

SEASHORE VILLAGE

**RESPONSE TO
COMMENTS**



prepared for:

**CITY OF NEWPORT
BEACH**

*Contact:
Jaime Murillo, Associate
Planner*

prepared by:

**THE PLANNING
CENTER**

*Contact:
Elizabeth Kim,
Environmental Planner*

APRIL 2008

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**RESPONSE TO
COMMENTS**



prepared for:

**CITY OF NEWPORT
BEACH**

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CNB-10.0E

APRIL 2008

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1. Response to Comments

The following provides all written comments received on the Initial Study prepared for the Seashore Village project and the City's responses to each comment. The project site is located at 5515 River Avenue in the City of Newport Beach, Orange County, California. The project site is generally bordered by River Avenue to the north, Seashore Drive to the south residential units, including vacation rentals, to the east, and a City-owned park to the west.

The Mitigated Negative Declaration/Initial Study (MND/IS) was forwarded to the State Clearing House on February 19, 2008 for distribution to responsible and trustee agencies for a 30-day review period and the notice was posted on-site in the area where the project is to be located and also mailed to the owners and occupants of contiguous property. The posted and mailed notices indicated that the 30-day review period would begin on February 20, 2008 and end on March 20, 2008; however, because the site was posted on February 20, 2008, it was determined by the City Attorney's Office that the public comment period began the following day, February 21, 2008 with the public comment period concluding on March 21, 2008. The project was continued from the March 20, 2008 Planning Commission hearing to allow for the full public comment period.

Comment letters and specific comments are given letters and numbers for reference purposes. Where sections of the Initial Study are excerpted in this document, the sections are shown indented. Changes to the Initial text are shown in **bold and double underline** for additions and ~~strikeout~~ for deletions.

The following is a list of agencies and persons that submitted comments on the Initial Study during the public review period.

<i>Number Reference</i>	<i>Commenting Person/Agency</i>	<i>Date of Comment</i>	<i>Page No.</i>
A	Southern California Gas Company	February 21, 2008	1-3
B	Native American Heritage Commission	March 5, 2008	1-7
C	Lennie Decaro	March 13, 2008	1-13
D	California Department of Transportation	March 13, 2008	1-85
E	Department of Toxic Substances Control	March 19, 2008	1-89

1. Response to Comments

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1. Response to Comments

LETTER A – Southern California Gas Company (1 page)



1919 S. State College Blvd.
Anaheim, CA 92806-6114



February 21, 2008

City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92658

Attention: Brandon Nichols

Subject: Mitigated Negative Declaration for Proposed Seashore Village Project.

This letter is not to be interpreted as a contractual commitment to serve the proposed project but only as an information service. Its intent is to notify you that the Southern California Gas Company has facilities in the area where the above named project is proposed. Gas facilities within the service area of the project could be altered or abandoned as necessary without any significant impact on the environment.

Information regarding construction particulars and any costs associated with initiating service may be obtained by contacting the Planning Associate for your area, Dave Baldwin at (714)634-3267.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Simonoff".

Paul Simonoff
Technical Supervisor
Pacific Coast Region- Anaheim

PS/mr
mitnegde.doc

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PLANNING DEPARTMENT
FEB 23 2008
CITY OF NEWPORT BEACH

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1. Response to Comments

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1. Response to Comments

A Response to Comments from Paul Simonoff, Technical Supervisor, Pacific Coast Region – Anaheim, Southern California Gas Company, dated February 21, 2008.

A-1 The letter notifies the City that the Southern California Gas Company has facilities in the area and provides contact information. No further response is necessary.



1. Response to Comments

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1. Response to Comments

LETTER B – Native American Heritage Commission (4 pages)

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-6251
Fax (916) 657-5390
Web Site www.nahc.ca.gov
e-mail: ds_nahc@pacbell.net

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MAR 10 2008

March 5, 2008

CITY OF NEWPORT BEACH

Mr. Brandon Nichols, Associate Planner

CITY OF NEWPORT BEACH

3300 Newport Boulevard
Newport Beach, CA 92658

Re: SCH#2008021075: CEQA Notice of Completion; proposed Negative Declaration for the Seashore Village Residential Project, City of Newport Beach, Orange County, California

Dear Mr. Nichols:

The Native American Heritage Commission is the state agency designated to protect California's Native American Cultural Resources. The California Environmental Quality Act (CEQA) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the California Code of Regulations §15064.5(b)(c) (CEQA guidelines). Section 15382 of the 2007 CEQA Guidelines defines a significant impact on the environment as "a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance." In order to comply with this provision, the lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. To adequately assess the project-related impacts on historical resources, the Commission recommends the following action:

