxious matter to the surrounding environment nor contain a high hazard potential, due to the matter of the product material or processes involved. Such activities may include but shall not be limited to research laboratories and facilities, developmental laboratories and facilities and compatible light manufacturing related to the following list of examples:~~

~~1. Bio-Chemical~~
~~Chemical~~
~~Film and Photography~~
~~Medical and Dental~~
~~Metallurgy~~
~~Pharmaceutical~~
~~X-Ray~~

~~2. Manufacture, research assembly, testing components, devices, equipment and systems and parts and components such as but not limited to the following list of examples:~~

~~Coils, Tubes, Semi-Conductors~~
~~Communication, Navigation Control, Transmission and Reception Equipment, Control Equipment and Systems Guidance Equipment and Systems~~
~~Glass Edging, Beveling, and Silvering~~
~~Data Processing Equipment and Systems~~
~~Graphics, Art Equipment~~
~~Metering Instruments~~
~~Optical Devices, Equipment and Systems~~
~~Phonographs, Audio Units, Radio Equipment and Television Equipment~~
~~Photographic Equipment~~
~~Radar, Infrared and Ultraviolet Equipment and Systems~~
~~Scientific and Mechanical Instruments~~
~~Testing Equipment~~

~~B. To allow the location of offices and areas associated with and accessory to the permitted uses listed under A.~~

~~1. Administrative, professional and business offices.~~

~~2. Regional or home offices of industries which are limited to a single use.~~

~~3. Blueprinting, photostating, photo-engraving, printing, publishing and bookbinding, provided that no on-site commercial service is associated with said uses.~~

4. Cafeteria, cafe, restaurant, bar, theater/nightclub or auditorium subject to the procedures, regulations and guidelines set forth in Title 20 of the Newport Beach Municipal Code, in each case. (25)

5. Service stations will be permitted, subject to a use permit, provided that no on-site commercial service is associated with said uses.

C. To allow auto detailing as a permitted use subject to the following conditions:

1. All drainage shall be into the sanitary sewer system.

2. That all car wash and auto detailing operations shall be conducted within a covered area.

3. This service shall be designed to serve building tenants and their patrons and guests, and shall be ancillary to the primary use. (19)

Section III. Industrial Service and Support Facilities Permitted Uses (1)

A. To allow a combination of general industry, business and professional offices, and industrial support activities, provided that such activities are confined within a building or buildings, and do not contribute excessive noise, dust, smoke, vibration, odor, toxic or noxious matter to the surrounding environment nor contain a high hazard potential due to the nature of the products, materials or processes involved.

1. All uses permitted under Part 1, Section II. A and Section II. B.

a. Business and professional offices.

b. Industrial Support Facilities, to include activities limited to the sale of products or services.

c. Distribution and warehousing plants.

Section IV. General Development Standards for Industry

A. Site Area (3)

Minimum site area shall not be less than thirty thousand (30,000) square feet. Footprint lots shall have all required appurtenant areas contiguous thereto and the sum of these areas shall not be less than thirty thousand (30,000) square feet.

B. Building Areas

Maximum building areas shall be as noted in the Statistical Analysis, Part 1, Section I.

C. Building Height

Building heights of structures shall be limited to a height of seventy five (75) feet. The height of a single vertical column (15 feet wide by 15 feet deep) associated with an Air Separation Plant (the function is to extract gas, i.e., nitrogen, oxygen, etc., from air), which supports on-site manufacturing activities, shall be limited to ninety (90) feet above ground level and shall in no way exceed the height limits set by the Federal Aviation Authority for Orange County Airport. Additionally, this vertical column shall be set back a minimum of 650 feet from Jamboree Road and 780 feet from Birch Street (property lines). The facility shall be limited to one column on site, unless otherwise approved in conjunction with a use permit approved by the Planning Commission for the relocation or replacement of the air separation column with a new column. Exception: existing non-conforming structures. (21) (22) (24)

D. Setbacks

All setbacks shall be measured from the property line. For the purpose of this ordinance, a street side property line is that line created by the ultimate right-of-way line of the frontage street.

1. Front Yard Setback

Thirty (30) feet minimum, except that unsupported roofs or sunscreens may project six (6) feet into the setback area.

2. Side Yard Setback

Ten (10) feet, except that unsupported roofs and sunscreens may project three (3) feet into the setback area.

In the case of a corner lot, the street side setback shall be thirty (30) feet, except that unsupported roofs and sunscreens may project six (6) feet into the setback area. Interior lot lines for a corner lot shall be considered side lot lines.

3. Rear Yard Setback

No rear yard setback is required except on a through lot in which case the required front yard setback shall be observed.

4. Footprint Lots (6)

Except as required by the Uniform Building Code there shall be no additional setback requirements for buildings within footprint lots. Provided, however, that buildings within footprint lots shall be so located as to observe the setbacks from streets and existing lot lines required under Part I, Section IV.D.1, 2 and 3.

E. Site Coverage

Maximum building coverage of fifty (50) percent is allowed. Parking structures shall not be calculated as building area, however, said structures shall be used only for the parking of company vehicles, employees' vehicles, or vehicles belonging to persons visiting the subject firm.

F. Signs

All signing shall be as specified in the General Sign Requirements, Part IV.

G. Pedestrian Access (1)

It is required of all developments in the industrial support facility area to submit a plan of pedestrian access to the Planning Department prior to the issuance of a building permit. Said plan will detail consideration for pedestrian access to the subject property and to adjacent properties, and shall be binding on subsequent development of the property. The plan shall show all interior walkways, and all walkways and parkways in the public right-of-way, if such walkways are proposed or necessary.

H. Parking

All parking shall be as specified in the General Parking Requirements, Part III.

I. Landscape

All landscaping shall be as specified in the General Landscape Requirements, Part V.

PART II COMMERCIAL

Section I. Site Area and Building Area

Group I PROFESSIONAL & BUSINESS OFFICES

Acreages shown are net buildable land area including landscape setbacks with property lines. (4)

A. Building Sites (4)

	Total Acreage	Office Acreage
Site A	30.939 acres * (29)	30.939 acres *(29)
Site B	43.703 acres (11)	43.703 acres (11)
Site C	18.806 acres (10)	18.806 acres (10)
Site D	19.673 acres	19.673 acres
Site E	2.371 acres	2.371 acres
Site F	1.765 acres	1.765 acres
Site G	5.317 acres (8)	5.317 acres (8)
	122.574 acres (8)(10)(11)	122.574 acres(8)(10)(11)

B. Allowable Building Area

Site A	366,147 square feet (16)(26)(29)(30)
Site B	977,720 square feet (13)(16)(28)(30)(32)
Site C	674,800 square feet (10)(15)
Site D	240,149 square feet (8)(13)
Site E	32,500 square feet (4)
Site F	42,646 square feet (4)(31)
Site G	45,000 square feet (8)
	2,378,962 square feet (15)(*)(31)

C. Statistical Analysis (4)

The following statistics are for information only.
Development may include but shall not be limited to the following:

Story heights shown are average heights for possible development. The buildings within each parcel may vary.

Assumed Parking Criteria:

a. One (1) space per 225 square feet of net building area @ 120 cars per acre for Sites C, D, E, F and G.

*(3)(4) In addition to 19.399 acres of office use, there is 9.54 acres for hotel and motel and 2.0 acres of lake within Office Site A. Therefore, there are 30.939 acres net within Office Site A. (3)(4)(16)

b. One (1) space per 300 square feet of net building area @ 120 cars per acre for Sites A, B and C. (11)

1. Site A

Allowable Building Area ..... 366,147 square feet (16)(26)(29)(30)
Site Area ..... 19.399 acres *(3)(4)(16)

a.

Building Height	Land Coverage (16)(29)(30)
Two story development	..... 4.20 acres
Three story development	..... 2.80 acres
Four story development	..... 2.10 acres
Five story development	..... 1.68 acres
Six story development	..... 1.40 acres
Seven story development	..... 1.20 acres
Eight story development	..... 1.05 acres
Nine story development	..... 0.93 acres
Ten story development	..... 0.84 acres
Eleven story development	..... 0.76 acres
Twelve story development	..... 0.70 acres

b.

Parking	Land Coverage
1,221 cars	..... 10.18 acres (11,16,29,30)

c.

Landscaped Open Space (4, 11,16)	Land Coverage (29,30)
Two story development	..... 5.02 acres
Three story development	..... 6.42 acres
Four story development	..... 7.12 acres
Five story development	..... 7.54 acres
Six story development	..... 7.80 acres
Seven story development	..... 8.02 acres
Eight story development	..... 8.17 acres
Nine story development	..... 8.29 acres
Ten story development	..... 8.38 acres
Eleven story development	..... 8.46 acres
Twelve story development	..... 8.52 acres

2. Site B

Allowable Building Area ..... 977,720 square feet (13,16,28,30)
Site Area ..... 43.703 acres (4) (11)

a. Building Height Land Coverage
(16,28,30,32))

Two story development	..... 11.22 acres
Three story development	..... 7.48 acres
Four story development	..... 5.61 acres
Five story development	..... 4.49 acres
Six story development	..... 3.74 acres
Seven story development	..... 3.21 acres
Eight story development	..... 2.81 acres
Nine story development	..... 2.49 acres
Ten story development	..... 2.24 acres
Eleven story development	..... 2.04 acres
Twelve story development	..... 1.87 acres

b. Parking Land Coverage
(11,13,16,28,30,32))

3,259 cars	..... 27.16 acres

c. Landscaped Open Space (11) Land Coverage
(11,13,16,28,30,32))

Two story development	..... 5.32 acres
Three story development	..... 9.06 acres
Four story development	..... 10.93 acres
Five story development	..... 12.05 acres
Six story development	..... 12.80 acres
Seven story development	..... 13.33 acres
Eight story development	..... 13.73 acres
Nine story development	..... 14.05 acres
Ten story development	..... 14.30 acres
Eleven story development	..... 14.50 acres
Twelve story development	..... 14.67 acres

3. Site C (10)

Allowable Building Area	..... 674,800 square feet (15) (17)*
Site Area	..... 18.806 acres (4)

a. Building Height Land Coverage (15)

Two story development	..... 7.75 acres
Three story development	..... 5.16 acres
Four story development	..... 3.87 acres
Five story development	..... 3.10 acres
Six story development	..... 2.58 acres
Seven story development	..... 2.21 acres
Eight story development	..... 1.94 acres
Nine story development	..... 1.72 acres
Ten story development	..... 1.55 acres
Eleven story development	..... 1.41 acres
Twelve story development	..... 1.29 acres

b. Parking — Land Coverage (15)

2,249 cars ..... 18.74 acres

* The square footage includes a maximum of 3,250 square feet for up to two (2) restaurants, bars, or theater/nightclubs. Any portion or all of the floor area not utilized for the purpose shall revert to professional and business office use. (17)

c. Landscaped Open Space — Land Coverage (4)(15)

Two story development	.....	-7.68 acres
Three story development	.....	-5.09 acres
Four story development	.....	-3.80 acres
Five story development	.....	-3.03 acres
Six story development	.....	-2.51 acres
Seven story development	.....	-2.14 acres
Eight story development	.....	-1.87 acres
Nine story development	.....	-1.65 acres
Ten story development	.....	-1.48 acres
Eleven story development	.....	-1.34 acres
Twelve story development	.....	-1.24 acres

4. Site D

Allowable Building Area	.....	240,149 square feet (8)(13)
Site Area	.....	19.673 acres (4)

a. Building Height — Land Coverage(8) (13)

Two story development	.....	2.75 acres
Three story development	.....	1.84 acres
Four story development	.....	1.38 acres
Five story development	.....	1.10 acres
Six story development	.....	0.92 acres
Seven story development	.....	0.79 acres
Eight story development	.....	0.69 acres
Nine story development	.....	0.61 acres
Ten story development	.....	0.55 acres
Eleven story development	.....	0.50 acres
Twelve story development	.....	0.46 acres

b. Parking — Land Coverage (8) (13)

1,067 cars ..... 8.89 acres

c. Landscaped Open Space — Land Coverage (4) (8) (13)

Two story development	..... 8.03 acres
Three story development	..... 8.94 acres
Four story development	..... 9.40 acres
Five story development	..... 9.68 acres
Six story development	..... 9.86 acres
Seven story development	..... 9.99 acres
Eight story development	..... 10.09 acres
Nine story development	..... 10.17 acres
Ten story development	..... 10.23 acres
Eleven story development	..... 10.28 acres
Twelve story development	..... 10.32 acres

5. Site E

Allowable Building Area	..... 32,500 square feet (4)
Site Area	..... 2.371 acres (4)

a. Building Height — Land Coverage (4)

Two story development	..... 0.37 acres
Three story development	..... 0.25 acres
Four story development	..... 0.19 acres
Five story development	..... 0.15 acres
Six story development	..... 0.12 acres
Seven story development	..... 0.11 acres
Eight story development	..... 0.10 acres
Nine story development	..... 0.09 acres
Ten story development	..... 0.08 acres
Eleven story development	..... 0.07 acres
Twelve story development	..... 0.06 acres

b. Parking — Land Coverage (4)

144 cars	..... 1.20 acres

c. Landscaped Open Space (4) — Land Coverage

Two story development	..... 0.80 acres
Three story development	..... 0.92 acres
Four story development	..... 0.98 acres
Five story development	..... 1.02 acres
Six story development	..... 1.05 acres
Seven story development	..... 1.06 acres
Eight story development	..... 1.07 acres
Nine story development	..... 1.08 acres
Ten story development	..... 1.09 acres
Eleven story development	..... 1.10 acres
Twelve story development	..... 1.11 acres

6. Site F (4)(31)

Allowable Building Area	.....	42,646 square feet
Site Area	.....	1.765 acres

a.

Building Height	Land Coverage
One story development	..... 0.98 acres
Two story development	..... 0.49 acres
Three story development	..... 0.33 acres
Four story development	..... 0.24 acres
Five story development	……..0.20 acres
Six story development	……0.16 acres

b.

Parking	Land Coverage
190 cars	..... 1.58 acres

c.

Landscaped Open Space	Land Coverage
One story development	..... <0.80> acres
Two story development	..... <0.31> acres
Three story development	..... <0.15> acres
Four story development	..... <0.06> acres
Five story development	.....<0.02> acres
Six story development	..... <0.03> acres

7. Site G (8)

Allowable Building Area	.....	45,000 square feet
Site Area	.....	5.317 acres

a.

Building Height	Land Coverage
One story development	..... 1.03 acres
Two story development	..... 0.52 acres
Three story development	..... 0.34 acres
Four story development	..... 0.26 acres

b.

Parking	Land Coverage
200 cars	..... 1.67 acres

c.

Landscaped Open Space	Land Coverage
One story development	..... 2.62 acres
Two story development	..... 3.13 acres
Three story development	..... 3.31 acres
Four story development	..... 3.39 acres

Building Height

Maximum building height shall not exceed twelve (12) stories above ground level, and shall in no way exceed the height limits set by the Federal Aviation Authority for Orange County Airport.

Conclusions

The preceding figures indicate that within a fixed maximum density as the height of the building increases the resulting open landscaped area also increases.

Group II. HOTEL & MOTEL (1)

A. Building Sites

For the purposes of this statistical analysis, 9.54 acres have been allotted for hotel and motel development. This acreage is for statistical purposes only. It is necessary to allot a specific acreage within this analysis to secure office building densities within their specific parcels. Development may include but shall not be limited to this acreage. The hotel and motel site size shall be determined at the time a use permit is secured.

B. Building Height

Maximum building height shall not exceed height limits set by the Federal Aviation Authority for Orange County Airport.

Group III. COURT HOUSE

A. Building Site

Site 1: 7.80 acres ..... 7.80 acres

B. Building Area

Site 1: 90,000 square feet ..... 90,000 square feet

The following statistics are for information only. Development may include but shall not be limited to the following.

C. Parking
400 Cars ..... 3.33 acres

D.

Landscaped Open Space	Land Coverage
Two story development	3.44 acres
Three story development	3.78 acres
Four story development	3.95 acres
Five story development	4.06 acres
Six story development	4.13 acres

E. Building Height

Maximum building height shall not exceed height limits set by the Federal Aviation Authority for Orange County Airport.

Group IV. SERVICE STATIONS

A. Building Sites (4) (5) (11)

Site 3: 1.765 acres ..... 1.765 acres

Service station site 3 shall be located within Office Site F and shall not exceed 1.765 acres in size. Any portion or all of Site 3 not utilized for service station use shall revert to either professional and business office use or restaurant use. (4)

Group V. RESTAURANTS (1) (4)

A. Building Sites

Maximum acreages for Site 2 shall not exceed 1.25 (18) acres. Maximum acreage for Site 3: 1.765 acres. Maximum acreages for Sites 4 and 5 shall not exceed 3.0 acres. Maximum acreage for Sites 6 and 7 shall not exceed 2.2 acres. (8)

(The following acreages are for information only.)

Site 1 Deleted see Group VII. ..... (18)
Site 2 ..... 1.25 acres
Site 3 ..... 1.765 acres
Site 4 Deleted.....(30)
Site 5 Deleted..... (30)
Site 6 ..... 1.50 acres (8)
Site 7 ..... 0.70 acres (8)
5.215 acres .....5.215 acres (30)

Site 1 Deleted see Group VII Private Club (18)
Site 2 (4101 Jamboree – Taco Bell) located within Office Site "B" (4)(16)(30)
Site 3 located within Office Site "F". (4)
Site 4 (4300 Von Karman Avenue – Koto Restaurant) deleted and reverted to Site B Professional and Business Office Allowable Building Area. (30)
Site 5 deleted from Office Site "B" and transferred to Office Site "A" as Professional and Business Office Allowable Building Area (30)
Sites 6 and 7 located within Office Site "G". (8)

Any portion or all of the restaurant, bar, theater/nightclub acreage for Sites 2, 4, 5, 6 or 7 not utilized for that purpose shall revert to professional and business office use. Any portion or all of the restaurant acreage for Site 3 not utilized for that purpose shall revert to either professional and business office use or service station use. (4) (8) (18)

The following statistics are for information only. Development may include but shall not be limited to the following.

B. Building Area (4)(8) (30)

Site 2 ..... 2,397sq. ft. ..... 0.06 acres (30)
Site 3 ..... 10,000 sq. ft. ..... 0.22 acres
Site 4 ..... Deleted
Site 5 ..... Deleted
Site 6 (8) ..... 7,000 sq. ft. ..... 0.16 acres
Site 7 (8) ..... 3,000 sq. ft. ..... 0.07 acres
22,397 sq. ft. ..... 0.51 acres .....0.51 acres (8, 18, 30)

C. Parking

Criteria: 300 occupants/10,000 sq. ft.
1 space/3 occupants and 120 cars per acre.

Site 2 ..... 24 cars ..... 0.20 acres (30)
Site 3 ..... 100 cars ..... 0.84 acres
Site 4 ..... Deleted
Site 5 ..... Deleted
Site 6 (8) ... 70 cars ..... 0.58 acres
Site 7 (8) ... 30 cars ..... 0.25 acres
224 cars ..... 1.87 acres ..... 1.87 acres (8) (18)(30)

D. Landscaped Open Space (4) (30)

Site 2 ..... 0.99 acres (30)
Site 3 ..... 0.70 acres
Site 4 ..... Deleted
Site 5 ..... Deleted
Site 6 (8) .... 0.76 acres
Site 7 (8) .... 0.38 acres
2.83 acres ..... 2.83 acres (8) (18)(30)

E. Building Height

Building height of structures shall be limited to a height of thirty-five (35) feet.

Group VI. RETAIL & SERVICE CENTER

A. Building Site (4) (5)

Site 1 ..... 5.026 acres
Site 2 Deleted (30)
5.026 acres ..... 5.026 acres (30)

Site 2 shall be located within Office Site "B." Any portion or all of the retail and service Site 2 acreage not utilized for that purpose shall revert to professional and business office use. (4) (16)
Site 2 deleted from Office Site "B" and transferred to Office Site "A" as Professional and Business Office Allowable Building Area. (30)

B. Allowable Building Area (5)

* Retail Site No. 1 ..... 120,000 sq. ft. (14)(27)
Retail Site No. 2 Deleted (30)

* Retail Site No. 1 (sq. Ft.)

Parcel	Existing	Total
Parcel 1, R/S 588	(H)	(H) 70,630
Parcel 3, R/S 506	(R) (O)	(R) 0 (O) 22,000
Parcel 4, R/S 506	(R) 4,115 (O) 0	(R) 21,896 (O) 5,474
Subtotal	(R) 12,315 (O) 0	(R) 21,896 (O) 27,474 (H) 70,630
Total		120,000 (14)(27)

(R) = Retail (O) = Office (H) = Hotel

C. Landscape Area (5)

Twenty-five (25) percent of the 5.026 acres constituting retail and service center Site No. 1 shall be developed as landscape area.

If twenty-five (25) percent of the 5.026 acres constituting retail and service center Site No. 1 is not developed as landscape area, a specific site plan shall be submitted to the City of Newport Beach Planning Commission for approval prior to the issuing of a building permit.

D. Statistical Analysis (5)

The following statistics are for information only. Development may include but shall not be limited to the following.

Assumed parking criteria: One (1) space per 200 square feet of net building area at 120 cars per acre.

1. Site 1

Allowable Building Area ..... 120,000 sq. ft. (14)(27)
Site Area ..... 5.026 acres

a. Building Height (14)
Two story development ..... 1.17 acres
Three story development ..... 0.78 acres
Four story development ..... 0.59 acres
Five story development ..... 0.47 acres

b. Parking (14)
460 cars ..... 3.83 acres

c. Landscaped Open Space (14)
Two story development ..... 0.03 acres
Three story development ..... 0.87 acres
Four story development ..... 0.61 acres
Five story development ..... 0.73 acres

2. Site 2 Deleted (30)

E. Building Height

Building height of structures shall be limited to a height of thirty-five (35) feet above mean existing grade as shown on Exhibit "B." (5) Building height of structures for Service Site 1 shall be limited to a height of sixty feet (27)

Group VII. PRIVATE CLUB (18)

A. Building Site

Site 1 ..... 2.0 acres ..... 2.0 acres

Site 1 shall be located within Office Site "A." Any portion or all of the private club acreage not utilized for that purpose shall revert to professional and business office use.

1. Site 1

Allowable Building Area .....45,000 square feet (26)

B. Building Height

Building height of structures shall be limited to a height of fifty (50) feet.

Section II. Permitted Uses

Group I. PROFESSIONAL AND BUSINESS OFFICES

To allow the location of commercial activities engaged in the sale of products or services relating to and supporting the Development Plan, provided that such activities are confined within a building or buildings.

A. Professional Offices similar in nature to but not limited to the following: (6)

1. Accountants
2. Attorneys
3. Doctors, dentists, optometrists, oculists, chiropractors and others licensed by the State of California to practice the healing arts.
4. Engineers, architects, surveyors and planners.

B. Business Offices similar in nature to but not limited to the following: (6)

1. Advertising agencies
2. Banks
3. Economic consultants
4. Employment agencies
5. Escrow offices
6. Insurance agencies
7. Laboratories
   a. Dental
   b. Medical
   c. X-Ray
   d. Bio-chemical
   e. Film, wholesale only
   f. Optometrical
8. Stockbrokers

9. Studios for interior decorators, photographers, artists and draftsmen.
10. Telephone answering services
11. Tourist information and travel agencies

C. Hotel and Motel (1)

To allow for the location within Office Site "A" of a hotel or motel development, subject to a use permit.

D. Restaurants, bars and theater/nightclubs subject to the procedures, regulations and guidelines set forth in Title 20 of the Newport Beach Municipal Code, in each case. (1) (3) (4) (7) (25)

1. Deleted (18)

* 2. To allow within the 43.703 acres of Office Site "B" three (3) restaurant, bar or theater/nightclub sites. (16)

3. To allow within the 18.806 acres of Office Site "C" up to two (2) restaurant, bar or theater/nightclub sites with a total area not to exceed 3,250 square feet. Specific location of these restaurants, bars or theater/nightclubs to be determined at a later date. The permitted professional and business offices' allowable building area for the site will be reduced accordingly. (17)

4. To allow within the 1.765 acres of Office Site "F" two (2) restaurant, bar or theater/nightclub sites. Specific location of these sites to be determined at a later date. All other acreage shall be adjusted and shall not increase or decrease the professional and business offices allowable building area for the site.

5. To allow within the 5.317 acres of Office Site "G" three (3) restaurant, bar or theater/nightclub sites. Specific location of these sites to be determined at a later date. All other acreage shall not increase or decrease the professional and business offices' allowable building area for the site. (8) (25)

* E. Private Club (4) (18) (26)

To allow within Office Site "A" one (1) private club site at 4110 MacArthur Boulevard.

F. Service Station (4)

To allow within Office Site "F" one (1) service station site. Specific location to be determined at a later date. All other acreages shall be adjusted and shall not increase or decrease the professional and business office allowable building area for the site.

* (4) If restaurant, bar or theater/nightclub, or private club uses are developed, the allowable building area for Office Site "B" shall be restricted by one of the following conditions:

1. The 963,849 square feet of allowable building area shall not increase or decrease so long as twenty-five (25) percent of the 41.969 acres constituting Office Site "B" is developed as landscaped area. (16)

2. If twenty-five (25) percent of the 42.709 acres constituting Office Site "B" is not developed as landscape area, the 963,849 square feet of allowable building area shall be reduced by the gross building area of the restaurants, bars or theater/nightclubs and/or private club. The allowable building area shall be further reduced by the number of additional parking spaces required to support a restaurant, bar or theater/nightclub, or a private club beyond what would be required for an equivalent area of office use. The reduction shall be 225 square feet per additional space. (16)

G. Support Commercial (20)

The uses permitted under this section are of a convenience nature ancillary to the operation and use of office facilities. These uses shall be in addition to those sites permitted under Part II. Section II. Group V (Restaurants). These uses shall not increase the allowable building area for Professional and Business Office.

1. Retail sales and services including tobacco stores, card shops, confectionery and newspaper stands, and other uses which, in the opinion of the Planning Director, are of a similar nature. Retail uses shall be located in the basement or on the first floor of a building. Storage for such uses shall be within a building.

2. Restaurants, including outdoor restaurants and take-out restaurants, bars or theater/nightclubs shall be permitted subject to the procedures, regulations and guidelines set forth in Title 20 of the Newport Beach Municipal Code, in each case. (25)

Group II. HOTEL & MOTEL (1)

Subject to a use permit.

Group III. COURT HOUSE

State, County and/or City Facilities.

Group IV. SERVICE STATIONS & MECHANICAL CAR WASH (4)

A. Service stations subject to the City of Newport Beach service station standards.

B. Mechanical car wash, subject to a use permit. Mechanical car wash shall only be allowed in conjunction with or in lieu of a permitted service station use.

Group V. RESTAURANTS (7)

A. Restaurants, including outdoor, drive-in or take-out restaurants, bars and theater/nightclubs, shall be subject to the procedures, regulations and guidelines set forth in Title 20 of the Newport Beach Municipal Code, in each case. Facilities other than indoor dining establishments or those that qualify as outdoor, drive-in or take-out establishments shall be subject to the City of Newport Beach regulations covering drive-in and outdoor establishments. (25)

Group VI. RETAIL & SERVICE CENTER (1)

A. Permitted Uses

1. Restaurants, including outdoor, drive-in or take-out restaurants, bars and theater/nightclubs, shall be permitted subject to the procedures, regulations and guidelines set forth in Title 20 of the Newport Beach Municipal Code, in each case, except as noted under "a" and "b" below. (7) (25)

   a. Restaurants, other than outdoor, drive-in or take-out restaurants, shall be permitted subject to the procedures, regulations and guidelines set forth in Title 20 of the Newport Beach Municipal Code, in each case. (25)

   b. Outdoor, drive-in or take-out restaurants shall be subject to the procedures, regulations and guidelines set forth in Title 20 of the Newport Beach Municipal Code, in each case. (25)

2. Barber shop and beauty parlor

3. Book and stationery store

4. Blueprinting and photostatics

5. Camera Shop

6. Delicatessen store

7. Florist

8. Shoe store or repair shop

9. Tailor

10. Tobacco store

11. Office equipment rentable and repair

12. Pharmacies

13. Tourist information, travel agencies, and ticket reservation services, but not to include any airline terminal services or facilities for the transport of passengers, baggage, or freight. (1)

14. Athletic club or health clubs (5)

* 15. Professional and Business Offices (5)

16. Other uses similar to the above listed

17. Hotel subject to approval of a Use Permit (27)

Group VII. LODGE HALLS, PRIVATE CLUBS, ATHLETIC CLUBS, UNION HEADUARTERS (1) (4) (18)

Subject to use permit.

Group VIII. AUTO DETAILING (19)

A. All drainage shall be into the sanitary sewer system.

B. That all car wash and auto detailing operations shall be conducted within a covered area.

C. This service shall be designed to serve building tenants and their patrons and guests, and shall be ancillary to the primary use.

Section III. General Development Standards for Commercial Land

A. Site Area

Minimum site area shall not be less than thirty thousand (30,000) square feet. Footprint lots shall have all required appurtenant areas contiguous thereto and the sum of these areas shall not be less than thirty thousand (30,000) square feet. (3)

* To allow, in addition to the 2,320,600 square feet of professional and business office use permitted elsewhere in the text, a maximum of 38,022 net square feet of professional and business office use within Retail and Service Center Site 1. (5) (14)

Exception: (9)

The Planning Commission may authorize an exception to the minimum site area. Application for any such exception shall be made at the time of the filing of a tentative map by the applicant. In order for an exception to be granted, the Planning Commission shall find the following facts with respect thereto:

1. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the vicinity.

2. That the Development Considerations and intent of this planned Community Development Standards are substantially met.

B. Building Area

Maximum building area for professional and business offices shall be as noted in Site Area and Building Area, Part II, Section I, Group 1.B. Parking basements or parking structures shall not be calculated as building area; however, said structures shall be used only for the parking of company vehicles, employee vehicles, or vehicles belonging to persons visiting the subject firm. (4)

C. Setbacks

All setbacks shall be measured from the property line. For the purpose of this ordinance, a street side property line is that line created by the ultimate right-of-way of the frontage street.

1. Front Yard Setback (10)

Thirty (30) feet minimum; except that unsupported roofs or sunscreens may project six (6) feet into the setback area. The setback for Site C from MacArthur Boulevard would be at least thirty-six (36) feet except that unsupported roofs or sun-screens any project six (6) feet into the setback.

2. Side Yard

Side yard setbacks will be required only when any one of the following conditions exist:

a. Corner Lot: Thirty (30) feet (street side setback only), except that unsupported roofs and sunscreens may project three (3) feet into setback area.

b. Where property abuts other than commercially zoned property, a ten (10) foot setback is required. Unsupported roofs and sunscreens may project three (3) feet into the setback area.

3. Rear Yard

None required except on a through-lot in which case the required front yard setback shall be observed.

4. Footprint Lots (6)

Except as required by the Uniform Building Code, there shall be no additional setback requirements for buildings within footprint lots. Provided, however, that buildings within footprint lots shall be so located as to observe the setbacks from streets and existing lot lines required under Part II, Section III, C.1, 2 and 3.

D. Loading Areas

1. Street side loading on other than special landscaped streets shall be allowed providing the loading dock is set back a minimum of seventy (70) feet from the street right-of-way line, or one hundred ten (110) feet from the street center line, whichever is greater. Said loading area must be screened from view from adjacent streets.

E. Storage Areas

1. All outdoor storage shall be visually screened from access streets, freeways and adjacent property. Said screening shall form a complete opaque screen up to a point eight (8) feet in vertical height, but need not be opaque above that point.

2. Outdoor storage shall be meant to include all company owned and operated motor vehicles, with the exception of passenger vehicles.

3. No storage shall be permitted between a frontage street and the building line.

F. Refuse Collection Areas

1. All outdoor refuse collection areas shall be visually screened from access streets, freeways and adjacent property. Said screening shall form a complete opaque screen.

2. No refuse collection area shall be permitted between a frontage street and the building line.

G. Telephone and Electrical Service

All "on-site" electrical lines (excluding lines in excess of 12KV) and telephone lines shall be placed underground. Transformer or terminal equipment shall be visually screened from view from streets and adjacent properties.

H. Pedestrian Access (1)

It is required of all developments in the commercial areas to submit a plan of pedestrian access to the Planning Department prior to the issuance of building permits. Said plan will detail consideration for pedestrian access to the subject property and to adjacent properties and shall be binding on subsequent development of the property. The plan shall show all interior walkways and all walkways in the public right-of-way, if such walkways are proposed or necessary.

I. Parking

All parking shall be as specified in the General Parking Requirements, Part III.

J. Signs

All signing shall be as specified in the General Sign Requirements, Part IV.

K. Landscape

All landscaping shall be as specified in the General Landscape Requirements, Part V.

PART III. GENERAL PARKING REQUIREMENTS

Section I A. Adequate off-street parking shall be provided to accommodate all parking needs for the site. The intent is to eliminate the need for any on-street parking.

Required off-street parking shall be provided on the site of the use served, or on a contiguous site, or within three hundred (300) feet of the subject site. Where parking is provided on other than the site concerned, a recorded document shall be approved by the City Attorney and filed with the Building and Planning Departments and signed by the owners of the alternate site stipulating to the permanent reservation of use of the site for said parking.

B. Parking requirements for specific sites shall be based upon the following parking criteria. All parking shall be determined based upon building type and the area within allotted to the following functions:

1. Business & Professional Offices

One (1) space for each 225 square feet of net floor area. The parking requirement may be lowered to one (1) space for each 250 square feet of net floor area upon review and approval of the modification committee.

Company parking stalls shall not exceed twenty-five (25) percent of the total number of required parking spaces. The number and design of compact parking stalls shall be reviewed and approved by the Planning Director. (11)

Exception: (11)

Parking Requirement for Business and Professional Office Buildings based on Parking Pool. The parking requirements for office buildings within a contiguous office site may be modified in accordance with the following schedule when the net building area or areas served exceeds 100,000 square feet.

a. For the first 125,000 square feet, parking shall be provided at one space per 250 square feet of net floor area.

b. For the next 300,000 square feet, parking shall be provided at one space per 300 square feet of net floor area.

c. Any additional floor area, parking shall be provided at one space per 350 square feet of net floor area.

d. For pools based on more than 425,000 square feet of net floor area, the Planning Commission may modify the parking formula by use permit, based on a demonstrated formula.

2. Medical & Dental Offices

Five (5) spaces for each doctor or one (1) space for each 200 square feet of gross floor area, whichever is greater.

3. ~~Manufacture, Research and Assembly~~ Deleted. (33)

~~Two (2) parking spaces for each three (3) employees, but in no event less than three (3) spaces for each one thousand (1,000) square feet of gross floor area.~~

4. ~~Warehouse~~ Deleted. (33)

~~Two (2) parking spaces for each three (3) employees, but in no event less than one (1) space for each one thousand (1,000) square feet of gross floor area for the first twenty thousand (20,000) square feet; one (1) space for each two thousand (2,000) square feet of gross floor area for the second twenty thousand (20,000) square feet; one (1) space for each four thousand (4,000) square feet of gross floor area for areas in excess of the initial forty thousand (40,000) square feet of floor area of the building.~~

~~If there is more than one shift, the number of employees on the largest shift shall be used in determining parking requirements.~~

5. Lodge Halls, Private Clubs, Athletic Clubs, Union Headquarters (1) (4) (5)

   a. One (1) space for each 75 square feet of gross floor area plus one (1) space for each 250 square feet of gross office floor area.

   b. Specific parking requirements shall be developed for private clubs or athletic clubs based upon functions and occupancies within this use. Parking shall be in conformance to existing City of Newport Beach requirements for said occupancies or at a demonstrated formula agreeable to the Planning Director. (4) In the event that private clubs or athletic clubs are converted to another use, parking requirements for the new use shall be subject to review by the Planning Director. (5)

6. Restaurants, Bars or Theater/Nightclubs, Outdoor, Drive-In and Take-Out Restaurants (7)

   a. Restaurant, bar or theater/nightclub parking shall be in accordance with Title 20 of the Newport Beach Municipal Code, except as noted under "b" and "c" below.

* b. Restaurants, other than outdoor, drive-in or take-out restaurants, within retail and service centers shall provide one (1) space for each 200 square feet of net floor area and one (1) loading space for each 10,000 square feet of gross floor area, to the extent that the net floor area of all restaurants does not exceed twenty (20) percent of the net floor area of the retail and service center. In the event that any restaurant causes the total of all restaurant uses in the retail and service center to exceed the twenty (20) percent limitation noted above, that entire restaurant and any subsequent restaurants shall provide parking as noted under "a" above.

c. Parking for outdoor, drive-in and take-out restaurants shall be provided in accordance with Section 20.53.060 of the Newport Beach Municipal Code.

7. Commercial Retail and Service Center (5)

One (1) space for each 200 square feet of net floor area. One (1) loading space for each 10,000 square feet of gross floor area. Professional and business office parking shall be provided per Part III, Section I.B.1. Athletic or health club parking shall be provided per Part III, Section 1.B.5b.

8. Hotels and Motels

One (1) space for each guest unit plus employees' parking on a demonstrated formula. Parking for restaurants, bars, banquet rooms, retail shops or service stores shall be as specified in the above applicable section or on a demonstrated formula acceptable to the Planning Director.

* Professional and business office net floor area shall be included in this provision. Athletic and health club net floor area shall be excluded from this provision. (5)

9. Court House

Specific parking requirements shall be developed based upon functions and occupancies within this zone. Parking shall be in conformance to existing City of Newport Beach requirements for said occupancies, or at a demonstrated formula agreeable to the Planning Director.

PART IV. GENERAL SIGN REQUIREMENTS

Section I. Sign Standards

A. Signs visible from the exterior of any building may be lighted, but no signs or any other contrivance shall be devised or constructed so as to rotate, gyrate, blink or move in any animated fashion.

B. Signs shall be restricted to advertising only the person, firm, company or corporation operating the use conducted on the site or the products sold thereon.

C. A wall sign with the individual letters applied directly shall be measured by a rectangle around the outside of the lettering and/or the pictorial symbol and calculating the area enclosed by such line.

D. All signs attached to the building shall be surface mounted.

Group I. PERMANENT IDENTIFICATION SIGNS

A. Ground Signs

Ground signs shall not exceed four (4) feet above grade in vertical height. Also, ground signs in excess of one hundred and fifty (150) square feet in area (double face) shall not be erected in the first twenty (20) feet, as measured from the property line, of any street side setback. Said sign shall not exceed a maximum area of two hundred (200) square feet.

B. Wall Signs

In no event shall an identification sign placed on a wall comprise more than ten (10) percent of the area of the elevation upon which the sign is located. Said signs shall be fixture signs. Signs painted directly on the surface of the wall shall not be permitted.

1. The following exceptions apply to industrial zoning only. In the instance of a multiple tenancy building, each individual industry may have a wall sign over the entrance to identify the tenant. Said sign shall give only the name of the company and shall be limited to six (6) inch high letters. Said signs must be oriented toward the parking or pedestrian area for that building and shall not exceed a maximum area of five (5) square feet.

2. Fascia mounted identification signs limited to two (2) facades for each building and structure.

No sign shall exceed an area equal to one and one-half (1 1/2) square feet of sign for each one (1) foot of lineal

frontage of the building or store. However, no sign shall exceed two hundred (200) square feet in area per face.

3. The following exceptions apply to Professional and Business Offices and Retail and Service Center uses only. In the instance of a multiple tenancy building, each individual ground floor business may have signing in addition to permitted Building Identification signs. (6)

Each individual ground floor business shall be limited to one (1) sign per frontage not to exceed two (2) signs per business. Said signs shall not be located above the ground floor fascia. No sign shall exceed an area equal to ten (10) percent of the business face upon which it is located. However, no sign shall exceed thirty-five (35) square feet in area. (6).

In no event shall there be more than three (3) permitted ground floor wall signs per building for Professional and Business Offices. (6)

C. Pole Signs

One (1) identification pole sign per site will be allowed for the following commercial businesses only:

a. Restaurant
b. Cocktail lounge and/or bar
c. Hotel

If a pole sign is utilized, it shall be in lieu of other identification signs allowed by ordinance. Pole signs shall be limited to a maximum height of twenty (20) feet and a maximum area of fifty (50) square feet per face, double faced.

Group II. TEMPORARY IDENTIFICATION SIGNS

A. The following signs shall conform to all requirements for "Ground Signs," Section I, Group I, Item A with General Sign standards above unless specifically limited below.

1. Sale or Lease Sign

A sign, advertising the sale, lease or hire of the site shall be permitted in addition to the other signs listed in this section. Said sign shall not exceed a maximum area of forty (40) square feet.

2. Construction Sign

One (1) construction sign denoting the architects, engineers, contractor, and other related subjects, shall be permitted upon the commencement of construction. Said sign shall be permitted until such time as a final inspection of the building(s) designates said structure(s) fit for occupancy, or the tenant is occupying said building(s), whichever occurs first. Said sign shall not exceed a maximum area of forty (40) square feet.

3. Future Tenant Identification Sign

A sign listing the name of future tenant, responsible agent or realtor, and identification of the industrial complex shall be permitted. Said sign will be permitted until such time as a final inspection of the building(s) designates said structure(s) fit for occupancy or tenant is occupying said building(s), whichever occurs first. Said sign shall not exceed a maximum area of forty (40) square feet.

4. Directional Signs

Signs used to give directions to traffic or pedestrians or give instructions as to special conditions shall not exceed a total of six (6) square feet (double face) in area and shall be permitted in addition to the other signs in this section.

5. Exceptions

Group II.A.1, 2 and 3: this information may be grouped on a single sign when the aggregate surface area does exceed the summation of the individual areas for each use. This area may be distributed on all surfaces of the sign. This sign may not exceed four (4) feet above grade.

Group III. SPECIAL PURPOSE SIGNS

A. The following permanent signs shall be permitted.

1. Permanent Directional Sign

Signs used to give directions to traffic or pedestrians as to special conditions shall not exceed a total of six (6) square

feet in area per face, double faced and shall be permitted in addition to other signs permitted in these standards.

2. Community Directional and/or Identification Sign

Permanent directional and identification signs, not exceeding two hundred fifty (250) square feet (per face), shall be permitted but subject to use permit.

Section II. Sign Area

A. Deleted. (33)~~Industrial~~

~~The following shall apply to Permitted Uses, Part 1, Section II.~~

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~~Only one (1) single faced or double faced sign shall be permitted per street frontage. No sign or combination of signs shall exceed one (1) square foot in area for each six hundred (600) square feet of total site area. However, no sign shall exceed two hundred (200) square feet in area per face. An additional twenty (20) square feet shall be allowed for each additional business conducted on the site. Sign limited to two (2) facades.~~

B. ~~Industrial Support Facilities and~~ Business and Professional Offices (33)

The following shall apply to Permitted Uses, Part I, Section III.

No sign shall exceed an area equal to one and one-half (1 1/2) square feet of sign for each one (1) foot of lineal frontage of the building. However, no sign shall exceed two hundred (200) square feet in area per face.

C. Commercial

The following shall apply to Permitted Uses, Part II, Section II, Groups II, III, V and VI.

Building identification shall be limited to a single entity. Building identification signs shall have an area not to exceed one and one-half (1 1/2) square feet of surface for each one (1) foot of lineal frontage of building. However, no sign shall exceed two hundred (200) square feet per face. Building identification signs shall be limited to two (2) facades.

D. Business and Professional Offices

The following shall apply to Permitted Uses, Part II, Section II, Group I.

Building identification shall be limited to a single entity. Building identification signs shall have an area not to exceed one and one-half (1 1/2) square feet of surface for each one (1) foot of lineal frontage of building. However, no sign shall exceed two hundred (200) square feet per face. Building identification signs shall be limited to two (2) facades.

Section III. Maintenance

All signs indicated in this section shall be maintained in a neat and orderly fashion. Periodic inspection shall be made as directed by the Planning Director, City of Newport Beach or his designated agent.

PART V. GENERAL LANDSCAPE STANDARDS

Section I. General Statement (1)

Detailed landscape and irrigation plans, prepared by a registered Architect or under the direction of a Landscape Architect, shall be submitted to and approved by the Planning Director and the Director of Parks, Beaches and Recreation prior to issuance of a building permit and installed prior to issuance of Certificate of Use and Occupancy. Landscape in the public right-of-way shall be installed per plans and specifications approved by the Parks, Beaches and Recreation Director and in accordance with Parks, Beaches and Recreation Standards.

All landscaping in this section shall be maintained in a neat and orderly fashion. Periodic inspections will be made as directed by the Planning Director and reports submitted with regard to the condition of maintenance. If suggestions of improvement are made, and are in the realm of the Maintenance Standards, the work shall be corrected within thirty (30) days of receipt of the report.

A. Maintenance

1. All planting areas to be kept free of weeds and debris.

2. Lawn and ground covers to be kept trimmed and/or mowed regularly.

3. All plantings to be kept in a healthy and growing condition. Fertilization, cultivation and tree pruning are to be carried out as part of regular maintenance.

4. Irrigation systems are to be kept in working condition. Adjustment and cleaning of system should be a part of regular maintenance.

5. Stakes, guys and ties on trees should be checked regularly for correct function; ties to be adjusted to avoid creating abrasions or girdling to the stems.

6. Damage to plantings created by vandalism, automobile or acts of nature shall be corrected within thirty (30) days.

B. Front Yard Setback Area

1. General Statement

Landscaping in these areas shall consist of an effective combination of street trees, trees, ground cover and shrubbery. All unpaved areas not utilized for parking shall be landscaped in a similar manner. Full coverage of ground cover to be expected in a minimum of three (3) months.

2. Special Landscaped Street

The entire area between the curb and the building setback line shall be landscaped, except for any driveway in said area. Tree size to be no less than 24-inch box.

3. Other Streets

The entire area between the curb and a point ten (10) feet back in the front property line shall be landscaped except for any driveway in said area. Tree size to be no less than 24 inch box.

C. Side Yard and Rear Yard

1. General Statement

All unpaved areas not utilized for parking and storage, shall be landscaped utilizing ground cover and/or shrub and tree materials.

2. Undeveloped Areas

Undeveloped areas proposed for future expansion shall be maintained in a weed free condition, but need not be landscaped.

3. Screening

Areas used for parking shall be screened from view or have the view interrupted by landscaping and/or fencing from access streets, freeways and adjacent properties. Plant materials used for screening purposes shall consist of lineal or grouped masses of shrubs and/or trees of a sufficient size and height to meet this requirement when initially installed.

4. Boundary Areas

Boundary landscaping is required on all interior property lines. Said areas shall be placed along the entire length of these property lines or be of sufficient length to accommodate the number of required trees. Trees, equal in number to one (1) tree per twenty-five (25) lineal feet of each property line, shall be planted in the above defined areas in addition to required ground cover and shrub material. Minimum width of property line landscaping shall be three (3) feet.

5. All landscaped areas shall be separated from adjacent vehicular areas by a wall or curb, at least six (6) inches higher than the adjacent vehicular area.

D. Parking Areas

Trees, equal in number to one (1) per each five (5) parking stalls, shall be provided in the parking area. Planting area around building shall not be included in parking area. Planting of trees may be in groups and need not necessarily be in regular spacing.

E. Sloped Banks

All sloped banks greater than 5 to 1, or six (6) feet in vertical height and adjacent to public right-of-way shall be stabilized, planted and irrigated with full coverage in accordance with plans submitted and approved by Planning Director.

F. Loading Areas

1. Street side loading on other than special landscaped streets, shall be allowed providing the loading dock is set back a minimum of seventy (70) feet from the street right-of-way line or one hundred ten (110) feet from the street center line, whichever is greater. Said loading area must be screened from view from adjacent streets.

G. Storage Areas

1. All outdoor storage shall be visually screened from access streets, freeways and adjacent property. Said screening shall form a complete opaque screen up to a point eight (8) feet in vertical height but need not be opaque above that point.

2. Outdoor storage shall be meant to include all company owned and operated motor vehicles, with the exception of passenger vehicles.

3. No storage shall be permitted between a frontage street and the building line.

H. Refuse Collection Areas

1. All outdoor refuse collection areas shall be visually screened from access streets, freeways and adjacent property. Said screening shall form a complete opaque screen.

2. No refuse collection area shall be permitted between a frontage street and the building line.

3. Minimum width for landscaping shall be three (3) feet around refuse collection areas.

I. Telephone and Electrical Service

All "on-site" electrical lines (excluding lines in excess of 12 KV) and telephone lines shall be placed underground. Transformer or terminal equipment shall be visually screened from view from streets and adjacent properties, or an approved method of display.

J. Pedestrian Access (1)

It is required of all developments in the commercial areas to submit a plan of pedestrian access to the Community Development Department prior to the issuance of building permits. Said plan will detail consideration for pedestrian access to the subject property and to adjacent properties, and shall be binding on subsequent development of the property. The plan shall show all interior walkways and all walkways in the public right-of-way, if such walkways are proposed or necessary.

K. Landscape Plant Vocabulary (1)

It is the intent of this standard to provide flexibility and diversity in plant selection yet maintain a limited variety to give greater unity to the development. At the direction of the Director of Community Development and the Director of Parks, Beaches and Recreation, material lists and a street tree master plan shall be developed to aid in this development.

All trees occurring in the ten (10) foot setback shall be no less than 24 inch box. The parking lot trees shall be no less than fifteen (15) gallon size.

Shrubs to be planted in containers shall not be less than one (1) gallon size. Ground covers will be planted from one (1) gallon containers or from root cuttings.

Every effort should be made to avoid using plants with invasive and shallow root systems with fruit that would stain paving or automobiles.

L. Earth berms shall be rounded and natural in character, designed to obscure automobiles and to add interest to the site. In cases where the ratio of width and height of berm creates a bank greater than 3 to 1, shrubs or walls can be used as shown in illustration (b) (c). Wheel stops shall be so placed that damage to trees, irrigation units and shrubs is avoided.

M. Trees in parking lots should be limited in variety. Selection should be repeated to give continuity. Regular spacing is not required and irregular groupings may add interest. Care should be exercised to allow plants to grow and maintain their ultimate size without restriction.

N. Storage areas are to be provided with an opaque screen up to a point of eight (8) feet in vertical height. Combination of plantings can be used to further soften hard materials and give continuity to planting.

PART VI. FOOTNOTES

(1) Planned Community text revision incorporating Planning Commission revisions and conditions of approval.

(2) Planned Community Text revision incorporating City Council conditions of approval as adopted by the city of Newport Beach. (Amendment No. 313, adopted August 14, 1972).

(3) Planned Community Text revision July 6, 1973 incorporating the addition of footprint lots and the addition of two (2) restaurant sites within Office Site "A". (Amendment No. 381, adopted August 2, 1973).

(4) Planned Community Text revision (Amendment No. 420, adopted February 7, 1974) incorporating the following changes:

a. Revised Planned Community Text site acreage figures to conform to the recorded tract map.
b. Revised Exhibit "A" (land use map) to conform to recorded tract map.
c. Changed the size of Office Site "E" and created one parcel of land comprised of Restaurant Site No. 3, Service Station Site No. 3 and the residual of Office Site "C". This new site is designated as Office Site "F".
d. Revised Retail and Service Site No. 2 from a specific location to a floating location within Office Site "A".
e. Added mechanical car wash subject to a use permit as a permitted use on the service station sites.
f. Added private clubs or athletic clubs as a permitted use on Office Site "B".
g. Made provisions for three (3) additional restaurant sites, two sites within Office Site "B: and one site within Office Site "F".

(5) Planned Community Text revision (Amendment No. 430, adopted June 10, 1974) incorporating the following changes:

a. Eliminated Service Station Site No. 2.
b. Added health or athletic club as a permitted use within the Retail and Service Center sites.
c. Added Professional and Business Office as a permitted use within the Retail and Service Center sites.
d. Added a minimum twenty-five (25) percent landscape requirements or site plan approval by the Planning commission to the development requirements of retail Site No. 1.

(6) Planned Community Text revision (Amendment No. 444, adopted May 15, 1975) incorporating the following changes:

a. Clarified the setback requirements for buildings within footprint lots.
b. Clarified Professional and Business Office permitted uses.
c. Added signing provision for ground floor businesses in multi-tenant building.

(7) Planned Community Text revision (Amendment No. 451, adopted September 8, 1975) incorporating the following changes:

a. Added the requirement that all restaurants shall be subject to the securing of a use permit with the exception of certain restaurant uses within Retail and Service Centers.

(8) Planned Community Text revision (Amendment No. 466, adopted June 28, 1976) incorporating the following changes:

a. Changed the size of Light Industrial Site No. 2.
b. Created Professional and Business Office Site "G".
c. Made provisions for two (2) restaurant sites within Office Site "G".
d. Reduced the allowable building area of Office Site "D".
e. Amended the construction timetable for traffic signals.

(9) Planned community Text revision (Amendment No. 475, adopted January 10, 1977) incorporating the following changes:

a. Established guidelines for an exception to the minimum site area.

(10) Planned Community Text revision (Amendment No. 505, adopted July 11, 1978) incorporating the following changes:

a. Increased the site area of Professional and Business Office Site "C".
b. Increased the allowable building area of Professional and Business Office Site "C".

(11) Planned Community Text revision (Amendment No. 508, adopted August 28, 1978) incorporating the following changes:

a. Made provision for consideration of additional left turn ingress from MacArthur Boulevard.
b. Eliminated Service Station Site No. 1 and added the land area to Professional and Business Office Site "B".
c. Reviewed the parking requirement for office buildings within Professional and Business Office sites.

(12) Planned Community Text revision (Amendment No. 514, adopted October 19, 1978) incorporating the following changes:

a. Established existing and additional allowable development as of October 1, 1978.
b. Established the requirement and criteria for phasing plan approval of development beyond thirty (30) percent of the additional

(13) Planned Community text revision incorporating the transfer to allowable building area from Professional and business Office Site "D: to Professional and Business Office Site "B". (Amendment No. 550, adopted November 10, 1980).

(14) Planned Community Text revision for Retail and Service Site No. 1, which allocates existing and permitted development. (Amendment No. 558 adopted March 23, 1981).

(15) Planned community Text revision increasing the allowable building area in Site C (MacArthur Court). (Amendment No. 593, adopted October 24, 1983).

(16) Planned Community Text revision incorporating the transfer of allowable office, restaurant and retail building area from Professional and Business Office Site "A" to Professional and Business Office Site "B". (Amendment No. 606, adopted May 14, 1984).

(17) Planned Community Text revision to allow up to two restaurants with a total floor area not to exceed 3,250 square feet within "Office Site C". (Amendment No. 626, adopted December 9, 1985).

(18) Planned Community Text revision deleting restaurant Site 1 and substituting a private club with a total floor area not to exceed 30,000 square feet within Office Site "A". (Amendment No. 635, adopted July 14, 1986).

(19) Planned Community Text revision to allow auto detailing as a permitted use. (Amendment No. 647, adopted March 23, 1987).

(20) Planned Community Text revision adding support commercial uses to the permitted uses under Professional and Business Office permitted uses. (Amendment No. 649, adopted July 27, 1987).

(21) Planned Community text revision combining Light Industrial Sites 1 and 2 into Light Industrial Site 1, increasing the allowable building area for the combined site by 39,000 square feet, and increasing the permitted building height from 35 feet to 55 feet. (Amendment No. 677, adopted June 12, 1989).

(22) Planned Community Text revision increasing the permitted building height in Light Industrial Site 1 from 55 feet to 75 feet. (Amendment No. 799, adopted April 25, 1994).

(23) Title 20 amendment to reinstate notice and appeal procedures for specialty food service applications. (Amendment No. 829, adopted September 11, 1995, Ordinance 95-39)

(24) Planned Community Text revision to increase the permitted height within "Light Industrial Site 1" from 75 feet to 90 feet for a single vertical column. (Amendment No. 867, adopted February 23, 1998, Ordinance 98-3).

(25) Planned Community Text revisions (Amendment No. 876, adopted August 10, 1998, Ordinance 98-20) to allow the following changes:

a. Additional restaurant uses in Office Site "G" (the current limited of two restaurants will be increased to three restaurant sites), and;
b. Permit eating and drinking establishments throughout the Koll Center Planned Community as per Title 20 of the Municipal Code.

(26) Planned Community Text revisions (Amendment No. 890, adopted 01/11/2000, Ordinance 99-28) to allow the following changes:

a. Increase the permitted level of development for Office Site A by 15,000 square feet (4110 MacArthur Boulevard) and;
b. Establish the permitted level of development for Koll Center Newport Office Site A at 418,346 gross square feet.

(27) Planned Community Text revisions (Amendment No. 897, adopted January 25, 2000, Ordinance 2000-3) to allow the following changes:

a. Designate Parcel 1 of Koll Center Newport Retail and Service Site 1 for Hotel Use, and;
b. Establish the permitted Gross Floor Area for Koll Center Newport Retail and Service Site 1 at 120,000 square feet, and
c. Establish the permitted height for the site at 60 feet.

(28) Planned Community Text revisions (Ordinance No. 2005-014, adopted August 9, 2005) to allow the following changes:

a. Office expansion of 1,367 net square feet in the Koll Center Office Site B at 4200 Von Karman Avenue.

(29) Planned Community Text revisions (Ordinance No. 2006-19), adopted July 25, 2006 to allow the following changes:

a. To increase the development allocation for Professional and Business Offices of Site A by 2,129 net square feet. (PA2005-293)

(30) Planned Community Text revisions (Ordinance No. 2006-21), adopted October 24, 2006 to allow the following changes:

a. To allow the transfer of 24,016 gross square feet of unused retail, restaurant and office square footage from Office Site B to Office Site A resulting in the elimination of the entire Retail Site #1, an undeveloped portion of Restaurant Site #2 and the entire Restaurant Site #5.

(31) Planned Community Text revisions (Ordinance No. 2011-3), adopted January 25, 2011 to allow the following changes:

a. To allow building area for Professional & Business Site F to increase by 18, 346 net square feet.

(32) Planned Community Text revisions (Ordinance No. 2011-8), adopted March 8, 2011 to allow the following changes:

a. To allow an increase to the Allowable Building Area for Professional & Business Site B by 9,917 net square feet

(33) Planned Community Text revisions (Ordinance No. 2013-), adopted , 2013 to allow the following changes:

a. To delete Light Industrial Sites 1 and 2 from PC-11.
b. To delete Part I. Industrial uses in its entirety as an allowed use.
c. To revise the total acreage within PC-11 to 154.0 acres to reflect the deletion of Light Industrial Sites 1 and 2 from PC-11.
d. To update the Composite exhibit and Exhibits A through E to reflect the deletion of Light Industrial Sites 1 and 2 from PC-11.

Insert exhibits:

Composite..... For Information Only (33)
Exhibit A ..... Land Use (33)
Exhibit B..... Grading and Roads (33)
Exhibit C..... Storm Drain (33)
Exhibit D ..... Water & Sewer (33)
Exhibit E..... Boundary and Topography (33)

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EXHIBIT E
PLANNED COMMUNITY DEVELOPMENT PLAN ADOPTION PC2012-001

Consists of:

- Draft Uptown Newport Planned Community Development Plan dated November 29, 2012, which consists of the followings:

    1. Land Use Development Standards & Procedures

    2. Design Guidelines

    3. Phasing Plan

Exhibit E is available for review at the Planning Division of Community Development Department or at http://newportbeachca.gov/index.aspx?page=2029

EXHIBIT F
REQUIRED FINDINGS

TENTATIVE TRACT MAP NO. NT2012-002

In accordance with NBMC Section 19.12.070 (Required Findings for Action on Tentative Maps), the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

A-1. The Tentative Tract Map provides lot configurations consistent with the land uses, densities and intensities of the proposed PCDP, the General Plan Land Use designation of Mixed-Use Horizontal-2 (MU-H2) and the Airport Business Area Integrated Conceptual Development Plan (ICDP). MU-H2 provides for horizontal intermixing of uses that may include regional commercial office, multifamily residential, vertical mixed-use buildings and ancillary neighborhood commercial uses. Additionally, the ICDP allocates up to 1,244 residential units and 11,500 square feet of retail to be developed on the Property. Under the proposed Project, 632 units would be developed as replacement units for redevelopment of the existing industrial uses, 290 additive units would be allocated to the proposed Project in accordance with the City's General Plan and the ICDP and 322 density bonus units would be authorized pursuant to NBMC Chapter 20.32 (Density Bonus), for a total of 1,244 residential units. The proposed residential community also includes 11,500 square feet allocated for neighborhood commercial uses and is therefore consistent with the intent of General Plan and ICDP.

A-2. General Plan goal LU 2.1 seeks to accommodate uses that support the needs of City residents including housing, retail, services, employment and recreation. The Tentative Tract Map allows the development of a residential community, containing a mix of housing types, supporting retail and active parklands, consistent with the proposed PCDP, General Plan designation and ICDP, which encourage the development of coordinated, cohesive mixed use projects in the Airport Area.

A-3. The Tentative Tract Map provides for the development of a cohesive planned community with a pattern of streets and blocks that provide a pedestrian-friendly environment, with strong connectivity to adjacent commercial and office areas. A network of paseos, open space and pedestrian walkways would be introduced into the community to serve as connections between Project neighborhoods and provide linkages to surrounding areas. Two one acre parks, as well as recreational open space amenities, are proposed.

A-4. The streets on the proposed Tentative Tract Map are consistent with the roadway specifications of the Master Plan of Streets and Highways of the Circulation Element of the General Plan. Traffic control measures are also included with the Uptown Newport Planned Community to ensure proposed private roadways and City roadways function as intended.

A-5. The Tentative Tract Map provides for the dedication of at least 8 percent of the gross land area (exclusive of existing rights-of-way), or 2.0 acres of neighborhood parks. Phase 1 would include the dedication (the general public would have access to the park during daytime hours) and improvement of a neighborhood park with a minimum area of 1.3 acre and a minimum dimension of 150 feet. Phase 2 would include the dedication and improvement of a neighborhood park with a minimum area of 1.02 acre and a minimum dimension of 150 feet.

Finding:

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

Facts in Support of Finding:

B-1. Overall site topography can be characterized as relatively flat.

B-2. There are no known faults on or immediately adjacent to the Property.

B-3. There are no geologic or physical constraints that would prevent the development of the site at the density proposed, or require variances or deviations from the applicable City development standards.

Finding:

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

Facts in Support of Finding:

C-1. No drainages traverse the Property and no potential jurisdictional waters or wetlands areas are present on or immediately adjacent to the site.

C-2. No sensitive habitats, plant species or animal species were observed onsite during the preparation of the EIR for the Project.

C-3. The DEIR prepared for the Project concluded that without mitigation one impact could be potentially significant: the Project would remove vegetation that could be used for

nesting by migratory birds. However, the DEIR concluded that the impact would be less than significant after mitigation.

C-4. On the basis of the entire environmental review record, the proposed Project will have a less than significant impact upon the environment with the incorporation of mitigation measures, with the exception of the following significant and unavoidable impacts:

B. Air Quality – Short term construction-related emission for Phases 1 and 2 of the project

C. Land Use - A determination of inconsistency with the John Wayne Airport Environs Land Use Plan (AELUP) by the Airport Land Use Commission (ALUC)

D. Noise - Construction-related noise impacts for Phase 1 and Phase 2 of the project

C-5. The mitigation measures identified in the DEIR are feasible and reduce potential environmental impacts to a less than significant level, with the exception of those impacts identified above. The mitigation measures would be applied to the Project through the Mitigation, Monitoring and Reporting Program.

Finding:

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

Facts in Support of Finding:

D-1. There are no known faults on or immediately adjacent to the Property.

D-2. The Project is conditioned to comply with all Building, Public Works and Fire Codes, which are in place to prevent serious public health problems. Public improvements will be required of the Applicant per Section 19.28.010 of the Municipal Code and Section 66411 of the Subdivision Map Act.

D-3. The Project's Phase 1 would generate an increase in Green House Gas ("GHG") emissions onsite but would not exceed the proposed South Coast Air Quality Management District per capita significance thresholds. At full build-out the Project would result in a net decrease in GHG emissions.

D-4. Mitigation measures identified in the DEIR reduce potential impacts associated with hazards and hazardous materials to less than significant. No significant unavoidable adverse impacts relating to hazards were identified in the DEIR.

D-5. While the north and northwest portions of the Property have soil and groundwater impacted by volatile organic compounds, the areas have been the primary focus of historical and ongoing soil and groundwater investigation and remediation activities conducted under the oversight of the Regional Water Quality Control Board.

D-6. No residential uses are allowed without first providing regulatory signoff from RWQB. Additionally residential uses will be setback a minimum of 200 feet from any hazardous materials as stated in Mitigation Measure 7-2 of the DEIR.

Finding:

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

Facts in Support of Finding:

E-1. The Property contains existing public utilities easements that serve existing development that will be removed over time. The design of the subdivision and the type of improvements proposed present no conflict with these easements. Existing easements will remain in their current designated locations or will be modified to be substantially equivalent to ones previously acquired by the public.

Finding:

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

Facts in Support of Finding:

F-1. The Property does not contain prime farmland, unique farmland, or farmland of statewide importance and no portion of the Project site is covered by a Williamson Act contract.

Finding:

G. That, in the case of a "land project" as defined in Section 11000.5 of the California Business and Professions Code: (1) There is an adopted specific plan for the area to be included within the land project; and (2) the decision making body finds that the proposed land project is consistent with the specific plan for the area.

Facts in Support of Finding:

G-1. The Property is not located in a specific plan area.

Finding:

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

Facts in Support of Finding:

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

Finding*:*

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

Facts in Support of Finding:

I-1. Of the total 1,244 residential units in the Project, between 102 and up to 369 units would be set aside for affordable housing depending upon the target income group being served. Affordable housing obligations will be met through the construction of on-site affordable housing consistent with an approved Affordable Housing Implementation Plan (AHIP).

Finding:

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

Facts in Support of Finding:

J-1. There is adequate sewer system capacity to serve the requirements of the proposed Project. The Project's PCDP and phasing plan ensure adequate utility infrastructure is provided per phase. The proposed Project would be able to tie into the existing sewer system without adversely affecting the system or causing any water quality affects or violating existing requirements prescribed by the Regional Water Quality Control Board. Wastewater from the project will be generated by residential and retail commercial uses and at full buildout; there will be a significant reduction in wastewater with the elimination of the existing semi-conductor manufacturing plant.

Finding:

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

Facts in Support of Finding:

K-1. The Project site is not located within the Coastal Zone.

EXHIBIT G
CONDITIONS OF APPROVAL

TENTATIVE TRACT MAP NO. NT2012-002

Note:

The following is a list of acronyms used in the Conditions of Approval for Tentative Tract Map No. 17438:

- *DA – Development Agreement No. DA2012-003.*
- *EIR No.* ER2012-001- *Uptown Newport Environmental Impact Report, State Clearinghouse Number 2010051094.*
- *MM – Mitigation Measure, project specific measures recommended by the DEIR and adopted as part of the approval of the project to reduce potentially significant environmental effects to a level considered less than significant and stated at the end of a condition as a reference between the condition and a mitigation measure recommended in the DEIR.*
- *MMRP – Mitigation Monitoring and Reporting Program, the monitoring and reporting procedures for the Mitigation Measures identified in the EIR and adopted as part of project approval pursuant to Section 21081.6(a)(1) of the California Environmental Quality Act.*
- *NBMC – Newport Beach Municipal Code.*

General Conditions

1. City Council approval of Tentative Tract Map No. 17438 is in conjunction with its approval of Development Agreement No. DA2012-003 for the same project (the "DA"). Pursuant to Sections 2.2 and 2.4 of the DA and the terms used therein that are defined in Section 1 of the DA, the "Term" of the DA becomes effective on the "Effective Date" of the DA. Tentative Tract Map No. 17438 and the DA comprise parts of a single integrated action and are not severable from one another. Accordingly, notwithstanding any other provision set forth in Tentative Tract Map No. 17438 to the contrary, in no event shall the owner, lessee, or other occupant or any person or entity holding any interest in the subject property acquire any right to develop or use the subject property as authorized or provided herein unless and until the Effective Date in the DA occurs and the Term of the DA commences. In the event the DA is terminated for any reason before the Effective Date of the DA occurs, including without limitation as a result of the mutual termination of the DA by the Parties thereto, the occurrence of an uncured material default under the DA by either Party and a termination of the DA by the non-defaulting Party, or the failure of the Effective Date of the DA to occur prior to the deadline set forth in the DA, as said deadline may be extended by mutual agreement of the Parties to the DA, then in such event Tentative Tract Map No. 17438 automatically shall become null and void and of no further force or effect, without any need or requirement for the City to schedule any public hearings or take any affirmative action or actions to revoke or rescind the same.

2. Notwithstanding any provision expressly or impliedly to the contrary, in the event of any conflict or inconsistency between any of the terms or conditions of Tentative Tract

Map No. 17438 and the DA, the terms and conditions of the DA shall control. In the event of any conflict or inconsistency between or among the conditions of Tentative Tract Map No. 17438, the Director of Community Development shall determine the controlling condition.

3. The applicant shall comply with all applicable provisions of NBMC Chapter 19.40, General Dedication Requirements.

4. The applicant shall comply with all applicable provisions of NBMC Chapter 15.38, Fair Share Traffic Contribution Ordinance, and Chapter 15.42, Major Thoroughfare and Bridge Fee Program. Fair Share and Transportation Corridor Agency fees shall be paid prior to the issuance of building permits.

5. The applicant shall comply with all applicable provisions of NBMC Chapter 15.40, Traffic Phasing Ordinance (TPO).

6. Tentative Tract Map No. 17438 shall expire 24 months from the date of approval pursuant to NBMC Chapter 19.16.010, unless an extension is otherwise granted by the City for the period of time provided for in the Development Agreement pursuant to the provisions of California Government Code Section 66452.6(a).

7. The development of the project is subject to compliance with all applicable submittals approved by the City and all applicable City ordinances, policies, and standards, subject to modification by these Conditions of Approval.

8. Development of the project shall comply with the requirements of the Uptown Newport Planned Community Development Plan and be in substantial conformance with the approved Tentative Tract Map No. 17438 dated November 28, 2012, except as modified by applicable conditions of approval and the DA.

9. To the fullest extent permitted by law, the applicant shall indemnify, defend and hold harmless the 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 the City's approval of the Uptown Newport project including, but not limited to, the approval of the Tentative Tract Map No.17438, Uptown Newport Planned Community Development Plan No. PC 2012-001, Planned Community Development Plan Amendment No. PD2011-003, Traffic Study No. TS2012-005, Affordable Housing Implementation Plan No. AH2012-001, Development Agreement No. DA2012-003, and/or the City's related California Environmental Quality Act determinations, the certification of the Final Environmental Impact Report No. ER2012-001 (SCH#2010051094), and the adoption of a Mitigation Monitoring and Reporting Program, and/or statement of overriding considerations adopted for the project. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other

expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand, from time to time, any amount owed to the City pursuant to the indemnification requirements prescribed in this condition. The provisions herein shall not apply to the extent such damage, liability or claim is caused by the willful misconduct or sole active negligence of the City or the City's officers, officials, agents, employees, or representatives.

10. The applicant shall comply with all project design features, mitigation measures, and standard conditions contained within the approved MMRP of EIR SCH No. 2010051094 for the project.

11. The applicant shall have the sole obligation to fund or arrange funding for the planning, design, engineering, construction, supervision, inspection and all other costs associated with the site development, including construction of the two neighborhood parks, paseos, pedestrian sidewalks, Class 1 bike trail along the project frontage along Jamboree Road, and all public and private infrastructure, as further described in subsequent conditions of approval, including but not limited to; streets, landscaped parkways, water and sewer facilities, storm drains, and dry utilities to serve residential and commercial development as identified in the Uptown Newport Planned Community Development Plan.

12. New development within the project site shall be subject to the state-mandated school fees and Santa Ana Unified School District Measure G and C general obligation taxes based upon assessed value of the residential and commercial uses.

13. The project shall provide parkland and in-lieu fees in an amount consistent with General Plan Policy LU6.15.13 and the Newport Beach Subdivision Code.

    a. In accordance with Subdivision Code, the total Parkland Dedication Requirement is 13.62 acres. This total acreage is based upon the parkland dedication standard of 5 acres per 1,000 people established by Section 19.52.040, a total of 1,244 units authorized, and a 2010 Census population standard of 2.19 persons per household.

    b. A total of 2.05 acres of parkland shall be dedicated to the City consistent with General Plan Policy LU6.15.13. The timing of dedication shall be consistent with Section 19.52.090 of the Subdivision Code.

    c. The proposed public park in Phase 1 shall be included in the first final map in Phase 1 and the proposed public park in Phase 2 shall be included in the first final map in Phase 2.

d. The residual parkland dedication requirement of 11.57 acres shall be satisfied by the payment of fees in-lieu of dedication in accordance with the Development Agreement.

14. The project shall provide parkland and in-lieu fees in an amount consistent with the General Plan Policy LU6.15.13 and Newport Beach Subdivision Code as identified in the DA.

15. Section 3.3 and Section 6.3 of the Phase Plan shall be amended to include the following provisions: The existing emergency vehicle access to and from the Koll Center property in Phase 1 as depicted in Figure 3-5 and Figure 6-5 shall be preserved in perpetuity. This connection through Koll Center Newport to Von Karman Avenue may be expanded to allow for public access for pedestrians, bicycles, and vehicles in the future.

16. In accordance with California Fire Code Section 2704.1.1 Amendment, no person shall use or store any amount of extremely hazardous substances equal to or greater that the disclosable amounts as listed in Appendix A, part 355, Title 40 of the Code of Federal Regulation in a residential zone or adjacent to property developed with residential uses.

17. In accordance with California Fire Code Section 903.2.8, an automatic sprinkler system installed in accordance with California Fire Code Section 903.3 shall be provided throughout all buildings.

18. In accordance with California Fire Code Section 907.2.9, a manual fire alarm system that activates the occupant notification system shall be provided when any dwelling unit or sleeping unit is located three or more stories above the lowest level of exit discharge, or the building contains more than 16 dwelling or sleeping units.

19. In accordance with California Fire Code Section 906.1, 2A 10BC type fire extinguishers shall be required and installed on each floor or level. Travel distance to an extinguisher shall not exceed 75 feet from any point in a building. Parking garages shall be required to have a 2A 20BC located every 50 feet.

20. In accordance with California Fire Code Section 907.2.11.2, smoke alarms shall be installed and maintained on the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms, in each room used for sleeping purposes, and in each story within a dwelling unit. The smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. Smoke alarms shall receive their primary power from the building wiring and shall be equipped with a battery backup.

21. The applicant shall provide required fire flow in accordance with Newport Beach Fire Department Guideline B.01 “Determination of Required Fire Flow”.

22. Fire hydrants shall be provided, located and, installed as per California Fire Code and Newport Beach Fire Department Guideline F.04.

23. Fire apparatus access roads shall be provided as per Newport Beach Fire Department Guideline C.01. The fire apparatus road shall extend to within 150 feet of all development, facilities, and all portions of the exterior walls of the first story of the building. Minimum width of a fire access roadway shall be 20 feet, no vehicle parking allowed. The width shall be increased to 26 feet within 30 feet of a hydrant, no vehicle parking allowed. Parking on one side is permitted on 28-foot wide streets. Parking on two sides permitted on 36-foot wide streets. No parking is permitted on streets narrower than 28 feet in width. Access roads shall have an unobstructed vertical clearance of not less than 13 feet 6 inches.

24. The inside turning radius for an access road shall be 20 feet or greater. The outside turning radius shall be a minimum of 40 feet (without parking.) Cul-de-sacs with center obstruction shall require a larger turning radius as approved by the Newport Beach Fire Department.

25. Fire lane signage shall be provided as per Newport Beach Fire Department Guideline C-02.

26. In accordance with California Fire Code Section 510.1 Amendment, emergency responder radio coverage shall be provided in buildings or structures that has more than three stories above grade plane or any building or structure, regardless of the number of stories, in which any single floor space exceeds 45,000 square feet, or any building or structure containing a subterranean space of 250 square feet or more, or any building or structure deemed likely to have diminished in-building communications. The emergency responder radio coverage shall comply with the Newport Beach Fire Department Guideline D.05 “Public Safety Radio System Coverage”.

27. In accordance with California Fire Code Section 905.3, standpipes shall be provided to all buildings where the floor level of the highest story is located more than 30 feet above the lowest level of Fire Department vehicle access, or buildings where the floor level of the lowest story is located more than 30 feet below the highest level of Fire Department vehicle access, or building that are two or more stories below the highest level of Fire Department vehicle access.

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

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

30. In case of damage done to public improvements surrounding the development site by the private construction, said damage shall be repaired and/or additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.

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

32. All existing private, non-standard improvements within the public right-of-way and/or extensions of private, non-standard improvements into the public right-of-way fronting the development site shall be removed unless approved in conjunction with an encroachment permit or encroachment agreement.

33. Internal roadways shall comply with Council Policy L-4:

    a. 36 feet wide curb to curb with Parking on both sides

    b. 32 feet wide curb to curb without Parking or parking on one side

34. Lots E, F, G, H, I, J, K, L, U and R shall include a pedestrian and bicycle easement. The existing meandering sidewalk within the easement area shall be reconstructed consistent with City standard designs to provide a minimum 12-foot wide public sidewalk and bike path.

35. Any modifications to the easterly half of Jamboree Road, including but not limited to striping and median reconstruction requires approval from the City of Irvine.

36. Uptown Newport Sewer connections to private sewer located on Koll Site:

    a. If there are existing easements and rights established between the two properties, please note on the plans the easement recordation number for reference.

    b. Otherwise, Uptown Newport project is required to obtain a letter from Koll Site authorizing the new connections to the private sewer.

37. The applicant shall obtain a Private Sewer Easement from adjacent property for the proposed sewer main which discharges towards Birch Street. If water or other utilities are proposed to be routed through this same area, the applicant shall obtain a Private Utilities Easement, instead.

38. Two new City of Newport Beach manholes are required on Birch Street for the proposed sewer main if constructed:

    a. One manhole per STD-401-L to be installed adjacent to the property line.

    b. One manhole per STD-401-L to be installed on the main where it tie-in with the existing City sewer line in Birch Street.

<u>Prior to Final Map Approval</u>

Note: Multiple final Tract maps may be prepared by the applicant and submitted for approval by the City.

39. Prior to Final Map approval the applicant shall obtain written verification of the availability of sufficient water supply from the Irvine Ranch Water District consistent with the requirements of Section 66473.7 (b) of the Subdivision Map Act.

40. Prior to Final Map approval, the applicant shall submit for review by the Director of Community Development and shall obtain City Attorney approval of Covenants, Conditions and Restrictions (CC&Rs) prepared by an authorized professional and which generally provide for the following:

    a. Creation of a Master Association, and/or Sub-associations, for the purpose of providing for control over and maintenance of the two neighborhood parks and common area improvements, which include, but are not limited, to the followings unless otherwise approved by the Director of Public Works: Jamboree Road parkway landscaping, internal project streets, sidewalks, neighborhood parks, common landscape areas and irrigation; paseos and parkways/greenbelts; community walls and fencing; slopes; sewer laterals, and water laterals.

    b. A statement that all internal streets, sidewalks, common landscape areas, paseos, parkways/greenbelts, walls and fencing within the the tract, sewer and water laterals, are private and shall be maintained by the Master Association, or Sub-Association(s) unless otherwise approved by the Director of Public Works.

    c. A statement that all homeowners and residents will be provided, upon purchase closing or signing of rental agreement, the information and requirements for water conservation pursuant to NBMC Chapter 14.16, Water Conservation and Supply Level Regulations.

    d. A statement that the Master Association shall be required to advise residents that complaints about offensive odors may be reported to the City using online tools on the City web site and/or to the South Coast Air Quality Management District at 1-800-CUT-SMOG (1-800-288-7664).

    e. A statement that all appropriate written notifications shall be provided to all initial and subsequent buyers, lessees, and renters within Uptown Newport project notifying them that the area is subject to noise from existing land uses, traffic on Jamboree Road, and construction of buildings within the project, and as a result residents and occupants of buildings may experience inconvenience, annoyance or discomfort arising from noise within the project.

    f. A statement that the neighborhood parks within Uptown Newport project shall have posted a notification to users regarding proximity to John Wayne Airport and related aircraft and noise.

    g. A statement that all appropriate written notifications shall be provided to all initial and subsequent buyers, lessees, and renters within Uptown Newport

project notifying them that the area is in the vicinity of John Wayne Airport and as a result residents and occupants of buildings may experience inconvenience, annoyance or discomfort arising from the noise resulting from aircraft operating at the airport.

h. Information to be provided to future residents that uses and structures are subject to the requirements of the approved Uptown Newport Planned Community Development Plan.

i. Lots O and M as shown on Tentative Tract Map 17438 shall be offered for dedication to the City of Newport Beach as a public park in perpetuity and maintained by a Master Association, a Sub-Association and/or other approved and appropriate agency, and that no structures, development or encroachment shall be permitted within the designated park area except as shown on the Final Map, approved Site Development Review, approved landscape and park improvement plans, or as otherwise approved by the City.

j. Provisions that following recordation of each Final Map, each Association formed for the subdivision shall submit to the Community Development Director a list of all current Officers of the Association.

k. A statement indicating that proposed amendments to the CC&Rs shall be submitted for review to the Community Development Director or designee, and shall be approved by the City Attorney prior to the amendments being valid.

l. A statement that the City has the right, but not the obligation, to enforce any of the provisions of the CC&Rs.

m. An agreement between the applicant and the Association that on an annual basis by June 1 of each year reports will be furnished to the Public Works Director in compliance with the reporting requirements of codes and ordinances adopted by the City with respect to the NPDES program.

41. Prior to any Final Map approval, the applicant shall reflect on the Final Map or prepare separate instruments to the satisfaction of the Public Works Director all public access easements, deed restrictions or other instruments including but not limited to those providing for permanent public access to the neighborhood parks, common open space areas, paseos, internal streets and walkways and those providing City access for maintenance of storm drains or any public infrastructure.

42. Prior to any Final Map approval, the applicant shall submit a park and open space management plan for approval by the Director of Community Development, for the long term funding and management of Lots E through BB on Tentative Tract Map 17438 that contain neighborhood parks, paseos, common open space areas, and streets within Uptown Newport Planned Community Development Plan. The park and open space management plan shall identify all entities responsible for ownership, management and maintenance of these areas and their credentials which qualify the

entity as capable of management and maintenance of these areas and able to implement all applicable mitigation measures identified in the MMRP. The park and open space management plan shall specify the timeline for commencement of implementation of the management plan by the management entity for these areas. Approval by the City of the long term management plan is a condition precedent to recordation of a final map. The park and open space management plan shall include but not be limited to identification of funding, management responsibilities, and maintenance activities in perpetuity for the neighborhood parks, paseos, common open space areas, and streets within Uptown Newport Planned Community Development Plan.

43. Prior to any Final Map approval, the applicant shall pay all applicable development and Final Map fees associated with but not limited to Community Development Department, Public Works Department, and City Attorney review of CC&Rs, map and plan check, hydrology review, geotechnical and soils reports review, park improvement plan review, grading plan review, traffic and transportation, and construction inspection.

44. Prior to any Final Map approval, the applicant shall submit to the Community Development Director for review and shall obtain City Attorney approval of, a buyer's notification disclosure form, to be given to all buyers and residents upon purchase closing, which indicates the location, if applicable, notification of potential exposure to soil and groundwater contamination, nuisances, noise, risk of upset and hazards, and/or objectionable odors of continued TowerJazz operation.

45. Prior to any Final Map approval, the applicant shall provide separate labor and material improvement bonds or irrevocable letters of credit in a form and amount acceptable to the Director of Public Works for 100% of estimated improvement cost, as prepared by a Registered Civil Engineer and approved by the Director of Public Works, for each of the following, but not limited to, public and private improvements separately:

    Street improvements, monuments, sidewalks, striping and signage, neighborhood park improvements, street lights, sewer systems, water systems, storm drain and water quality management systems, erosion control, landscaping and irrigation in public rights of way, common open space areas accessible by the public, and off-site improvements required as part of the project.

<u>Prior to Recordation of Final Map</u>

Note: Multiple Final Maps may be prepared by the applicant and submitted for approval by the City.

46. All Tract Maps shall be recorded. All Maps shall be prepared on the California coordinate system (NAD88). Prior to recordation of the Map, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach a digital-graphic file of said map in a manner described in Section 7-9-330 and 7-9-337

of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. **The Map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.**

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

48. Prior to recordation of any Final Map, the applicant shall submit for review and shall obtain the Public Works Director approval of applicable utility maintenance easements for water, electric, telephone as required for the Final Map to the benefits of utility companies.

49. Prior to recordation of the Final Map, the applicant shall show all easements proposed to be granted to the City of Newport Beach (ie. over roads for utilities, ingress and egress, pedestrian easements adjacent to internal streets)

50. Prior to recordation of the Final Map of any portion of the project site, the applicant shall provide an irrevocable offer of dedication to the City for the following as identified on Tentative Tract Map No. 17438:

    a. Neighborhood parks
    b. Easements for public access to common open space areas, public paseos, walkways and internal streets.

<u>Prior to Issuance of Demolition or Grading Permits</u>

51. Prior to the issuance of grading permits, the applicant shall pay any unpaid City administrative costs and unpaid costs incurred by City retained consultants associated with the processing of this application to the City.

52. Prior to the issuance of grading permits the applicant shall pay all applicable City fees which may include but are not limited to map and plan check, water connection, sewer connection, hydrology review, geotechnical and soils reports review, grading plan review, traffic and transportation, and construction inspection.

53. Prior to the issuance of grading permits the applicant shall demonstrate to the satisfaction of the Director of Public Works that all existing survey monuments are located in the field in compliance with AB 1414 for restoration by the Registered Civil Engineer or Land Surveyor in accordance with Section 8771 of the Business and Professions Code.

54. Prior to the issuance of grading permits the limits of grading shown on Tentative Tract Map No. 17438 must be verified by a Geotechnical Engineer. Grading shall not be permitted to extend beyond the limits as indicated on Tentative Tract Map No. 17438 without approval of the Community Development Director.

55. Prior to issuance of grading permits a list of "good housekeeping" practices, consistent with the approved Water Quality Management Plan, shall be submitted by the contractor for incorporation into the long-term post-construction operation of the site to minimize the likelihood that pollutants would be used, stored, or spilled on the site that could impair water quality. The WQMP shall list and describe all structural and non-structural BMPs. In addition the WQMP must also identify the entity responsible for the long term inspection, maintenance, and funding for all structural (and if applicable treatment-control) BMPs.

56. Prior to issuance of grading permits, the applicant shall submit documentation in a form and of a content determined by the Community Development Director that any hazardous contaminated soils or other hazardous materials removed from the project site shall be transported only by a Licensed Hazardous Waste Hauler to approved hazardous materials disposal site, who shall be in compliance with all applicable State and federal requirements, including the U.S. Department of Transportation regulations under 49 CFR (Hazardous Materials Transportation Act), California Department of Transportation (Caltrans) standards, Occupational Safety and Health Administration (OSHA) standards, and under 40 CFR 263 (Subtitle C of Resource Conservation and Recovery Act). The Director of Community Development shall verify that only Licensed Haulers who are operating in compliance with regulatory requirements are used to haul hazardous materials.

57. Prior to the issuance of any grading permits, the Community Development Director shall review the grading plan for conformance with the grading shown on the approved tentative map. The grading plans shall be accompanied by geological and soils engineering reports and shall incorporate all information as required by the City. Grading plans shall indicate all areas of grading, including remedial grading, and shall extend to the limits outside of the boundaries of an immediate area of development as required by the City. Grading shall be permitted within and outside of an area of immediate development, as approved by the City, for the grading of public roads, highways, park facilities, infrastructure, and other development-related improvements. Remedial grading for development shall be permitted within and outside of an immediate development area, as approved by the City, to adequately address geotechnical or soils conditions. Grading plans shall provide for temporary erosion control on all graded sites scheduled to remain unimproved for more than 30 days.

58. If the applicant submits a grading plan that deviates from the grading shown on the approved tentative map (specifically with regard to slope heights, slope ratios, pad elevations or configurations), as determined by the Community Development Director, the Community Development Director shall review the plan for a finding of substantial conformance. If the Community Development Director finds the plan not to be in substantial conformance, the applicant shall process a revised tentative map or, if a

final map has been recorded, the applicant shall process a new tentative map. A determination of CEQA compliance shall also be required.

59. Prior to the issuance of the first grading permit and/or action that would permit project site disturbance, the applicant shall provide evidence to the City of Newport Beach Police Department that a construction security service or equivalent service shall be established at the construction site along with other measures, as identified by the Police and the Public Works Departments, to be instituted during the grading and construction phase of the project.

60. Prior to issuance of applicable grading permits the applicant shall submit for review and approval by the Municipal Operations Department Director, a 1"=200' Utilities Master Plan prepared by a Registered Civil Engineer consistent with the Uptown Newport Master Development Plans showing all existing and proposed public and private sewer pump stations, force mains, laterals, mains and manholes, domestic water service facilities including gate and butterfly valves, pressure reducing stations, pressure zones, fire hydrants, meters, storm drain facilities to include storm drain mains, laterals, manholes, catch basins, inlets, detention and retention basins, water quality basins and energy dissipaters, outlets, pipe sizes, pipe types fiber optics, electricity, gas and telephone/telecommunications and any other related facilities as identified by the Municipal Operations Department Director. The Master Utilities Plan shall provide for the following:

    a. All public utilities shall be constructed within dedicated public rights of way and/or easements or as approved by the Public Works Director.

    b. The water quality infiltration basins within the neighborhood parks on Lots O and M shall be constructed, offered for dedication to the City as part of the neighborhood parks, and upon acceptance by the City, and shall be privately maintained by the entity identified in the open space management plan.

61. Prior to issuance of applicable grading permits, the applicant shall submit a construction management and delivery plan for each phase of construction to be reviewed and approved by the Public Works Director. Upon approval of the plan, the applicant shall be responsible for implementing and complying with the stipulations set forth in the approved plan. The construction management plan shall include, at a minimum, the following:

    a. Construction phasing plan.

    b. Parking plan for construction vehicles and plan for equipment storage.

    c. Construction area traffic management plan for the project for the issuance of a haul route permit. The traffic management plan shall be designed by a registered Traffic Engineer. The traffic management plan shall identify construction phasing and address traffic control for any temporary street closures, detours, or other disruptions to traffic circulation and public transit routes. The traffic management

plan shall identify the routes that construction vehicles shall use to access the site, the hours of construction traffic, traffic controls and detours, vehicle staging areas, and parking areas for the project. Advanced written notice of temporary traffic disruptions shall be provided to emergency service providers and the affected area's businesses and the general public. This notice shall be provided at least two weeks prior to disruptions. Haul operations shall be monitored by the Department of Public Works, and additional restrictions may be applied if traffic congestion problems arise. A staging area shall be designated on-site for construction equipment and supplies to be stored during construction.

d. A construction and equipment staging area shall be identified within the project and shall be properly maintained and/or screened to minimize potential unsightly conditions.

e. A construction fencing plan to include installation of a six-foot-high screen and security fence to be placed around the construction site during construction.

f. A 24 hour hotline number shall be provided and conspicuously posted at all construction sites for complaints or questions regarding construction activities.

g. Construction mitigation measures as required by the MMRP.

h. A statement that all grading and construction shall comply with NBMC Section 10.28.040 (Noise Ordinance).

i. A statement requiring construction contractors to sweep paved roads within and adjacent to the project site if visible soil materials are carried to the streets. Street sweepers or roadway washing trucks shall comply with SCAQMD Rule 1186 and shall use reclaimed water if available.

l. A statement to be provided to all construction contractors that requires all construction contractors to comply with South Coast Air Quality Management District's (SCAQMD's) Rules 402 and 403 in order to minimize short-term emissions of dust and particulates. SCAQMD Rule 402 requires that air pollutant emissions not be a nuisance off site. SCAQMD Rule 403 requires that fugitive dust be controlled with Best Available Control Measures so that the presence of such dust does not remain visible in the atmosphere beyond the property line of the emission source. This requirement shall be included as notes on the contractor specifications. Table 1 of Rule 403 lists the Best Available Control Measures that are applicable to all construction projects. The measures include, but are not limited to, the following:

i. *Clearing and grubbing:* Apply water in sufficient quantity to prevent generation of dust plumes.

ii. *Cut and fill:* Pre-water soils prior to cut and fill activities and stabilize soil during and after cut and fill activities.

iii. *Earth-moving activities*: Pre-apply water to depth of proposed cuts; re-apply water as necessary to maintain soils in a damp condition and to ensure that visible emissions do not exceed 100 feet in any direction; and stabilize soils once earth-moving activities are complete.

iv. *Importing/exporting of bulk materials:* Stabilize material while loading to reduce fugitive dust emissions; maintain at least six inches of freeboard on haul vehicles; and stabilize material while transporting to reduce fugitive dust emissions.

v. *Stockpiles/bulk material handling:* Stabilize stockpiled materials; stockpiles within 100 yards of off-site occupied buildings must not be greater than 8 feet in height, must have a road bladed to the top of the pile to allow water truck access, or must have an operational water irrigation system that is capable of complete stockpile coverage.

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

63. Prior to issuance of grading permits, the applicant shall prepare and submit a Final Water Quality Management Plan (WQMP) for the proposed project, subject to the approval of the Director of Community Development and Director of Public Works. The WQMP shall provide appropriate Best Management Practices (BMPs) to ensure that no violations of water quality standards or waste discharge requirements occur. The WQMP must also identify the entity responsible for the long-term inspection, maintenance, and funding for all structural (and if applicable Treatment Control) BMPs.

<u>Prior to Issuance of Demolition and Building Permits</u>

64. Prior to the issuance of building permits within each development phase of the project, the applicant shall demonstrate to the satisfaction of the Director of Community Development that the Santa Ana Regional Water Quality Control Board has issued a "No Further Action" (NFA) declaration or a Letter of Allowance for residential construction for the portion of the site being developed.

65. Prior to the issuance of a building permit for the construction of residential and commercial uses, the applicant shall pay the required Property Excise Tax to the City of Newport Beach, as set forth in its Municipal Code (§3.12 et seq.) for public improvements and facilities associated with the City of Newport Beach Fire

Department, the City of Newport Beach Public Library, and City of Newport Beach public parks.

66. Prior to the issuance of building permits the applicant shall obtain approval of a plan stating that water for firefighting purposes and an all weather fire access road shall be in place before any combustible materials are placed on site. Fire access roads shall be designed to support the 75,000 pound load of fire apparatus for year round weather conditions.

67. Prior to the issuance of any residential building permit, the applicant shall submit for review and shall obtain the approval of the Community Development Director, plans indicating the location and type of unit address lighting to be installed.

68. Prior to the issuance of building permits, the applicant shall pay applicable fees to the Santa Ana Unified School District Pursuant to Section 65995 of the *California Government Code* Payment of the adopted fees would provide full and complete mitigation of school impacts.

69. Prior to issuance of any demolition permit, testing for all structures for presence of lead-based paint (LBP) and/or asbestos-containing materials (ACMs) shall be completed. The Asbestos-Abatement Contractor shall comply with notification and asbestos removal procedures outlined in the South Coast Air Quality Management District's (SCAQMD's) Rule 1403 to reduce asbestos-related air quality health risks. SCAQMD Rule 1403 applies to any demolition or renovation activity and the associated disturbance of ACMs. This requirement shall be included on the contractors' specifications and verified by the Director of Community Development. All demolition activities that may expose construction workers and/or the public to ACMs and/or LBP shall be conducted in accordance with applicable regulations, including, but not limited to Title 40 of the *Code of Federal Regulations* (CFR), Subchapter R (Toxic Substances Control Act); CalOSHA regulations (Title 8 of the *California Code of Regulations* §1529 [Asbestos] and §1532.1 [Lead]); and SCAQMD Rule 1403 (Asbestos Emissions from Demolition/Renovation Activities). The requirement to adhere to all applicable regulations shall be included in the contractor specifications, and such inclusion shall be verified by the Community Development Director prior to issuance of a demolition permit.

70. Prior to issuance of applicable building permits, the applicant shall submit to the Director of Community Development for review and approval, architectural plans and an accompanying noise study that demonstrates that interior noise levels in the habitable rooms of residential units due to exterior transportation noise sources would be 45 dBA CNEL or less. Where closed windows are required to achieve the 45 dBA CNEL limit, project plans and specifications shall include ventilation as required by the California Building Code.

71. Prior to issuance of building permits for Phase 1, a detailed acoustical study based on architectural plans shall be prepared by a qualified acoustical consultant and

submitted to the Community Development Department for review and approval. The study shall demonstrate that all residential units would meet the 65 dBA CNEL exterior noise standard for all patios, balconies, and common outdoor living areas (playgrounds, parks, and swimming pools). The necessary noise reduction may be achieved by implementing noise control measures at the TowerJazz facility and at the receiver locations, as described in detail in the Technical Memorandum provided by Wilson Ihrig and Associates (Appendix J of the FEIR).

72. Prior to issuance of building permits for Phase 2, a detailed acoustical study based on architectural plans shall be prepared by a qualified acoustical consultant and submitted to the Community Development Department for review and approval. The study shall demonstrate that all residential units would meet the 65 dBA CNEL exterior noise standard for all patios, balconies, and common outdoor living areas (playgrounds, parks, and swimming pools). The necessary noise reduction may be achieved by implementing noise control measures at the receiver locations. The final grading and building plans shall incorporate the require noise barriers (patio enclosure, wall, berm, or combination wall/berm), and the property owner/developer shall install these barriers and enclosures.

73. Prior to issuance of applicable building permits, the applicant shall submit for review and approval by the City of Newport Beach Police Department, development plans for the incorporation of defensible space concepts to reduce demands on police services. Public safety planning recommendations shall be incorporated into the project plans. The applicant shall prepare a list of project features and design components that demonstrate responsiveness to defensible space design concepts.

74. Prior to the issuance of building permits plans shall be submitted to the satisfaction of the Community Development Director to include requirements that all contractor specifications include a note that architectural coatings shall be selected so that the VOC content of the coatings is compliant with SCAQMD Rule 1113.

75. Prior to the issuance of building permits the applicant shall submit for review and approval by the Community Development Director building plans designed to meet or exceed all State Energy Insulation Standards and City of Newport Beach codes in effect at the time of application for building permits. Commonly referred to as Title 24, these standards are updated periodically to allow consideration and possible incorporation of new energy efficiency technologies and methods. Title 24 covers the use of energy-efficient building standards, including ventilation; insulation; construction; and the use of energy-saving appliances, conditioning systems, water heating, and lighting. Plans submitted for building permits shall include written notes or calculations demonstrating compliance with energy standards.

76. Prior to the issuance of building permits for any residential, commercial, or park and recreation use, the applicant shall provide evidence satisfactory to the Fire Department that adequate permanent or temporary fire protection facilities are in place on the job site and are tested prior to placing any combustible material on the job site.

Prior to Issuance of Certificates of Use and Occupancy

77. Prior to the issuance of certificate of occupancy for any residential unit, the applicant shall demonstrate to the satisfaction of the City of Newport Beach Fire Department that the following disclosures and emergency notification procedures/programs are in place:

    a. Disclosure to potential Uptown Newport residences that hazardous chemicals are used and stored at the adjacent TowerJazz facility.

    b. Inclusion of property manager or authorized representative of the Uptown Newport residential community to the emergency notification list of the TowerJazz Business Emergency Plan.

    c. Program to inform/train the property manager or authorized representative of the Uptown Newport residential community in emergency response and evacuation procedures and to incorporate ongoing coordination between the Uptown Newport representative and TowerJazz to assure proper action in the event of an accident at the facility (shelter in place and/or evacuation routes).

    d. Update TowerJazz emergency alarm system to include concurrent notification to Uptown residents of chemical release. Provisions of the alarm system and emergency notification procedure shall be reviewed and approved by the City of Newport Beach Fire Department.

78. Prior to issuance of certificate of use and occupancy for any residential or commercial use within each phase, the applicant shall complete construction of all applicable roadways, parkways, median and median landscaping, sidewalks, intersection street lights, signage and utilities including but not limited to water, water quality management, sewer, storm drain, fiber optics, gas, electricity, telephone and telecommunications necessary to serve the use and the above facilities shall be operational to serve the use, the extent of which shall be determined by the Public Works and Municipal Operations Departments.

79. Prior to the issuance of a certificate of use and occupancy for residential dwelling units within Lots 1 and 15 of Phase 1, i) the improvements to the neighborhood park in Phase 1 (Lot O) shall be completed by the applicant, and ii) the CC&Rs, irrevocable offer of dedication, access easements, or other instruments providing for public access and use of the park facilities in perpetuity, and including the timing for opening of the park facilities for public use, shall be recorded to the satisfaction of the Community Development Director.

80. Prior to the issuance of a certificate of use and occupancy for residential dwelling units within Lots 12 and 14 of Phase 2, i) the improvements to the neighborhood park in Phase 2 (Lot M) shall be completed by the applicant, and ii) CC&Rs, irrevocable offer of dedication, access easements, or other instruments providing for public access and

use of the park facilities in perpetuity, and including the timing for opening of the park facilities for public use, shall be recorded to the satisfaction of the Director of Community Development.

81. Prior to the issuance of certificates of use and occupancy the applicant shall demonstrate to the satisfaction of the Public Works Director that applicable street name signs have been installed.

82. Prior to the issuance of a certificate of use and occupancy for any sales center or model home complex, the applicant shall complete construction of roadway improvements adequate to serve the sales center or model home complex to the satisfaction of the Director of Public Works and the Director of Community Development.

83. Prior to the issuance of the first certificate of use and occupancy for any residential, commercial, or retail use in the project all applicable master infrastructure improvements identified in the Final SWPPP and WQMP including debris basins, bio-swales, energy dissipaters, drainage pipes, water quality basins and other improvements shall be constructed and the applicant shall provide all necessary dedications, deed restrictions, covenants or other instruments for the long term maintenance of the facilities in a manner meeting the approval of the Director of Public Works.

84. Prior to the issuance of certificates of use and occupancy for any residential, commercial, or park and recreation use, fire hydrants shall be installed and tested.

Subdivision Improvement Plans

85. All subdivision improvement plans shall identify the use of best management practices (BMPs) for erosion control, sediment control, wind erosion control, storm water and non-storm water management, and waste management/pollution control. The BMP's identified for implementation shall demonstrate that potential effects on local site hydrology, runoff, and water quality remain in compliance with all required permits, City policies, and the Project's Water Quality Management Plan and Storm Water Pollution Prevention Plan.

86. The applicant shall design and/or construct all required onsite and offsite improvements within each development phase to permanent line and grade in accordance with NBMC Chapter 19.24 (Subdivision Design), with the exception of the deviations from this Chapter as described on TTM No. 17438 and approved by the Public Works Director.

87. The applicant shall design and/or construct all required onsite and offsite improvements within each development phase to permanent line and grade in accordance with NBMC Chapter 19.28 (Subdivision Improvement Requirements), with the exception of the deviations from this Chapter as described on TTM No. 17438 and approved by the Public Works Director.

88. The applicant shall design and/or construct all required onsite and offsite improvements witin each development phase to permanent line and grade in accordance with Chapter 19.32(Improvement Plans).

89. Approval of improvement plans shall in no way relieve the applicant or the applicant's engineer of responsibility for the design of the improvements or from any deficiencies resulting from the design, nor from compliance with any tentative map condition of approval.

90. The applicant shall design and/or construct all required onsite and offsite improvements witin each development phase to permanent line and grade in accordance with NBMC Chapter 19.36 (Completion of Improvements).

91. All new utility lines to serve the project shall be installed in underground trenches.

92. Intersection design shall be approved by the Director of Public Works and comply with City's sight distance standards.

93. All subdivision improvement plans shall include the use of light emitting diode (LED) lights for street lights.

94. All subdivision improvement plans shall conform to the following Fire Department requirements:

    a. Detailed plans of underground fire service mains shall be submitted to the Fire Department for approval prior to installation. These plans shall be a separate submittal to the Fire Department.

    b. Blue hydrant identification markers shall be placed with new hydrants.

    c. All weather access roads designed to support the 75,000 pound imposed load of fire apparatus for year round weather conditions shall be installed and made serviceable prior to and during time of construction for emergency personnel.

    d. Fire apparatus access roads designed to support the 75,000 pound imposed load of fire apparatus for year round weather conditions shall be maintained and identified as per Newport Beach Guideline C.01 Emergency Fire Access and C.02 Fire Lane Identification.

    e. All security gates shall have knox locks for after hours emergency personnel access to the construction site.

92. Prior to the release of financial security, the applicant shall demonstrate to the satisfaction of the Director of Public Works and the Director of Community Development that the Project CC&Rs have been approved by the City Attorney and the appropriate Association(s) has been formed.

93. Prior to the release of financial security, the applicant shall demonstrate to the satisfaction of the Director of Public Works that all permanent survey monuments damaged or destroyed during construction are restored.

94. Prior to the release of financial security, the applicant shall demonstrate to the satisfaction of the Director of Public Works that all street improvements damaged during construction have been repaired or replaced.

95. Prior to the release of financial security, the applicant shall submit as-built plans prepared by a Registered Civil Engineer depicting all street, traffic signal, sewer, water, and storm drain improvements and street signage and signage placements, traffic markings and painted curbing, and all other required improvements shall be completed to the satisfaction of the Director of Public Works.

96. Prior to the release of financial security, all domestic water and sewer systems shall be fully tested in the presence of a City staff representative, to verify system performance in accordance with design specifications.

97. Prior to the release of financial security the applicant shall execute an agreement to the satisfaction of the Director of Public Works and the Director of Community Development which designates the maintenance responsibilities for all landscaping and irrigation systems in the Project.

98. Prior to the release of financial security the applicant shall submit as-built plans at an appropriate scale to the Recreation and Senior Services Director showing as-built neighborhood park improvements and paseos.

99. Prior to the release of financial security the applicant shall demonstrate to the satisfaction of the Municipal Operations Department Director that all underground public utilities necessary for the construction of residential, park, retail or commercial uses within each development phase to proceed as indicated on Tentative Tract Map No. 17438 have been completed in accordance with the approved Utilities Master Plan and that the as-built plans for said improvements, prepared by a Registered Civic Engineer have been submitted and approved by the Director of the Municipal Operations Department.

100. Consistent with General Plan Policy LU6.15.16, the amount of any credit against in-lieu of parkland dedication fees for recreational facilities within Public Recreational Open Space Areas (e.g. paseos) shall be based on the degree to which recreational facilities complement existing or proposed public park facilities serving the subdivision, and the degree to which recreational facilities within the proposed paseos reduce the burden on existing or proposed public park facilities serving the subdivision. In no case shall the total credit exceed 30% of the Parkland Dedication Requirement.

EXHIBIT H
TENTATIVE TRACT MAP NO. NT2012-002

TENTATIVE TRACT MAP NO. 17438

IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA

FOR CONDOMINIUM PURPOSES

NOTES – EXISTING EASEMENTS

(9) A GRANT OF EASEMENT DATED NOVEMBER 2, 1972 EXECUTED BY AND BETWEEN COLLINS RADIO COMPANY, DON KOLL COMPANY, INC AND KOLL CENTER NEWPORT AS SET FORTH IN SECTION 1.04, 1.05 (A PORTION THEREOF), 1.06, 1.08, 1.10 AND 1.11 RECORDED NOVEMBER 6, 1972 IN BOOK 10413, PAGE 573 OF OFFICIAL RECORDS.

(12) AN EASEMENT FOR POLE LINES, CONDUITS AND INCIDENTAL PURPOSES IN FAVOR OF SOUTHERN CALIFORNIA EDISON RECORDED AS BOOK 11074, PAGE 182 OF OFFICIAL RECORDS.

(15) AN EASEMENT FOR POLE LINES, CONDUITS AND INCIDENTAL PURPOSES IN FAVOR OF SOUTHERN CALIFORNIA EDISON RECORDED AS BOOK 11077, PAGE 1117 OF OFFICIAL RECORDS.

(16) A NON–EXCLUSIVE EASEMENT FOR PURPOSES OF INGRESS AND EGRESS AS RESERVED IN THE DEED RECORDED MAY 7, 1974 IN BOOK 11137, PAGE 1008 OF OFFICIAL RECORDS OVER A PORTION OF SAID PARCEL B–1.

(18) AN EASEMENT FOR STORM DRAIN AND INCIDENTAL PURPOSES IN FAVOR OF KOLL CENTER NEWPORT, A LIMITED PARTNERSHIP, RECORDED AS BOOK 11137, PAGE 1020 OF OFFICIAL RECORDS.

(23) AN EASEMENT FOR ELECTRICAL SUPPLY AND COMMUNICATIONS SYSTEMS AND INCIDENTAL PURPOSES IN FAVOR OF SOUTHERN CALIFORNIA EDISON RECORDED MARCH 7, 1990 AS INSTRUMENT NO. 90–120897 OF OFFICIAL RECORDS.

(24) AN EASEMENT FOR COMMUNICATION FACILITIES AND INCIDENTAL PURPOSES IN FAVOR OF PACIFIC BELL RECORDED JULY 3, 1991 AS INSTRUMENT NO. 91–346219 OF OFFICIAL RECORDS.

(25) AN EASEMENT FOR MAINTENANCE AND OPERATION OF AN ELECTRICAL SUBSTATION AND INCIDENTAL PURPOSES IN FAVOR OF SOUTHERN CALIFORNIA EDISON RECORDED SEPTEMBER 3, 1992 AS INSTRUMENT NO. 92–594041 OF OFFICIAL RECORDS.

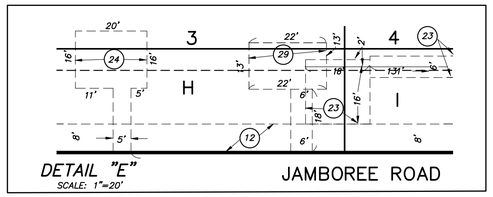
(29) AN EASEMENT FOR TELECOMMUNICATIONS FACILITIES AND INCIDENTAL PURPOSES IN FAVOR OF COXCOM INC., D/B/A COX COMMUNICATIONS ORANGE COUNTY, RECORDED NOVEMBER 15, 2005 AS INSTRUMENT NO. 2005000916240 OF OFFICIAL RECORDS.

(30) GRANT AND QUITCLAIM OF EASEMENTS FOR PASSAGE INCLUDING THE RIGHT TO MAINTAIN DRIVEWAYS, ROADWAYS, SIDEWALKS AND PASSAGEWAYS RECORDED MAY 26 1978 IN BOOK 12690 PAGE 854 OF OFFICIAL RECORDS.

ACREAGES

LOT NO.	AREA AC	LOT	AREA AC	LAND USE:
1	0.96	A	0.11	OPEN SPACE, PUBLIC ACCESS & UTILITY EASEMENT
2	0.67	B	0.04	LANDSCAPE & UTILITY EASEMENT
3	1.29	C	0.03	LANDSCAPE & UTILITY EASEMENT
4	1.03	D	0.03	LANDSCAPE & UTILITY EASEMENT
5	1.34	E	0.03	PUBLIC ACCESS, SIGNAGE, LANDSCAPE, UTILITY, PEDESTRIAN & BICYCLE EASEMENT
6	0.97	F	0.04	PUBLIC ACCESS, SIGNAGE, LANDSCAPE, UTILITY, PEDESTRIAN & BICYCLE EASEMENT
7	0.74	G	0.04	PUBLIC ACCESS, SIGNAGE, LANDSCAPE, UTILITY, PEDESTRIAN & BICYCLE EASEMENT
8	0.82	H	0.12	PUBLIC ACCESS, SIGNAGE, LANDSCAPE, UTILITY, PEDESTRIAN & BICYCLE EASEMENT
9	1.58	I	0.14	PUBLIC ACCESS, SIGNAGE, LANDSCAPE, UTILITY, PEDESTRIAN & BICYCLE EASEMENT
10	0.30	J	0.18	PUBLIC ACCESS, SIGNAGE, LANDSCAPE, UTILITY, PEDESTRIAN & BICYCLE EASEMENT
11	1.18	K	0.10	PUBLIC ACCESS, SIGNAGE, LANDSCAPE, UTILITY, PEDESTRIAN & BICYCLE EASEMENT
12	1.91	L	0.03	PUBLIC ACCESS, SIGNAGE, LANDSCAPE, UTILITY, PEDESTRIAN & BICYCLE EASEMENT
13	0.94	M	1.02	PARK
14	1.06	N	0.15	PUBLIC ACCESS, LANDSCAPE & UTILITY EASEMENT
15	1.54	O	1.03	PARK
16	0.78	P	0.10	OPEN SPACE, PUBLIC ACCESS & UTILITY EASEMENT
17	0.67	Q	1.76	ROAD WAY & UTILITY EASEMENT
		R	0.04	ROAD WAY, UTILITY, PEDESTRIAN & BICYCLE EASEMENT
		S	0.25	OPEN SPACE, PUBLIC ACCESS & UTILITY EASEMENT
		T	0.48	ROAD WAY & UTILITY EASEMENT
		U	0.04	ROAD WAY, UTILITY, LANDSCAPE, PEDESTRIAN & BICYCLE EASEMENT
		V	0.62	ROAD WAY & UTILITY EASEMENT
		W	0.03	OPEN SPACE & PUBLIC ACCESS
		X	0.04	OPEN SPACE & PUBLIC ACCESS
		Y	0.10	OPEN SPACE, PUBLIC ACCESS & UTILITY EASEMENT
		Z	0.36	OPEN SPACE, PUBLIC ACCESS & UTILITY EASEMENT
		AA	0.11	OPEN SPACE, PUBLIC ACCESS & UTILITY EASEMENT
		BB	0.23	PRIVATE ACCESS FOR LOT 11 & 12

GROSS AREA:	25.05 AC
LESS ROADWAY, PARKWAY, SIDEWALK:	4.54 AC
LESS PARK:	2.05 AC
NET DEVELOPABLE AREA:	18.46AC



GENERAL NOTES

1. GROSS AREA: 25.05 ACRES
2. THE PROJECT IS WITHIN THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S CLEAR ZONE Z, AREA OF 500–YEAR FLOOD ON THE FLOOD INSURANCE RATE MAP (FIRM), COMMUNITY PANELMAP NO. 0286, EFFECTIVE DATE: FEBRUARY 18, 2004.
3. THIS TENTATIVE MAP MAY HAVE MULTIPLE FINAL MAPS.
4. THOSE EXISTING EASEMENTS OR PORTIONS OF EXISTING EASEMENTS AFFECTING THE PROPERTY WITHIN THE BOUNDARY OF THIS MAP WILL BE QUITCLAIMED TO THE EXTENT NECESSARY TO ACCOMODATE THE FUTURE LAND USE.
5. ON SITE SEWER AND STORM DRAIN WILL BE PRIVATE.
6. PUBLIC ANGLED PARKING AND PEDESTRIAN ACCESS RIGHTS ALONG INTERNAL PRIVATE ROADWAYS WILL BE DOCUMENTED WITH THE CC&R'S.
7. ALL SIDEWALKS, ANGLED PARKING AND PARKWAY WILL BE PRIVATE WITH PRIVATE MAINTENANCE.
8. STREETS TO BE PRIVATE AND PRIVATELY MAINTAINED.

LEGAL DESCRIPTION

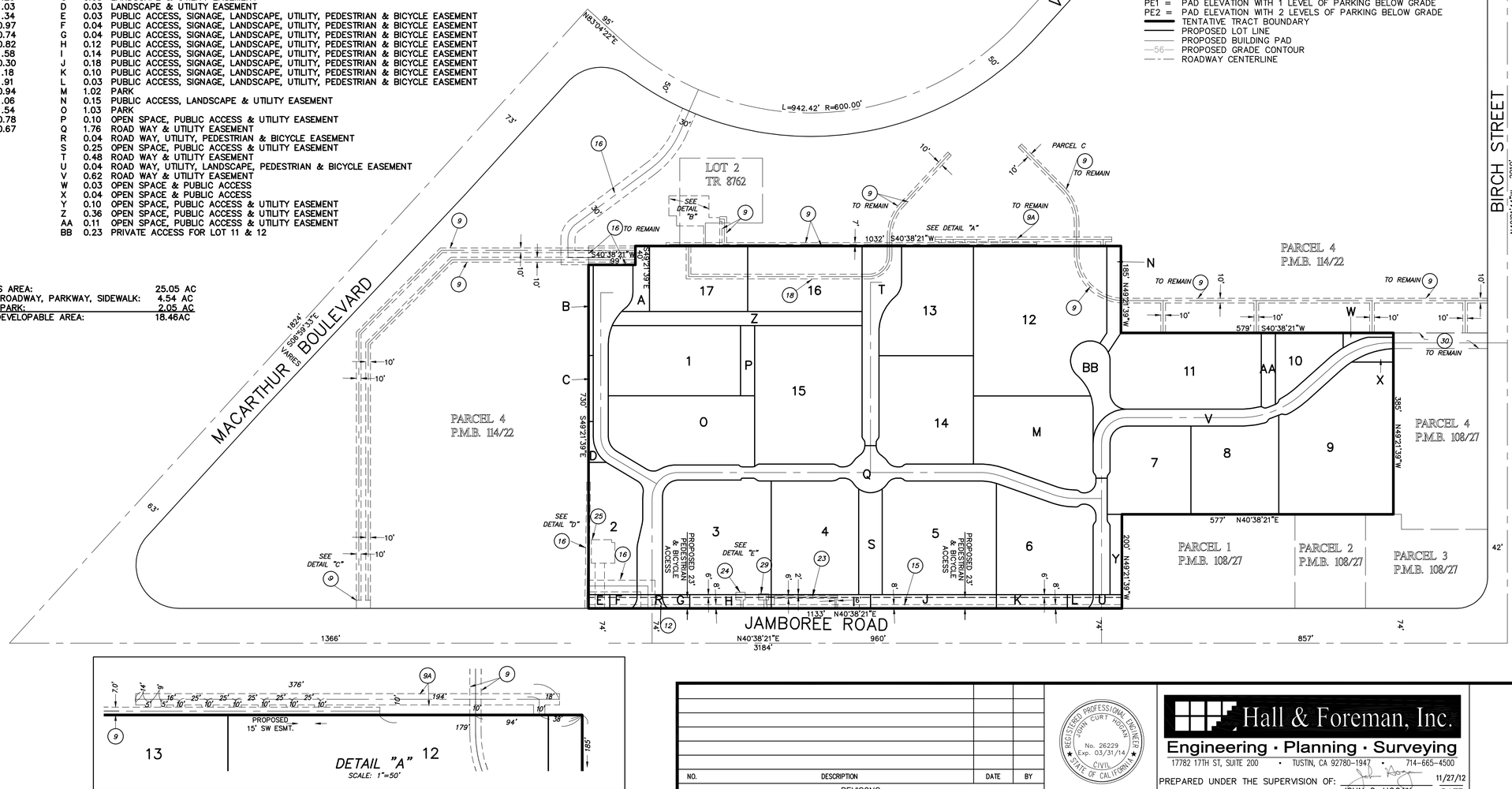
BEING A SUBDIVISION OF LOTS 1 AND 2 OF TRACT NO. 7953, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 310 PAGES 7 TO 11, INCLUSIVE, OF MISCELLANEOUS MAPS, RECORDS OF SAID COUNTY.

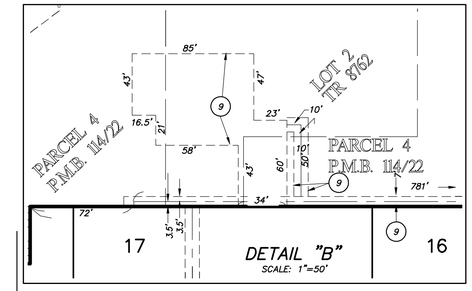
OWNER/SUBDIVIDER

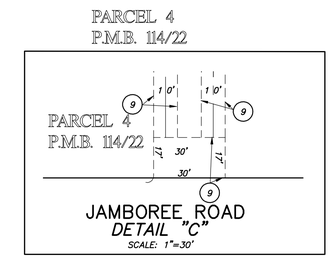
UPTOWN NEWPORT LP
C/O SHOPOFF MANAGEMENT, INC.
2 PARK PLAZA, SUITE 700
IRVINE, CA 92614
(949) 231–5068
(949) 417–1399 FAX

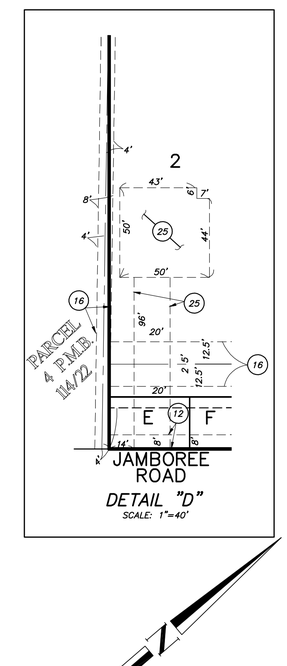
LEGEND

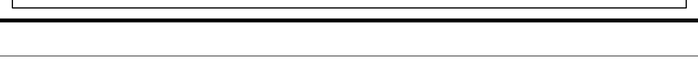
→	DIRECTION OF DRAINAGE FLOW
FF =	FINISHED FLOOR
PE =	PAD ELEVATION
PE1 =	PAD ELEVATION WITH 1 LEVEL OF PARKING BELOW GRADE
PE2 =	PAD ELEVATION WITH 2 LEVELS OF PARKING BELOW GRADE
	TENTATIVE TRACT BOUNDARY
	PROPOSED LOT LINE
	PROPOSED BUILDING PAD
—56—	PROPOSED GRADE CONTOUR
	ROADWAY CENTERLINE











NO.	DESCRIPTION	DATE	BY

REVISONS

REGISTERED PROFESSIONAL ENGINEER JOHN CURT HOGAN No. 26229 Exp. 03/31/14 CIVIL STATE OF CALIFORNIA

Hall & Foreman, Inc.
Engineering · Planning · Surveying
17782 17TH ST, SUITE 200 · TUSTIN, CA 92780–1947 · 714–665–4500

PREPARED UNDER THE SUPERVISION OF: JOHN C. HOGAN 11/27/12 DATE

CITY OF NEWPORT BEACH
TENTATIVE TRACT MAP 17438
APN: 445-131-02 & -03
UPTOWN NEWPORT
PA2011-134

SCALE	DATE	DRAWN BY	DESIGNED BY
1"=120'	11/28/12	CS & EO	JA & EO

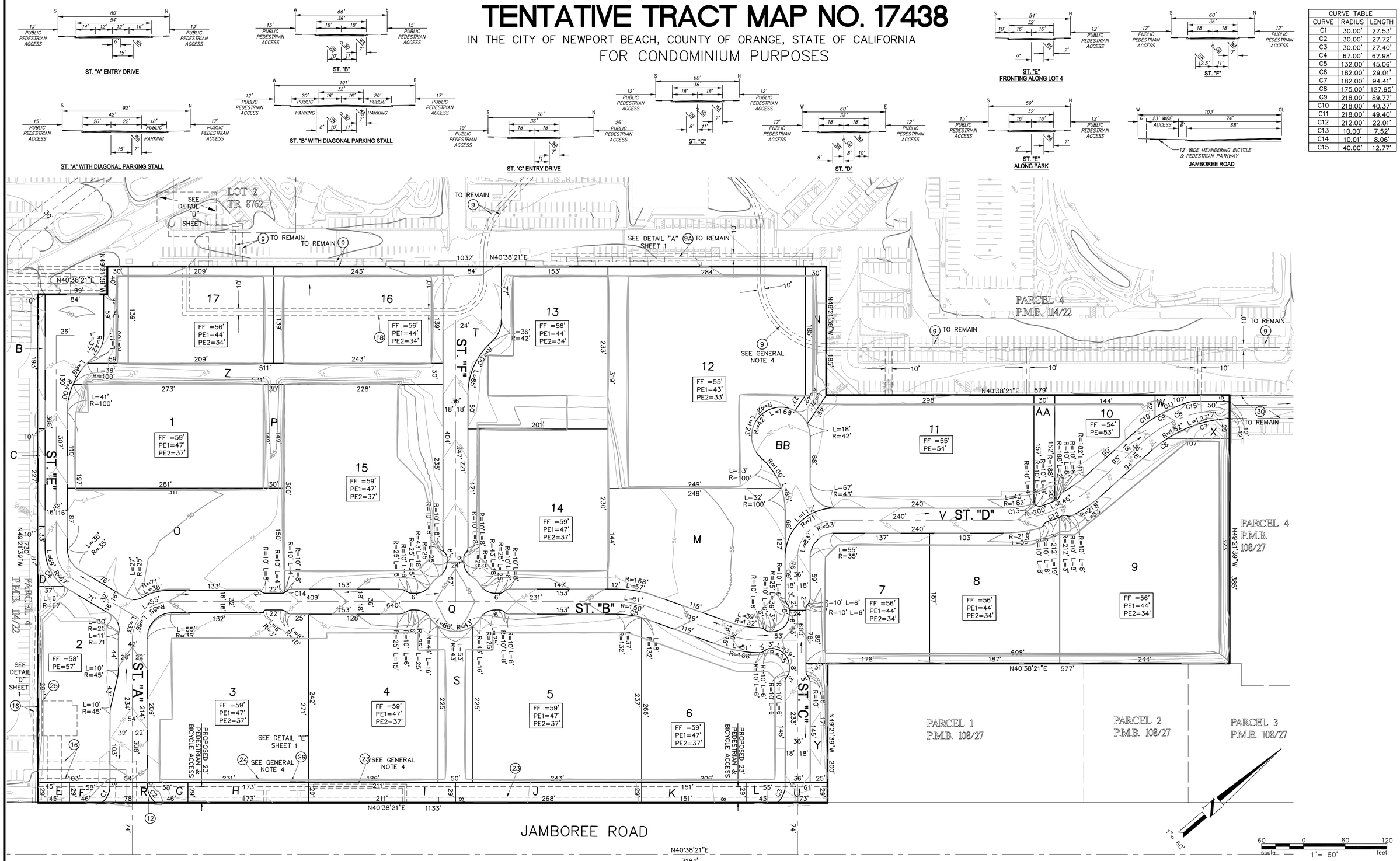
FILE NO.
DRAWING NO.
SHEET 1 OF 2

Drawing Name: S:\100288\Mapping\MapSets\Tentative Map\01-100288TM.dwg Tab: Paper
Last Opened: Nov 28, 2012 – 8:26am by: EOurre

TENTATIVE TRACT MAP NO. 17438

IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA

FOR CONDOMINIUM PURPOSES



CURVE TABLE		
CURVE	RADIUS	LENGTH
C1	30.00'	27.53'
C2	30.00'	27.72'
C3	30.00'	27.40'
C4	67.00'	62.98'
C5	132.00'	45.06'
C6	182.00'	29.01'
C7	182.00'	94.41'
C8	175.00'	127.95'
C9	218.00'	89.77'
C10	218.00'	40.37'
C11	218.00'	49.40'
C12	212.00'	22.01'
C13	10.00'	7.52'
C14	10.01'	8.06'
C15	40.00'	12.77'

LEGEND

- DIRECTION OF DRAINAGE FLOW
- FF = FINISHED FLOOR
- PE = PAD ELEVATION
- PE1 = PAD ELEVATION WITH 1 LEVEL OF PARKING BELOW GRADE
- PE2 = PAD ELEVATION WITH 2 LEVELS OF PARKING BELOW GRADE
- TENTATIVE TRACT BOUNDARY
- PROPOSED LOT LINE
- PROPOSED BUILDING PAD
- 56 PROPOSED GRADE CONTOUR
- ROADWAY CENTERLINE

NO.	DESCRIPTION	DATE	BY
	REVISONS		

REGISTERED PROFESSIONAL ENGINEER JOHN CURT HOGAN No. 26229 Exp. 03/31/14 CIVIL STATE OF CALIFORNIA

Hall & Foreman, Inc.
Engineering · Planning · Surveying
17782 17TH ST, SUITE 200 · TUSTIN, CA 92780-1947 · 714-665-4500

PREPARED UNDER THE SUPERVISION OF: JOHN C. HOGAN 11/27/12 DATE

CITY OF NEWPORT BEACH

TENTATIVE TRACT MAP 17438
APN: 445-131-02 & -03
UPTOWN NEWPORT
PA2011-134

SCALE	DATE	DRAWN BY	DESIGNED BY
1"=60'	11/28/12	CS & EO	JA & EO

FILE NO.
DRAWING NO.
SHEET 2 OF 2

Drawing Name: S:\100288\Mapping\MapSets\Tentative Map\02-100288TTM.dwg Tab: Paper
Last Opened: Nov 28, 2012 - 5:20pm by: EOune

EXHIBIT I
REQUIRED FINDINGS

TRAFFIC STUDY NO. TS2012-005

In accordance with NBMC Section 15.40.030 (Traffic Phasing Ordinance), the following findings and facts in support of such findings are set forth:

Finding:

A. That a traffic study for the project has been prepared in compliance with this chapter and Appendix A [NBMC Chapter 15.30],

Facts in Support of Finding:

A-1. A traffic study, entitled Uptown Newport Traffic Impact Analysis, prepared by Kimley-Horn and Associates, Inc., May 2012 and revised in November 2012, were prepared for the Project in compliance with Municipal Code Chapter 15.40 (Traffic Phasing Ordinance and Appendix A).

Finding:

B. That, based on the weight of the evidence in the administrative record, including the traffic study, one of the findings for approval in subsection (B) [NBMC Section 15.40.030.B.2] can be made.

Section 15.40.030.B.2 states:

The project is a Comprehensive Phased Land Use Development and Circulation System Improvement Plan with construction of all phases not anticipated to be complete within sixty (60) months of project approval; and

a. The project is subject to a development agreement which requires the construction of or contributions to, circulation improvements early in the development phasing program, and

b. The traffic study contains sufficient data and analysis to determine if that portion of the project reasonably expected to be constructed and ready for occupancy within sixty (60) months of project approval satisfies the provisions of subsections (B)(1)(a) or (B)(1)(b), and

c. The Land Use and Circulation Elements of the General Plan are not made inconsistent by the impact of project trips (including circulation improvements designed to mitigate the impacts of project trips) when added to the trips resulting from development anticipated to occur within the City based on the Land Use Element of the General Plan and Zoning Ordinance, and

d. The project is required, during the sixty (60) month period immediately after approval, to construct circulation improvement(s) such that:

(1) Project trips will not cause or make worse an unsatisfactory level of traffic service at any impacted primary intersection for which there is a feasible improvement,

(2) The benefits resulting from circulation improvements constructed or funded by, or contributions to the preparation or implementation of a traffic mitigation study made by, the project proponent outweigh the adverse impact of project trips at any impacted primary intersection for which there is (are) no feasible improvement(s) that would, if implemented, fully satisfy the provisions of Section 15.40.030 (B)(1)(b). In balancing the adverse impacts and benefits, only the following improvements and/or contributions shall be considered with the greatest weight accorded to the improvements and/or contributions described in subparagraphs (a) or (b):

a. Contributions to the preparation of, and/or implementation of some or all of the recommendations in, a traffic mitigation study related to an impacted primary intersection that is initiated or approved by the City Council,

b. Improvements, if any, that mitigate the impact of project trips at any impacted primary intersection for which there is (are) no feasible improvement(s) that, if implemented, would fully satisfy the provisions of Section 15.40.030 (B)(1)(b),

c. Improvements that mitigate the impacts of project trips on any impacted primary intersection in the vicinity of the project,

d. Improvements that mitigate the impacts of project trips on any impacted primary intersection operating, or projected to operate, at or above 0.80 ICU; and

(3) The Planning Commission, or City Council on review or appeal finds, by the affirmative vote of five-sevenths (5/7) of the members eligible to vote, that this chapter is inapplicable to the project because the project will result in benefits that outweigh the project's anticipated negative impact on the circulation system.

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

B-1. Based on the weight of the evidence in the administrative record, including the Traffic Study, mitigation measures, and the conditions of approval, all of the findings for approval in Section 15.40.030.B.2 can be made.

B-2. Phase 1 is projected to generate an additional 5,012 daily trips, 317 during the AM peak hour and 443 during the PM peak hour. At the project's build-out (Phase 2), the Project generates 8,286 daily trips, 542 during the AM peak hour and 727 during the PM peak hour. The Project would shift traffic patterns to and from the site as the

Project involves a shift from office and industrial development to residential uses. The Project will consist of primarily residential uses, which will have reverse traffic patterns from existing uses at the site. As the result, while the proposed project results in an overall increase in daily trips, there would be a reduction of trips on some intersection movements and an increase on others in each of the morning and evening peak hours. The net new trips to be added (or subtracted due to the shift from employment to residential) to the street system does not result in any significant impacts to the studied intersections and segments.

B-3. The Project design provides for primary and secondary ingress and egress from Jamboree Road, but also includes a third access drive to and from Birch Street, utilizing a non-exclusive access easement established by an express grant of easement recorded in 1978.

B-4. The proposed Project meets the requirements for a Comprehensive Phased Land Use Development and Circulation System Improvement Plan as the Project is subject to a Development Agreement and conditions of approval that require the construction of, or contributions to, circulation improvements early in the development phasing program.

B-5. The complete Project is not anticipated to be completed within five years approval. The Traffic Study analyzed Phase 1, which is expected to be completed by 2018. Phase 2 of the Project is anticipated to commence in 2017 and be completed in 2021 or later, and therefore requires a separate traffic analysis at a later date prior to recordation of final maps or building permits for Phase 2. The Traffic Study found the Project would not result in a significant impact with the addition of Phase 1 Project trips at the study intersections.

B-6. The Traffic Study and FEIR analyzed intersections projected to exceed the Level of Service ("LOS"), which is a "D" standard except certain designated intersections within the airport area shared with the City of Irvine that permit LOS "E."

B-7. Intersection peak hour traffic conditions were evaluated for Year 2018 (existing plus growth plus committed projects) both without and with Phase 1 traffic. The Traffic Study found that the following intersections would operate at an unacceptable level of service both without and with Project Phase 1:

- Jamboree Road at I-405 SB Ramps (AM: LOS F)
- Jamboree Road at Michelson Drive (PM: LOS F)
- Harvard Avenue at Michelson Drive (PM: LOS E)

All other study intersections would operate at an acceptable LOS in both peak hours. The Project related impact of Phase 1 at Harvard Avenue and Michelson Drive would be negative because the reduction in existing office trips would more than offset the addition of the proposed residential trips.

B-8. The DEIR and Traffic Study found the addition of Project traffic would not cause additional intersections to operate at an unacceptable LOS, and the Project would not result in a significant impact at any study intersection.

B-9. The proposed Project does not result in an inconsistency between the Land Use Element and the Circulation Element of the General Plan by the impact of project trips (including circulation improvements designed to mitigate the impacts of project trips) when added to the trips resulting from development anticipated to occur within the City based on the Land Use Element of the General Plan and Zoning Code. The development included in the proposed Project is consistent with the General Plan.

B-10. Transportation and traffic impacts would be mitigated to less than significant and no mitigation is required.

Finding:

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

Facts in Support of Finding:

C-1. Concept plans depicting the recommended street improvements are included in the resolution of approval and conditions of approval for the Tentative Tract Map for the proposed Project. The Project also will be responsible for the payment of Fair Share fees in accordance with Chapter 15.32 that will be used to fund future planned improvements to the circulation system. Additionally, the Project will be required to pay any applicable fees for the Major Thoroughfare and Bridge Fee Program.

EXHIBIT J
TRAFFIC STUDY NO. TS2012-005

Exhibit J is available for review at the Planning Division of Community Development Department or at http://newportbeachca.gov/index.aspx?page=2029

EXHIBIT K
AFFORDABLE HOUSING IMPLEMENTATION PLAN NO. AH2012-001

Exhibit K is available for review at the Planning Division of Community Development Department or at http://newportbeachca.gov/index.aspx?page=2029

EXHIBIT L
DEVELOPMENT AGREEMENT NO. DA2012-003

Exhibit L is available for review at the Planning Division of Community Development Department or at http://newportbeachca.gov/index.aspx?page=2029

Attachment No. PC 2

Draft Resolution of Denial

RESOLUTION NO. ___

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH DENYING WITHOUT PREJUDICE PLANNED COMMUNITY DEVELOPMENT PLAN AMENDMENT NO. PD2011-003, PLANNED COMMUNITY DEVELOPMENT PLAN ADOPTION NO. PC2012-001, TENATIVE TRACT MAP NO. NT2012-002, AFFORDABLE HOUSING IMPLEMENTATION PLAN NO. AH2012-001, TRAFFIC STUDY NO. TS2012-005, AND DEVELOPMENT AGREEMENT NO. DA2012-003 FOR THE 25.05 ACRE PLANNED COMMUNITY KNOWN AS UPTOWN NEWPORT LOCATED AT 4311-4321 JAMBOREE ROAD (PA2011-134)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Uptown Newport LP ("Uptown Newport" or "Applicant") with respect to a 25.05-acre property generally located on the north side of Jamboree Road between Birch Street and the intersection of Von Karman Avenue and MacArthur Boulevard, legally described on Exhibit A, which is attached hereto and incorporated herein by reference, (the "Property") requesting approval for the development of up to 1,244 residential dwelling units, 11,500 square feet of retail commercial uses and 2 acres of parklands (the "Project"). The following approvals are requested or required in order to implement the project as proposed:

    a. Planned Community Development Plan Amendment No. PD2011-003. An amendment to Planned Community Development Plan #15 (Koll Center Planned Community) to remove the subject property from the Koll Center Planned Community, pursuant to Chapter 20.66 (Amendments) of the Municipal Code.

    b. Planned Community Development Plan Adoption No. PC2012-001. A Planned Community Development Plan adoption to establish the allowable land uses, general development regulations, and implementation and administrative procedures, which would serve as the zoning document for the construction of up to 1,244 residential units, 11,500 square feet of retail commercial, and 2.05 acres of park space to be built in two separate phases on a 25.05-acre site, pursuant to Chapter 20.56 of the Municipal Code.

    c. Tentative Tract Map No. NT2012-002. A tentative tract map to establish lots for residential development purposes pursuant to Title 19 of the Municipal Code.

    d. Traffic Study No. TS2012-005. A traffic study pursuant to Chapter 15.40 (Traffic Phasing Ordinance) of the Municipal Code.

    e. Affordable Housing Implementation Plan No. AH2012-001. A program specifying how the proposed project would meet the City's affordable housing requirements,

pursuant to Chapter 19.53 (Inclusionary Housing) and Chapter 20.32 (Density Bonus) of the Municipal Code.

f. Development Agreement No. DA2012-003. A Development Agreement between the applicant and the City of Newport Beach describing development rights and public benefits, pursuant to Section 15.45.020.A.2.a of the Municipal Code and General Plan Land Use Policy LU6.15.12.

2. The Property is currently located within the City of Newport Beach ("City") Koll Center Newport Planned Community and is designated as Industrial Site 1.

3. The Property has a General Plan designation of Mixed-Use District Horizontal-2 (MU-H2), and the Property is located within the Airport Business Area, for which the Airport Business Area Integrated Conceptual Development Plan ("ICDP") has been adopted. The ICDP allocates a maximum of 1,244 residential units and up to 11,500 square feet of retail to be developed on the Property.

4. On October 4, 2012, the Planning Commission held a study session for the proposed project in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California.

5. A public hearing was held on December 6, 2012 in the City Hall Council Chambers, at 3300 Newport Boulevard, Newport Beach, California. A notice of the time, place and purpose of the aforesaid meeting was provided in accordance with the Newport Beach Municipal Code ("NBMC"). The staff report and evidence, both written and oral, were presented to and considered by the Planning Commission at the hearing.

SECTION 2. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach does hereby deny without prejudice Planned Community Development Plan Amendment No. PD2011-003, Planned Community Development Plan Adoption No. PC2012-001, Tentative Tract Map No. NT2012-002, Traffic Study No. TS2012-005, Affordable Housing Implementation Plan No. AH2012-001, and Development Agreement No. DA2012-003.

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.

PASSED, APPROVED AND ADOPTED THIS 6TH DAY OF DECEMBER, 2012.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY:_____
Michael Toerge, Chairman

BY:_____
Fred Ameri, Secretary

Attachment No. PC 3

List of Responses to
Commissioner Tucker's
Comments

RECEIVED BY
COMMUNITY
NOV 16 2012
DEVELOPMENT
CITY OF NEWPORT BEACH

Larry Tucker
Uptown Newport Study
Session List of Issues
October 4, 2012

Below are my comments to the Uptown Newport project documents received to date, other than the DEIR. My apologies in advance for duplicative or off base comments of which there will surely be a few.

Responses are noted in italics. Responses are dated November 14, 2012.

I. OVERVIEW

1. Will the Commission be asked to approve a Parcel Map when the matter formally comes before the Planning Commission? If so, perhaps some (many?) of my questions/comments will be addressed when we see the proposed conditions of approval.

A tentative tract map (TTM No. 17438) is included in the proposed entitlements for Uptown Newport that are to be considered for approval by the Planning Commission. Staff and the applicant are currently finalizing draft conditions of approval for the tentative tract map, and will be providing

2. Note 3 of the TIM contemplates that there may be multiple final maps based upon the TIM.

The tentative tract map sets forth the overall site layout of the proposed parcels, streets, parks, paseos, and common area lots. As required by the Subdivision Map Act, the TTM must note the intent to file multiple final maps if multiple maps are to be filed. Uptown Newport will be developed in two phases, and two final maps are contemplated, one for each phase.

3. Presumably, the Applicant intends to have the right to record one or more Final Maps and deed out parcels to buyers.

Upon recordation of a final map, multiple parcels will be created that can be sold and conveyed to merchant builders. At this time, we anticipate 1 to 4 individual merchant builders to participate in the first phase.

4. If some parcels may be deeded out, is there a risk to the City that a parcel will not have access or utilities without the cooperation of another owner? See comments on Phasing Plan.

The tentative map is required to maintain legal access to parcels pursuant to the Subdivision Map Act. Legal access to the parcels will also need to be shown on the final map, which will preclude parcels being conveyed without legal access. The conditions of approval specify that utilities will be constructed in public rights-of-way or easements as shown on the final map prior to approval of the final map. In addition, the master improvements for Phase 1 are proposed to be constructed in whole to avoid individual building parcels from preventing the completion of master improvements.

5. Does the Applicant intend to act as Master Developer of the site work? That is, grading and underground public services.

The Applicant will be the Master Developer for the project. The conditions of approval require the Master Developer to complete the Master Site Improvements and also require material and labor

bonds for master improvements. In addition, the regulatory documents have been revised to clarify that the applicant will be the Master Developer for the project, and that the site grading and master infrastructure including streets, wet utilities, dry utilities, parks, paseos and other common area improvements will be completed by the master developer.

6. If so, will the master grading plan contemplate subterranean parking on some, most, all or none of the parcels since there will be no surface parking lots allowed for residential uses (Design Guidelines Page 16)?

Parking within Uptown Newport must be structured subterranean or encapsulated (e.g., wrap architecture or lined with residential units). The preliminary master grading plan included in the Phasing Plan contemplates subterranean parking. The ultimate configuration of buildings and design of structured parking will be incorporated into the final grading plans for each phase to minimize the need for import or export of soil.

7. The Design Guidelines indicate that certain design master plans are to be accomplished later, such as: Landscape Plan, Fencing and Wall Plan, Common Area Lighting Plan, and a Comprehensive Sign Program. Some of what is in the documents indicates that plans are "For Illustrative Purposes Only". If parcels are deeded out before these plans are finalized, how is the completion of those plans managed so that a Master Plan is created that is binding on all future owners? Should that be done before parcels can be deeded out?

The regulatory documents have been revised to clarify that Master Site Improvements for the project will be constructed by the Master Developer, and that a Master Site Development Plan shall be prepared and submitted for review and approval by the Planning Commission (see page 19 of the Land Uses, Development Standards and Procedures regulatory document). The Master Site Development Plan review is proposed as an interim review process that will be initiated after the Planned Community zoning and entitlements are in place.

The Master Site Development Plan will provide design development plans and specification for Master Site Improvements, including: 1. Demolition, site preparation and rough grading; 2. Backbone storm drain system; 3. Sanitary sewer system; 4. Water distribution system; 5. Reclaimed water distribution system; 6. Public street improvements, including street paving, curb and gutter, sidewalk, parkway improvements to the back of sidewalk; 7. Common area fencing and walls; 8. Neighborhood Park improvements for the two (2) public parks; 9. Landscape improvements within common areas, including: public street parkways to the back of sidewalk; project entries; Jamboree Road parkway and Class 1 and multi-use trail; Neighborhood Park landscape improvements; paseo landscape improvements; 10. Master street light and common area lighting improvements; 11. Dry utilities; 12. Master community signage.

II. PARCEL MAP

1. Who will own the lettered lots? Notes 7 & 8 indicate that streets, sidewalks, angled parking and parkways will be privately owned and maintained. What about the Paseos? The PC Text refers to the parks as "Public" (at Page 17). Presumably that means the land will be dedicated to the City, which will own and maintain the parks, correct?

The two neighborhood parks will be improved by the Master Developer and will be dedicated to the City. However, the Master Association will maintain the park. The lettered lots, including common area lots and paseos will be improved by the Master Developer and conveyed to the Master Association for ownership and maintenance. The conditions of approval require a master association for maintenance of common improvements.

2. Will lettered lots other than the public parks be privately owned and maintained and if so by whom?

See response to item 1 above.

3. If the tentative map is not recorded all at one time, will all of the lettered lots in a phase be included in the first map recorded in that phase?

Yes. All lettered lots in Phase 1 will be recorded with the Final Map for Phase 1, and likewise for Phase 2. No "sub phasing" is proposed.

4. If not, then how will the contemplated improvements of those lettered lots be secured?

The conditions of approval require material and labor bonds for master improvements.

5. Does the Applicant contemplate conveying the lettered lots to an owners association?

Yes. The lettered lots, including common area lots and paseos will be improved by the Master Developer and subsequently conveyed to the Master Association for ownership and maintenance. In addition, the conditions of approval require the CC&R's to be prepared and submitted for approval by the Community Development Director.

III. SITE PLAN

1. The site plan should identify the number of angled and on-street parking spaces are part of the plan and each space should be numbered.

The Site Plan has been revised to show the number of spaces as requested.

2. Patrons of the retail space who enter at Fairchild Intersection and use the angled parking and who desire to exit the project and go north on Jamboree will need to make an awkward turning movement at Street E, or have to pull off a mid-block turn around in Street A, or wend their way to Birch Street. Are there any better alternatives?

Under the current site plan, visitors would be able to turn around in the cul-de-sac on Street "F", or turn right out of the secondary Jamboree entry and make a u-turn at Jamboree and Fairchild to go north on Jamboree. We have also evaluated incorporating a roundabout circle within the project to provide an alternative for consideration by the Planning Commission. A copy of the alternative will be provided for your review under separate cover.

IV. **PLANNED COMMUNITY DEVELOPMENT PLAN** (Land Uses, Development Standards and Procedures)

1. Page 6, is there a limit as to how long industrial uses may remain on the property? It looks to me like there is no limit.

The Planned Community Development Plan (PCDP) has been revised to reflect a sunset date of March 12, 2027 for the existing industrial uses, which is consistent with the maximum option terms of the lease with the current tenant (TowerJazz). See Section 2.1.1 (page 7) of the revised PCDP.

2. Page 6, are there any allowable uses that should be prohibited once residents move in nearby?

The existing uses will be allowed to continue, subject to current Code requirements. The existing ammonia tank used by TowerJazz will be relocated such that there is a minimum of 200 feet of separation from the ammonia tank and residential buildings. This is a mitigation measure, a condition of approval, and is also incorporated into

the Phasing Plan on Page 5.

3. Page 7, Accessory Uses are referred to but not defined. What are they?

A definition for Accessory Uses has been added on Page 22.

4. Page 8, are the following uses appropriate given the density of nearby residential in the project and seemingly small scale of the retail element: The uses listed under "Commercial Recreation and Entertainment", Animal Sales and Services, Animal Grooming/Veterinary Services, Fast Food (not sure what that is -- does that mean with a drive-thru?) and fitness facilities over 2,000 s.f.

The permitted land uses table has been updated and revised to allow for flexibility in future uses that are consistent with the Mixed Use-Horizontal (MU-H2) land uses designation, but to omit uses that are not consistent with the intent of the Uptown Newport Planned Community. See revised land use table on Page 9.

5. Page 9, Wireless Telecommunication Facilities should only require a Minor Use Permit as it will be easy to plan for them up front.

Wireless Telecommunication Facilities has been changed to Minor Use Permit. See revised land use table on Page 9.

6. Page 11, there should be some very specific language on the interface between commercial and residential. Noisy uses and uses requiring food exhaust venting should not be located below or next to residential without mitigating features.

Page 8, Section 2.1.2 has been revised to include the following: Interface between retail and residential uses will incorporate mitigation features as outlined in the Design Guidelines document to limit nuisances such as odors and noise generated by the retail uses.

7. Page 17, I question the wisdom of crediting all street parking against required retail parking. Some credit may be appropriate, but to the extent there is a significant amount of restaurant space, I would be very concerned about giving any credit. Further, it is not clear to me where guests and service staff/personnel of homeowners would park *(some,* or all, of the project could be "for sale" housing which usually generates a greater need for parking).

On-street parking for visitors is provided adjacent to the retail uses and throughout the project. Additional parking for retail uses, visitors, employees, and service staff is provided in structured parking that is integrated into the building structure. It is intended that the structured parking provide for the majority of the required parking within the project. Credit for on-street parking is only provided for the spaces that are adjacent to the retail or residential uses. See Section 3.4, page 17.

8. Page 17, I am not sure there should be a right to deviate from parking requirements with a parking management plan. I would delete the word "number" in 4.1.2 d and delete 4.1.4 Para. 4. This is a new

development and there does not seem to be a justification to deviate from code parking requirements. Having said that, doesn't the code already allow for a deviation process? If so, why add one here?

The reference to deviating from parking requirements with a parking management plan has been omitted.

8. Page 19, 4.1.4 Para. 3 a, should be revised to read: "All exterior materials and their manner of application". Page 18, 4.1.4 Para. 6 a, should be revised to read: "General location of all plant material, by common and botanical names with photographs."

The revisions have been incorporated. Refer to Page 21, Section 4.2.4 of the revised document.

9. Page 19, won't some type of review be necessary for the master landscape plan (at least along streets and paseos) or the comprehensive sign plan or the master fencing plan? If the Applicant desires to deed out property prior to plan approval for site work/signage then it would seem that the overall plan, other than building plans, would have to be agreed to before parcels are deeded out. Once those plans have been approved, then I'd feel more comfortable with review of building plans and landscaping to be located on numbered parcels being left to the Director.

The implementation of the Planned Community Development Plan (refer to Section 4) has been revised to clarify the process for approval of implementing projects. The Master Site Development Plan review is proposed as an interim review process that will be initiated after the Planned Community zoning and entitlements are in place. A Master Site Development Plan will be prepared for review by the Planning Commission.

10. Page 22, add a definition of Streets and then refer the reader to Section 3.2.7.

Section 3.3 - "On-Site Circulation" has been added to provide definition to the streets within Uptown Newport and reference the corresponding street section figures.

V. DESIGN GUIDELINES

1. Page 4, Vision Statement implies that connections with Koll property will be coordinated. How will this be ensured since there is no common ownership?

The vehicular and pedestrian connections between Uptown Newport and the Koll Center Newport are based on the approved Koll-Conexant ICDP, of which, Koll was an applicant. The ultimate build out of the ICDP will include future improvements by Koll within the Koll Center Newport to finalize the pedestrian connections. The Uptown Newport property has an access easement through the Koll Center Newport from the westerly access road to Von Karman Avenue, and this will provide the planned emergency vehicular access. Uptown Newport will also improve the pedestrian connections up to the Koll Center Newport property, and will seek to complete the pedestrian connections within the Koll Center Newport property, but such improvements on the Koll property can only be completed with the consent of the Koll property ownership. The following condition of approval is being recommended for this purpose:

"Require that the applicant make best efforts to negotiate in good faith and arrive at fair and reasonable arrangements with neighboring property owners to facilitate pedestrian connections from the property to Von Karman, including pedestrian ingress, egress and sidewalk construction and maintenance."

2. Page 8, the Master Concept Plan (Figure 2-5) purports to incorporate the "framework principles" yet it does not actually depict several framework principles (e.g. #'s 3, 5, 7 & 8).

The Framework Principles section of the Design Guidelines has been revised substantially to clarify the intent of the framework principles.

3. Page 12, can traffic calming devices be designed at the front end of project. Otherwise, when will

they be designed?

Traffic calming devices including chokers and enhance paving are included in the revised site plan.

3. Page 16, should paid parking be prohibited? Is there enough on-street parking to accommodate visitors and customers of retailers. If there is not, where would visitors and customers of retailers park and when would that be figured out?

We do not believe that paid parking should be prohibited, and the decision should be at the discretion of the Master Association. Uptown Newport has public improvements that will be available to the public, but is a privately owned community and should be allowed to include paid parking. Paid parking is integral to managing parking in communities and Cities like the many villages within Newport Beach. Paid parking is abundant in public areas throughout the City, including the majority of the properties in the Airport Area, and it may be beneficial to the ultimate management of Uptown Newport to have flexibility in whether to designate paid parking areas or not.

On-street parking for visitors is provided adjacent to the retail uses and throughout the project. Additional parking for retail uses, visitors, employees, and service staff is provided in structured parking that is integrated into the building structure. It is intended that the structured parking provide for the majority of the required parking within the project. Credit for on-street parking is only provided for the spaces that are adjacent to the retail or residential uses. See Section 3.4, page 17.

4. Page 23, windows with articulated frames should be required for windows facing Jamboree Road.

The revised document expands on the concept of this comment and requires enhanced façade treatments in visually prominent areas of Uptown Newport, including Jamboree Road. Refer to Sections 3.4, 3.5 and 3.6 in the revised Design Guidelines.

5. Page 25, not sure I understand how Plexiglas will be mounted on hinges so it opens and closes.

Plexiglas enclosures are a common way of providing additional noise reduction for residential units along Jamboree Road or other areas that may be subject to elevated noise. The Plexiglas enclosures can be mounted on hinges to allow the residential owners to open the Plexiglas enclosure if desired. Refer to Figure 3-34 on Page 40 of the revised Design Guidelines.

6. Page 27, what does it mean to "optimize" grading?

The language has been revised to clarify that the intent of the grading plan is to limit the amount of import or export from the site. Refer to Page 43 or the revised Design Guidelines.

7. Page 36, Figure caption refers to Phase 2 entry drive, but it looks like Phase 1 from the diagram.

This correction has been made.

8. Page 38, synthetic turf? Really?

Commercially available synthetic turf is extremely realistic in appearance, and is widely used in high-end residential communities. Synthetic turf is a preferred method of providing for ground cover in areas of high pedestrian traffic or dog walking such as parkways adjacent to building lobbies.

9. Page 40, some of the list of improvements look like they may have been carried over from park description and may not fit in Paseos: lawn bowling, horseshoes, bocce ball, picnic areas and exercise stations.

The listed improvements are potential amenities or are of the character of the amenities that can be incorporated into the paseos of associated common open space areas. The paseos are intended to provide for pedestrian connectivity as well as to provide for opportunities for gathering spaces and passive

recreation.

11. Page 40, any requirement that Paseo landscape plans be consistent throughout the development?

Paseo landscaping will be part of the Master Site Improvements by the Master Developer, and will be designed to be consistent throughout the development. Refer to Section 5.3 (Page 47) of the revised Design Guidelines.

11. Page 42, when do the public parks get built? Will they be consistent in design with each other?

The Phase 1 park will be developed by the Master Developer as part of the Master Site Improvements for Phase 1, and likewise for Phase 2. The Conditions of Approval will include the specific milestones for each park.

12. Page 46, says "The project should have one fence design used throughout all parcel areas." When is that design determined and by whom?

The design of community walls and fences will be part of the Master Site Development Plan Review prior to site development, and will be subject to review by the Planning Commission.

13. Page 48, says "This community is encouraged to embrace a unified lighting theme in fixtures of common area streets. How would that "encouragement" be manifested and implemented?

The design of community lighting will be part of the Master Site Development Plan Review prior to site development, and will be subject to review by the Planning Commission.

14. Page 51, who will develop the Comprehensive Sign Program and when will it be done? Also see footnote at Page 54.

The Comprehensive Sign Program fences will be part of the Master Site Development Plan Review prior to site development, and will be subject to review by the Planning Commission.

15. Page 54, delete references to Pylon Signs. They should not be allowed.

References to pylon signs have been deleted.

16. Page 56, limits sign copy to 3 tenant signs yet diagram shows 4 tenant signs.

Section 6.7 has been revised to clarify that up to 4 tenant signs are allowed.

17. Page 58, clarify that a tenant may only pick one of the three sign types.

Section 6.9 has been revised to clarify that up to 2 tenant signs are allowed, with a third sign for corner retail spaces.

VI. **PHASING PLAN**

1. Page 2, the land will be phased, but where the units fall is totally subject to change. Should there by a limit on the upper end and lower end of the unit count in Phase 1?

The minimum and maximum units by phase is specified on page 3 of the revised plan.

2. Page 4, note that the Applicant proposes to introduce residents to an area with a 2,200 gallon

liquid ammonia tank.

A detailed of the analysis of the use of an ammonia tank by the TowerJazz facility is included in the Uptown Newport DEIR. The analysis concluded that the ammonia tank should be located a minimum of 200 feet from residential buildings to provide a safe separation distance in the event of a release of ammonia from the tank. It should be noted that ammonia is not a carcinogen nor fatal in the event of exposure to ammonia in the air, but it is an irritant that can cause substantial discomfort if exposed to at high concentrations.

3. Page 4, which water Board is SRWQCB?

The Phasing Plan has been revised to clarify that this is the Regional Water Quality Control Board (RWQCB).

3. Page 6, looks like erroneous reference to Figure 2-1 should be to 3-1.

This has been corrected.

4. Page 12, will all Phase 1 streets be bonded with recordation of first map in Phase 1. If not, when. Same comment with respect to pedestrian circulation facilities.

The following is included in the draft conditions of approval:

Prior to Final Map recordation for residential and/or commercial development the applicant shall provide separate labor and material improvement bonds or irrevocable letters of credit in a form and amount acceptable to the Director of Public Works for 100% of estimated improvement cost, as prepared by a Registered Civil Engineer and approved by the Director of Public Works, for each, but not limited to, the public and private improvements:

a. Street improvements, monuments, sidewalks, striping and signage, park improvements, Class 1 bike trail improvements along the Jamboree street frontage, street lights, sewer systems, water systems, storm drain and water quality management systems, erosion control landscaping and irrigation in public rights of way or common areas, private slopes and common area recreational areas, and off-site improvements required as part of the project.

5. Page 13, indicates a Master Landscape Plan will be done, but doesn't indicate when.

The design of the Master Landscape Plan will be part of the Master Site Development Plan Review prior to site development, and will be subject to review by the Planning Commission.

7. Page 17, indicates the project would have one fence design and that the locations will be done in "future design". When and by whom?

The design of community walls and fences will be part of the Master Site Development Plan Review prior to site development, and will be subject to review by the Planning Commission.

8. Page 30 refers to an outline of the Phase 2 landscape framework, hardscape and streetscape character, but Figure 6-6 indicates it is for "illustrative purposes" only.

The multiple references to "for illustrative purposes only" has been removed from the Phasing Plan.

10. Page 31, retailers won't appreciate emphasis on shade trees that could block their signage.

While this point is duly noted, the landscape design concept for the Uptown Newport project is a high priority for the project as a whole, and retail users will have sufficient opportunities for signage with both monument signage and on-building signage.

11. There is no diagram of neighborhood streets, which is ok, except the road in from Birch is really not

just a neighborhood street. Perhaps there should be more detail on the design of this street segment.

The streets within Uptown Newport are depicted on Figure 6-5 for each phase. Section 6.5.1 of the revised Phasing Plan provides a narrative, plan view and cross-section view of the Birch Street entry drive.

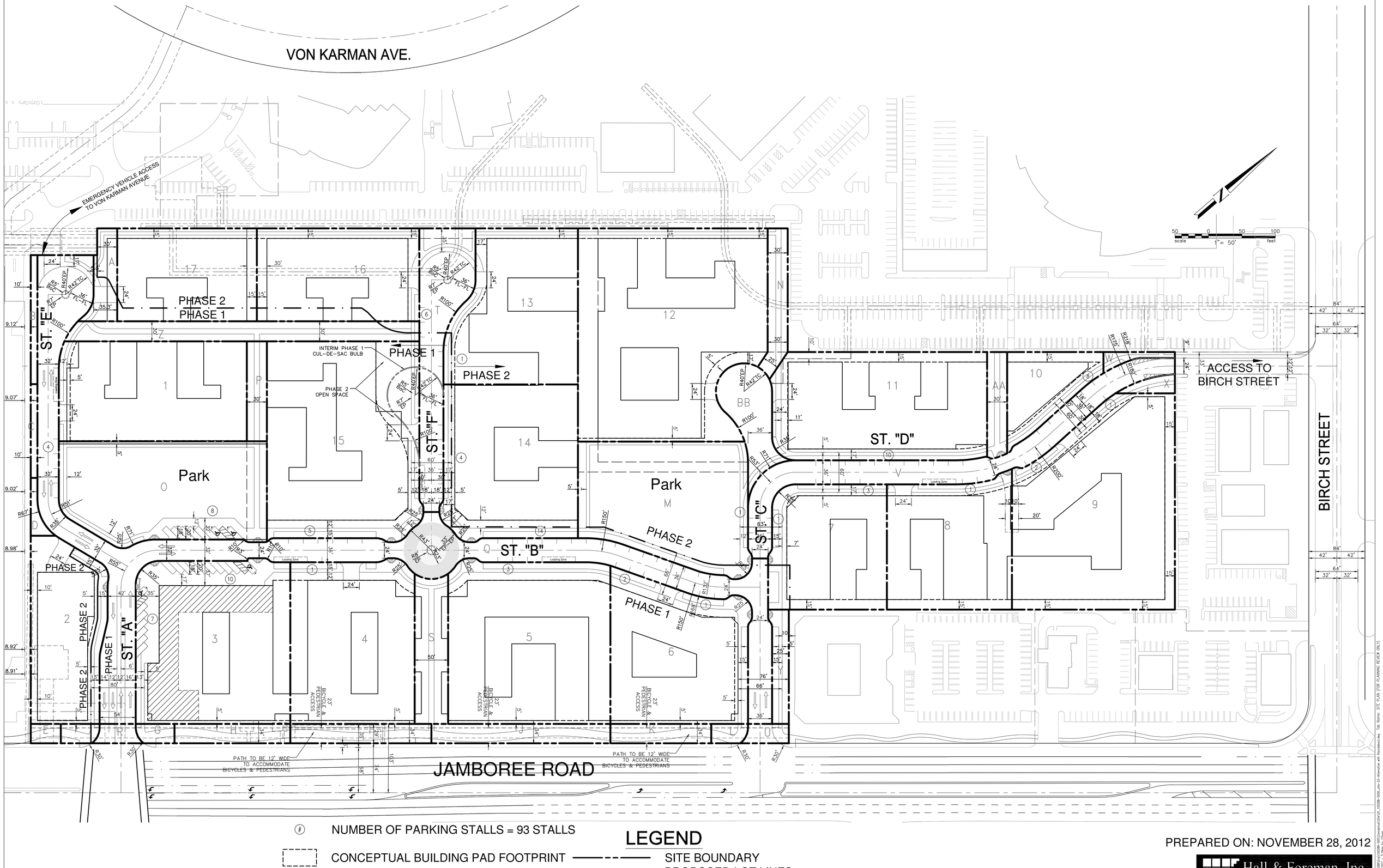
12. Page 33, the word "could" is used which means "could not" as well. Is that intended?

The regulator documents for Uptown Newport, including the Planned Community Development Plan, Design Guidelines, and the Phasing Plan have been revised to affirm the intent of the Applicant to develop a quality high density residential village that is consistent with the vision of City of Newport Beach.

Attachment No. PC 4

Site Plan

UPTOWN NEWPORT
PRELIMINARY SITE PLAN



LEGEND

- (#) NUMBER OF PARKING STALLS = 93 STALLS
- CONCEPTUAL BUILDING PAD FOOTPRINT
- RETAIL
- ENHANCED PAVERS
- SITE BOUNDARY
- PROPOSED LOT LINES
- PHASE LINE

PREPARED ON: NOVEMBER 28, 2012

Hall & Foreman, Inc.
Engineering · Planning · Surveying
17782 17TH ST, SUITE 200 • TUSTIN, CA 92780-1947 • 714-665-4500

Attachment No. PC 5

Correspondence

JOHN S. ADAMS & ASSOCIATES, INC.
5100 BIRCH STREET, NEWPORT BEACH, CALIFORNIA 92660
(949) 833-1972 FAX (949) 851-2055

November 26, 2012

RECEIVED BY
COMMUNITY
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DEVELOPMENT
CITY OF NEWPORT BEACH

Ms. Rosalinh Ung
Associate Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658-8915

Re: Uptown Newport Project
Newport Beach, California

Dear Ms. Ung:

I am submitting these comments as President of Courthouse Plaza Association. This association includes 5100, 5120, 5140 and 5160 Birch Street (Courthouse Plaza), a four building office complex located immediately adjacent to the proposed Uptown Newport Project.

We are submitting this letter and comments for consideration by the Planning Commission as it reviews the Uptown Newport project.

The following is a summary of some of the major issues we have with the project.

1. The project exceeds the maximum density allowed by the General Plan.
2. The project does not conform to the General Plan guidelines in terms of connectivity and building massing.
3. The project is not compatible with the adjacent Koll Center business park.
4. The project will create a twelve fold increase in traffic.
5. The project does not provide adequate parking or adequate distribution of spaces.
6. The project imposes shadows on adjacent buildings.
7. The project imposes a significant noise and vibration impact on adjacent buildings.
8. Construction traffic will significantly impact the Birch Street Easement.
9. The project proposes modification and construction on the Birch Street Easement that it does not have the right to construct.
10. The project attempts to convert a private driveway easement for public traffic use.
11. The project proposes the ability to transfer additional development rights to the project site.

Lastly, the citizens of Newport Beach approved a General Plan that envisioned a mixed-use urban village for the Airport Area based on the ROMA designs. These designs provided for an attractive, integrated, urban village that would be an asset to the Airport Area and the city. The project as proposed is a massive, unimaginative project that turns its back on the adjacent business park neighborhood and appears to be designed with the intent of maximizing density. The project does not follow the leads suggested by the ROMA design and will result in an isolated high density apartment complex that fails to take advantage of a once in a generation opportunity to provide an asset to the City of Newport Beach.

Regardless of the numerous technical faults, which are discussed on the following pages, the Planning Commission currently has an opportunity to help shape the proposed project so that it meets the intent of the General Plan. The majority of the issues and impacts created by the proposed project, both technical and aesthetic, can be mitigated significantly by reducing the density of the proposed project to 30 units per acre. At this lower density, which is consistent with General Plan guidelines, the proposed project will be more likely to provide the benefits to the City of Newport Beach that were envisioned by the General Plan.

A detailed description of each of the issues referenced above and suggested solutions is included on the following pages.

Sincerely,

JOHN S. ADAMS & ASSOCIATES, INC.

John S. Adams

Attached: Descriptions of Issues and Suggested Solutions
Letter from Cadden & Fuller

DESCRIPTION OF ISSUES AND SUGGESTED SOLUTIONS

1. Maximum Density Exceeds General Plan Guidelines

The General Plan allows for building density of a minimum of 30 units per net acre and a maximum of 50 units per net acre. The Tentative Tract Map indicates a total net acreage of 17.68 acres. Therefore, minimum and maximum densities are as follows.

	Maximum Density	Minimum Density
Net Acres	17.68	17.68
Density	x 50/acre	x 30/acre
Maximum Units (before density bonus)	884 units	530 units
Maximum Density Bonus (35%)	x 1.35	x 1.35
Maximum Units (after density bonus)	**1,193 units**	**715 units**

The project proposes a total of 1,244 units. This exceeds the maximum allowed.

Solution: Reduce project density to conform with General Plan requirements.

2. General Plan – Connectivity and Building Massing

Connectivity: The General Plan approved for the Uptown Newport and the adjacent Koll Center area envisioned (see Figure LU23) a total of five ingress and egress points for the development (two to Jamboree, one to MacArthur, one to Von Karman and one to Birch). The project as proposed only has the two Jamboree Road access points and the Birch Street Easement access. The Birch Street access is a private driveway easement, not a street as shown on General Plan Figure LU23. The Von Karman and MacArthur access points are subject to Koll Center owner's approval. So in reality, only the two Jamboree Road access points are not subject to legal and other issues.

There also are proposed pedestrian access points between Uptown Newport and Koll Center. These pedestrian access points also are subject to Koll Center owner's approval.

Because Uptown's access points, both vehicular and pedestrian, are reduced from what the General Plan envisioned, the project should be considered only on the basis of the access that exists. The reduced access points place additional traffic burden on the remaining three access points.

Solution: Because of this reduced access, the project density should be reduced to lessen the burden on the remaining access points.

Building Massing: The project as proposed has 150 foot tower zones setback only 15 feet from adjacent property lines. This results in a massive unbroken property façade. The design is not compatible with the ROMA designs contained in the General Plan. Moreover, the design is not compatible with adjacent the Koll Center business park.

Solution: Building structures should have significant setbacks from adjacent properties. Low-rise structures should be situated along the perimeter of the project and high-rise structures should be located in the interior of the project.

3. Koll Center Newport PC

The existing Koll Center PC resulted in a project with mixed low-rise and high-rise buildings with significant setbacks and open space between buildings. Building owners within Koll Center purchased their buildings on the basis of this plan and the appealing environment it created. The proposed project with its high density and limited building setbacks is not compatible with the existing neighborhood. Based on the assumption of 1,244 units at an average of 1,100 square feet per unit, this project will insert approximately 1,368,000 square feet of buildings into the business park. The size and scale is not compatible with the surrounding business park development.

Solution: Reduce project density, increase setbacks and increase open space so that the project is compatible with the existing business park environment created by the Koll Center PC.

4. Traffic

The EIR indicates daily trip generation for this project is as follows:

Existing Use:	747
Proposed Total:	9,047
Net New Trips:	8,286

The proposed project results in an increase of 8,286 trips, which is a twelve-fold increase. The Birch Street Easement will experience AM Peak Hour trip increases of 124% (82 existing vs. 184 as proposed) and PM Peak Hour increases of 95% (148 existing vs. 289 as proposed). This increase in traffic will significantly impact the ability of Courthouse Plaza tenants to access the Birch Street driveway from the Courthouse Plaza parking lots. This will result in a decrease in rent levels and damage to property value.

Solution: Reduce trip generation on the Birch Street Easement to the existing levels. This should be accomplished by reducing project density to approximately 632 units, which is the density indicated to be traffic neutral by the ICDP.

5. Parking

The project contemplates "parking management plans" which would allow the project to deviate from code parking requirements. If not adequately parked, the surrounding properties will be negatively affected by overflow parking from the project. The project has 25 acres on which to provide adequate parking. The project should not be allowed to deviate from the code parking requirements.

Parking for the retail component should be provided per code requirements and be located in close proximity to the retail component.

Lastly, adequate parking for visitors to the parks should be located adjacent to the parks. The Master Site Plan shows no parking spaces adjacent to the Phase 2 park.

Solution: Require the project to provide parking per code for all uses (residential, retail and park). Parking should be properly dispersed throughout the project to insure no overflow impact on adjacent properties.

6. Shadows & Setbacks

Shadows: The proposed plan indicates buildings up to 150 feet in height with a 15 foot setback from the property line with Courthouse Plaza. The EIR (Figures 1C, 2B, and 2C) indicates the Courthouse Plaza office buildings will be subject to significant shadow impacts.

Solution: Any proposed buildings that will cast shadows on adjacent properties should be relocated to the interior of the Uptown Village parcel so that all shadows are contained on-site.

Setbacks: The majority of adjacent buildings in Koll Center Newport are setback approximately 100 to 150 feet from the property lines shared with the project. The project buildings should be required to have similar setbacks. This will minimize the impacts from shading and be more aesthetically compatible with the surrounding business park.

Solution: Increase the 15 foot set back from the Courthouse Plaza property line and Koll Center Newport property line to approximately 100 to 150 feet. Also, require reduced building heights and project density to eliminate shadow impact.

7. Noise/Vibration

The EIR states that vibration levels during Phase 2 will exceed thresholds at the adjacent office buildings to the northeast, which is our Courthouse Plaza project. The EIR states the vibration levels will cause annoyance to the occupants. The impact will be significant on Courthouse Plaza. The loud noise and vibration caused during construction will result in lost tenants and reduced rental rates during construction. This will have significant economic impact on the Courthouse Plaza buildings.

Solution: Mitigation of this issue should be solved by the developer. Noise and vibration should be reduced to acceptable levels with sound walls or other methods during construction.

8. Construction Traffic

The construction of each phase of the project could last several years. This will create significant noise, dust and other issues related to construction traffic. This will have significant economic impact on the Courthouse Plaza buildings.

Solution: Require all construction traffic during both phases to be directed to and from Jamboree Road and not allowed to utilize the Birch Street Easement.

9. Sidewalks, Utilities and Landscaping – Birch Street Easement

The project proposes the modification and installation of various improvements across the Birch Street Easement and Birch Street frontage. The project developer does not have the right to construct or modify improvements in the easement area. Please refer to the attached letter from our attorney regarding this issue.

Solution: The project should be considered absent any of these proposed improvements.

10. Birch Street Easement – Public Access

This is a private driveway easement. The developer does not have the right to increase traffic or burden the easement beyond traffic neutral. The proposed project funnels a street system with unlimited public access to a narrow private driveway easement. The result is an attempt to convert a private driveway for public traffic use.

Solution: The Birch Street Easement should not be considered a primary access point for the project. The project should be designed to utilize the two Jamboree Road access points as primary access for the project. This could be accomplished by controlled access at Birch Street.

During Phase 1 traffic flow should be designed to insure equal traffic access by Jazz employees to Jamboree Road.

11. Transfer of Development Rights

The project proposes the ability to transfer additional development rights to the project site.

Solution: The project should not be allowed to accept any additional development rights that would increase project density.

CADDEN & FULLER LLP
114 PACIFICA, SUITE 450 • IRVINE, CALIFORNIA 92618
TEL (949) 788-0827 • FAX (949) 450-0650 • WWW.CADDENFULLER.COM

FILE NUMBER
COU02-02

November 19, 2012

VIA U.S. MAIL

Ms. Rosalinh Ung
Associate Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658-8915

Re: Unauthorized Improvements of Easement by Uptown Newport L.P.

Dear Ms. Ung:

We represent Courthouse Plaza Association ("Plaza"). On its behalf, we provide the following analysis pertaining to Uptown Newport L.P.'s ("Uptown") Planned Development Plan.

By way of background, Plaza owns the common areas of the properties located at 5100, 5120, 5140 and 5160 Birch Street (the "Plaza Parcel") in the City of Newport Beach (the "City"). Uptown is the beneficiary of a private easement (the "Easement") over the Plaza Parcel. The Easement provides Uptown "a non-exclusive easement for passage in, over and along the following real property..., including the right to maintain driveways, roadways, sidewalks and passageways on said property."

Plaza has recently received copies of Uptown's plans to develop and make unauthorized improvements to the Easement, including but not limited to, the installation of underground sewer and water lines. This is beyond the scope of Uptown's Easement. Moreover, to the extent Uptown intends to improve the roadway, it may only do so without increasing the burden on, or unreasonably interfering with, Plaza's use of the servient tenement.

A. WHILE UPTOWN MAY MAINTAIN THE SURFACE ROADWAY, IT MAY NOT UNDULY BURDEN PLAZA WITH ITS REPAIRS AND/OR IMPROVEMENTS.

The law pertaining to easements is quite clear. In determining the extent of the servitude, the easement will be determined by the terms of the grant. "If the language is clear and explicit in the conveyance, there is no occasion for the use of parol evidence to show the nature and extent of the rights acquired." *Van Klompenburb v. Berghold* (2005) 126 Cal.App.4th 345, 349; *see Gray v. McCormick* (2008) 167 Cal.App.4th 1019, 1024; *Cal. Civ. Code* § 806.

Moreover, an "easement is a restricted right to specific, limited, definable use or activity upon another's property." *Scruby v. Vintage Grapevine, Inc.* (1995) 37 Cal.App.4th 697, 702. "The owner of a dominant tenement must use his or her easements and rights in such a way as to impose as slight a burden as possible on the servient tenement." *Id.*

Here, the purpose of the Easement is to provide Uptown a surface passage to and from its property. The Easement also provides that Uptown may maintain the driveway, roadways and sidewalks and passageways on said property. Uptown, however, may only do so to the extent that it does not create an undue burden on the servient tenement.

In *Scruby*, the dominant tenement had an easement for ingress and egress on an unpaved roadway. Without consent of the servient tenement, the dominant tenement paved a section of the roadway. The court found that while the dominant tenement could make the necessary repairs to maintain the unpaved road, the dominant tenement could not, however, substantially alter the roadway without the consent of the servient tenement. *Scruby*, 37 Cal.App.4th at 707. The court held that the paving of the roadway was not incident to the reasonable repair or maintenance of the easement but that it was an undue burden on the servient tenement. *Id.* The paving of the roadway violated the servient tenement's wine permit, which would be lost if the pavement was not removed, thereby unreasonably burdening the servient tenement.

Likewise, to the extent Uptown's improvements to the Easement create an undue burden on Plaza, Uptown should be enjoined from making such improvements. Uptown's development plan includes the construction of sidewalks on the Easement which do not currently exist. Consequently, the construction of new sidewalks constitutes an undue burden on Plaza's property. The Easement only provides for the maintenance of the surface roadway, not any sort of construction which would unilaterally expand Uptown's Easement. Moreover, Uptown's development plans will cause Plaza further undue burden from the loss of use of the Easement.

B. UPTOWN MAY NOT ALTER OR USE THE EASEMENT FOR ANY OTHER PURPOSE OTHER THAN INGRESS AND EGRESS TO AND FROM ITS PARCEL, SUCH AS LAYING SEWER AND/OR WATER LINES

The conveyance of a roadway easement "does not include the right to use the easement for any other purpose." *Scruby*, 37 Cal.App.4th at 703. Here, Uptown only has the right to use the surface of the Easement for ingress and egress to and from its parcel. It cannot, however, dig below the surface to construct sewer and/or water lines. Not only would that violate the intended purpose of the Easement, it would also unilaterally expand Uptown's usage of the Easement. Uptown may not use the Easement for any other purpose than to travel on the roadway to get to and from its parcel.

San Rafael Ranch Co. v. Ralph Rogers Co. (1908) 154 Cal. 76, 76-77 is illustrative of this point. In *San Rafael Ranch*, the dominant tenement had a "reasonable right of way along and across said lot." The dominant tenement mistakenly believed that it had a right to the water on the servient tenement's land as well and attempted to dig up the soil for the purpose of laying pipeline to conduct water over the servient tenement's property. The Court restrained the

dominant tenement from constructing such a pipeline stating that "the "phrase 'right of way,' as thus used, has a well-defined meaning. It contemplates a right of ingress and egress to and from the grantee's lands. It does not contemplate the right to dig trenches and lay pipe-lines for the conduct of water."

Similarly, the only right that Uptown has is the right to a surface passageway. It cannot dig below the surface to construct any water or sewer lines. *See also Allen v. San Jose Land & Water Co.* (1891) 92 Cal. 138 (finding that an easement for an above ground open ditch to conduct water would be substantially altered if the dominant tenement than laid an underground pipeline).

In light of the above, Uptown's proposed use and alterations to the Easement go beyond the scope and rights conveyed by the Easement and should be enjoined from moving forward with its proposed plans.

If you have any questions or would like to discuss the above, please call me.

Very truly yours,

Dana Y. Kim

DYK:dyk

cc: Thomas H. Cadden, Esq.
Ignacio J. Lazo, Esq.
John Adams

MEYER PROPERTIES

4320 VON KARMAN AVENUE • NEWPORT BEACH, CALIFORNIA 92660
(949) 862-0500 • FAX (949) 862-0515

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COMMUNITY
NOV 26 2012
DEVELOPMENT
CITY OF NEWPORT BEACH

November 26, 2012

Ms. Rosalinh Ung
Associate Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658-8915

Re: Uptown Newport Project
Newport Beach, California

Dear Ms. Ung:

Our company is the owner of 4320 Von Karman in Koll Center Newport and as such we have the following concerns regarding the captioned project:

We are submitting this letter for review by the Planning Commission in the hope they will be given the serious consideration they deserve.

The following is a summary of some of the major issues we have with the project.

1. The project is not compatible with the adjacent Koll Center Koll Center Newport development.

2. The project does not provide building setbacks consistent with Koll Center Newport guidelines.

3. The project exceeds the maximum density allowed by the General Plan.

4. The project does not conform to the General Plan guidelines in terms of connectivity and building massing.

5. The project seeks to provide pedestrian access where none currently exists and is not likely to.

6. The project will create a twelve fold increase in traffic without adequate mitigation.

7. The project assumes vehicular access onto Von Karman and Birch by ostensibly converting emergency and private driveway easements for public use.

8. The project does not provide adequate parking or adequate distribution of spaces.

9. The project imposes shadows on many adjacent buildings.

10. The project imposes a significant noise and vibration impact on adjacent buildings without adequate mitigation.

11. The draft EIR concludes that no other type of project and no modification to the proposed project is feasible, but does not provide any of the criteria and assumptions utilized to determine feasibility.

The citizens of Newport Beach approved a General Plan that envisioned a mixed-use urban village for the Airport Area not one that ignores the adjacent property owners for the sole purpose of maximizing density/profit.

The Planning Commission currently has an opportunity to help shape the proposed project so that it meets the intent of the General Plan and will preclude possible litigation from nearby property owners who own buildings that will be severely and negatively impacted by the development, as proposed.

Thank you in advance for your consideration of our concerns.

Sincerely,

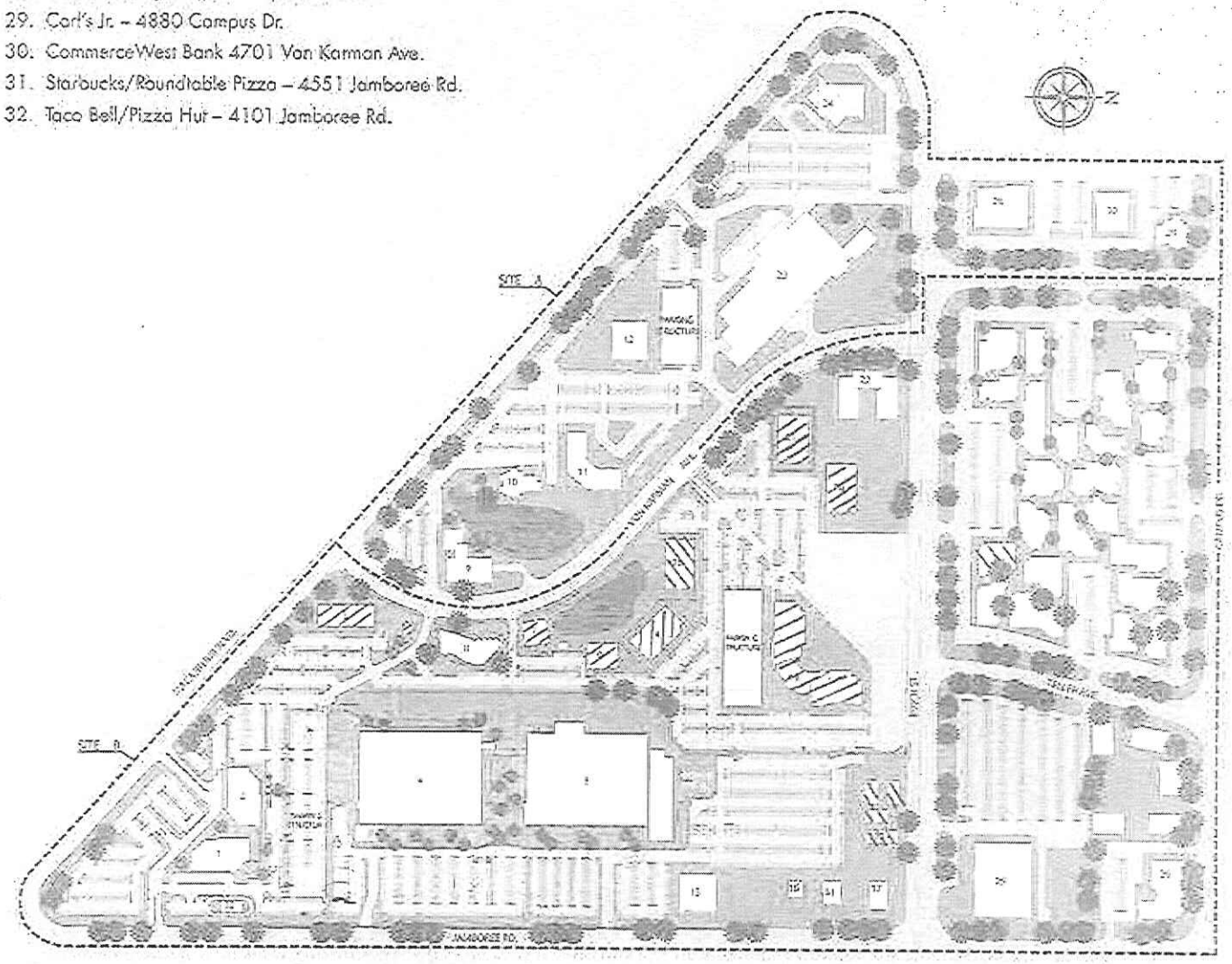
Meyer Properties

James B. Hasty
Senior Vice President

SITE PLAN - KOLL CENTER NEWPORT

SITE PLAN IDENTIFICATION

1. East Tower – 4000 MacArthur Blvd.
2. West Tower – 4000 MacArthur Blvd.
3. 4040 MacArthur Blvd.
4. Jazz Semiconductor – 4321 Jamboree Rd.
5. Jazz Semiconductor – 4321 Jamboree Rd.
6. 4320 Von Karman Ave.
7. 4300 Von Karman Ave.
8. 4220 Von Karman Ave.
9. CPH Building – 4100 MacArthur Blvd.
10. Pacific Club – 4110 MacArthur Blvd.
11. Koll Development – 4343 Von Karman Ave.
12. Bank of the West – 4400 MacArthur Blvd.
13. Jamboree Plaza – 4425 Jamboree Rd.
14. Conexant Bldg. – 4340 Von Karman Ave.
15. 4350 Von Karman Ave.
16. Weinerschnitzel – 4501 Jamboree Rd.
17. Burger King – 5180 Birch St.
18. Courthouse Plaza – 5160 Birch St.
19. 5000 Birch St.
20. 4910 Birch St.
21. [illegible] Von Karman Ave.
22. The William Lyon Company – 4490 Von Karman Ave.
23. Fairmont Hotel – 4500 MacArthur Blvd.
24. Wells Fargo Bank – 4590 MacArthur Blvd.
25. Harbor Municipal Courts – 4601 Jamboree Rd.
26. Far East National Bank – 4699 Jamboree Rd.
27. Limited Edition Office PUD
28. Extended Stay America – 4881 Birch St.
29. Carl's Jr. – 4880 Campus Dr.
30. CommerceWest Bank 4701 Von Karman Ave.
31. Starbucks/Roundtable Pizza – 4551 Jamboree Rd.
32. Taco Bell/Pizza Hut – 4101 Jamboree Rd.



CORNERSTONE IV PARNTERS, LLC
100 WILSHIRE BOULEVARD, SUITE 700 • SANTA MONICA, CALIFORNIA 90403
(310) 234-2525

November 27, 2012

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DEVELOPMENT
CITY OF NEWPORT BEACH

Ms. Rosalinh Ung
Associate Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658-8915

Re: Uptown Newport Project
Newport Beach, California

Dear Ms. Ung:

Our company is the owner of 5000 Birch in Koll Center Newport. We have reviewed the development plans for the Uptown Newport project and the associated draft environmental impact report (EIR) and have the following comments and concerns.

1. The project is not compatible with the adjacent Koll Center Newport development. The scale of the proposed building in terms of height, proximity to its property line and adjacency to the neighboring properties changes the character of the traditional business park setting where our property is situated.

2. The project does not provide building setbacks consistent with Koll Center Newport guidelines. There is too much building mass next to the eastern property line, which limits the amount of natural light reaching the Koll Center Newport properties including 5000 Birch. It will also have the effect of eliminating west facing views from the 5000 Birch office building that are highly sought after by tenants in our building. The blockage of west facing views from office suites in our building would have a direct negative economic effect on 5000 Birch.

3. The project exceeds the maximum density allowed by the General Plan. By doing so, the proposed high density presents a conflicting land use arrangement for the adjoining properties in the Koll Center Newport business park. The original buildings were purposely arranged with substantial physical separation from one another to create the quintessential "Orange County" business park design. The proposed development will seriously damage the current low density design and character of the immediately adjacent properties.

4. We object to the proposed pedestrian connection between the proposed Uptown Newport project and the existing Koll Center North business park. Introducing non-business activities in this traditional business park is intrusive and detrimental to the existing businesses in the area.

5. The project will create a twelve fold increase in traffic without adequate mitigation. Our building tenants will not appreciate such a significant increase in traffic, and may choose to relocate to other office properties with less traffic on surrounding streets. Obviously, we are concerned about the direct economic effects of such an increase in traffic due to the proposed development.

6. The project introduces vehicular access onto Von Karman and Birch by converting emergency and private driveway easements for public use. This will interfere with existing traffic flows and contribute to a detrimental changing of the character of the Koll Center Newport business center.

7. The project would impose a significant noise and vibration impact on 5000 Birch without adequate mitigation. During construction, many of our building tenants will be negatively impacted, which may lead them to choose to relocate to other office buildings.

8. The draft EIR concludes that no other type of project and no modification to the proposed project is feasible, but does not provide any of the criteria and assumptions utilized to determine feasibility. We disagree with this conclusion. There are numerous alternative development proposals involving less intensive uses (e.g., lower density, more in scale with surrounding development) which could provide a positive economic return to the property owner but have fewer deleterious effects on the adjacent owners.

We do not oppose development of any property in the area that is consistent with the uses and design parameters specified in the Koll Center guidelines and the General Plan. Unfortunately, we do not agree that the current design is consistent with the City's design guidelines. We urge you to work with the project proponent to redesign the Uptown Newport project to conform to the applicable design requirements for Koll Center North and to respect the property rights of the neighboring properties.

Thank you in advance for your consideration of our concerns.

Sincerely,

Cornerstone Partners IV, LLC

Sandy Throop
Vice President

Smith, Linden & Basso, LLP

Accounting, Tax & Business Consulting Services

Allen L. Basso
Scott H. Harada
Gordon E. Michie

November 27, 2012

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CITY OF NEWPORT BEACH

Ms. Rosalinh Ung
Associate Planner
City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92658

Re: **Uptown Newport Project, Newport Beach**

Dear Ms. Ung:

I am writing regarding the aforementioned project and the related planning commission hearing scheduled for December 6, 2012. As a property owner at 5120 Birch Street, Newport Beach, I strongly oppose the proposed project. It is the stance of myself and the association to which I belong, Courthouse Plaza Association, that the proposed project will have a negative impact on our property values. In addition, issues involving shadows, construction noise, the proposed project's density and resulting traffic are a major cause for concern. A detailed letter illustrating all points of opposition has been submitted by John Adams, President of the Courthouse Plaza Association, with which I am in sound agreement. I ask that you please take these points into consideration when reviewing the Uptown Newport project and reject their current plan accordingly.

Sincerely,

Allen L. Basso

ALB: hh

5120 Birch Street, Suite 200, Newport Beach, California 92660-2101

(949) 752-0660 • FAX (949) 752-5140
email@slb-cpa.com

LEDGER & ASSOCIATES
A PROFESSIONAL LAW CORPORATION

November 26, 2012

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DEVELOPMENT
CITY OF NEWPORT BEACH

SENT VIA FACSIMILE & U.S. MAIL

Ms. Roasalinh Ung
Associate Planner
City Of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92658

RE: Uptown Newport Project

Dear Ms. Ung:

I am writing as a Newport Beach property owner in opposition to the Uptown Project scheduled for a planning commission hearing December 6, 2012. My building sits directly in the proposed project's shadow at 5160 Birch Street, Newport Beach.

The President of our Association, John Adams, has submitted a very detailed letter opposing the project on behalf of the neighboring owners as it adversely impacts density, noise, traffic and casts shadows on our parcel. I am in agreement with Mr. Adams' sound reasoning on all points and would only further that any attempt to expand the scope of the limited easement previously granted over our private driveway would constitute a taking.

We have made good faith efforts to negotiate a resolution that would lessen the tremendous adverse impact over our private driveway but to no avail. To that end, it is my hope that The City of Newport Beach respects our property interests in our private driveway and rejects the project accordingly.

Sincerely,

Emery Brett Ledger
Attorney At Law

5160 Birch Street, Suite 100
Newport Beach, CA 92660
Tel 800.300.0001
Fax 800.442.2502
www.LedgerLaw.com

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CITY OF NEWPORT BEACH

November 28, 2012

VIA U.S. MAIL AND EMAIL (rung@newportbeachca.gov)
Ms. Rosalinh Ung
Associate Planner
City of Newport Beach
3300 Newport Blvd.
Newport Beach, California 92663

RE: Uptown Newport (PA2011-134) - Draft Environmental Impact Report SCH No. 201005194.

Dear Ms. Ung:

As you know, OCRC Capital Corporation ("OCRC"), owns a building, located at 4910 Birch St. within the Koll Center office park. We wanted to take this opportunity to reiterate our concerns regarding the above mentioned project with the expectation that they will continue to be recognized and considered by the City of Newport Beach Planning Commission.

The following is a summary of some of the major issues we have with the project.

1. The project is not compatible with the adjacent Koll Center Koll Center Newport development.

2. The project does not provide building setbacks consistent with Koll Center Newport guidelines.

3. The project exceeds the maximum density allowed by the General Plan.

4. The project does not conform to the General Plan guidelines in terms of connectivity and building massing.

5. The project seeks to provide pedestrian access where none currently exists and is not likely to.

6. The project will create a twelve fold increase in traffic without adequate mitigation.

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(949) 644-OLEN • Fax (949) 719-7200
www.olenproperties.com

224

7. The project assumes vehicular access onto Von Karman and Birch by ostensibly converting emergency and private driveway easements for public use.

8. The project does not provide adequate parking or adequate distribution of spaces.

9. The project imposes shadows on many adjacent buildings.

10. The project fails to provide feasible options for where Uptown Newport's future residents will be able to attend primary and secondary school.

11. The project imposes a significant noise and vibration impact on adjacent buildings without adequate mitigation.

12. The draft EIR concludes that no other type of project and no modification to the proposed project is feasible, but does not provide any of the criteria and assumptions utilized to determine feasibility.

The citizens of Newport Beach approved a General Plan that envisioned a mixed-use urban village for the Airport Area not one that ignores the adjacent property owners for the sole purpose of maximizing density/profit.

The Planning Commission currently has an opportunity to help shape the proposed project so that it meets the intent of the General Plan and will preclude possible litigation from nearby property owners who own buildings that will be severely and negatively impacted by the development, as proposed.

Thank you for your consideration.

Very truly yours,

Marisa Poulos

Marisa D. Poulos
Associate Counsel

Cc: Igor Olenicoff