- √ Contact the appropriate California Historic Resources Information Center (CHRIS) for possible 'recorded sites' in locations where the development will or might occur. Contact information for the Information Center nearest you is available from the State Office of Historic Preservation (916/653-7278) <http://www.ohp.parks.ca.gov>. The record search will determine:
 - If a part or the entire APE has been previously surveyed for cultural resources.
 - If any known cultural resources have already been recorded in or adjacent to the APE.
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - If a survey is required to determine whether previously unrecorded cultural resources are present.
- √ If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
 - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological Information Center.
- √ Contact the Native American Heritage Commission (NAHC) for:
 - * A Sacred Lands File (SLF) search of the project area and information on tribal contacts in the project vicinity that may have additional cultural resource information. Please provide this office with the following citation format to assist with the Sacred Lands File search request: USGS 7.5-minute quadrangle citation with name, township, range and section.
 - The NAHC advises the use of Native American Monitors to ensure proper identification and care given cultural resources that may be discovered. The NAHC recommends that contact be made with Native American Contacts on the attached list to get their input on potential project impact (APE). In some cases, the existence of a Native American cultural resources may be known only to a local tribe(s).
- √ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
 - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5 (f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
 - A culturally-affiliated Native American tribe may be the only source of information about a Sacred Site/Native American cultural resource.
 - Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.

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1. Response to Comments

√ Lead agencies should include provisions for discovery of Native American human remains or unmarked cemeteries in their mitigation plans.

* CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens.

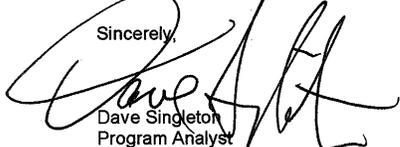
√ Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the California Code of Regulations (CEQA Guidelines) mandate procedures to be followed, including that construction or excavation be stopped in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery until the county coroner or medical examiner can determine whether the remains are those of a Native American. Note that §7052 of the Health & Safety Code states that disturbance of Native American cemeteries is a felony.

√ Lead agencies should consider avoidance, as defined in §15370 of the California Code of Regulations (CEQA Guidelines), when significant cultural resources are discovered during the course of project planning and implementation

**B-1
Cont'd**

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,



Dave Singleton
Program Analyst

Attachment: List of Native American Contacts

Cc: State Clearinghouse

**Native American Contacts
Orange County
March 5, 2008**

Juaneno Band of Mission Indians Acjachemen Nation

David Belardes, Chairperson
31742 Via Belardes Juaneno
San Juan Capistrano , CA 92675

DavidBelardes@hotmail.com
(949) 493-0959
(949) 493-1601 Fax

Juaneno Band of Mission Indians Acjachemen Nation

Joyce Perry , Tribal Manager & Cultural Resources
31742 Via Belardes Juaneno
San Juan Capistrano , CA 92675

kaamalam@cox.net
(949) 493-0959
(949) 293-8522 Cell
(949) 493-1601 Fax

Gabrielino/Tongva Council / Gabrielino Tongva Nation

Sam Dunlap, Tribal Secretary
761 Terminal Street; Bldg 1, 2nd floor Gabrielino Tongva
Los Angeles , CA 90021

office @tongvatribes.net
(213) 489-5001 - Officer
(909) 262-9351 - cell
(213) 489-5002 Fax

Juaneno Band of Mission Indians

Alfred Cruz, Cultural Resources Coordinator
P.O. Box 25628 Juaneno
Santa Ana , CA 92799

alfredgcruz@sbcglobal.net
714-998-0721
sifredgcruz@sbcglobal.net

Juaneno Band of Mission Indians Acjachemen Nation

Anthony Rivera, Chairman
31411-A La Matanza Street Juaneno
San Juan Capistrano , CA 92675-2674

arivera@juaneno.com
949-488-3484
949-488-3294 Fax

Juaneno Band of Mission Indians

Adolph "Bud" Sepulveda, Chairperson
P.O. Box 25828 Juaneno
Santa Ana , CA 92799

bssepul@yahoo.net
714-838-3270
714-914-1812 - CELL
bsepul@yahoo.net

Gabrielino Tongva Indians of California Tribal Council

Robert Dorame, Tribal Chair/Cultural Resources
5450 Slauson, Ave, Suite 151 PMB Gabrielino Tongva
Culver City , CA 90230

gtongva@verizon.net
562-761-6417 - voice
562-925-7989 - fax

Sonia Johnston, Tribal Vice Chairperson

Juaneño Band of Mission Indians
P.O. Box 25628 Juaneno
Santa Ana , CA 92799

(714) 323-8312
sonia.johnston@sbcglobal.net



This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native American with regard to cultural resources for the proposed SCH#2008021075; cEQA Notice of Completion; Negative Declaration for the Seashore Village Residential Project, located at 5515 River Avenue in Newport Beach; Orange County, California.

1. Response to Comments

Native American Contacts Orange County March 5, 2008

Juaneno Band of Mission Indians
Anita Espinoza
1740 Concerto Drive Juaneno
Anaheim , CA 92807
(714) 779-8832

Juaneno Band of Mission Indians
Joe Ocampo, Chairperson
1108 E. 4th Street
Santa Ana , CA 92701
(714) 547-9676
(714) 623-0709-cell

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native American with regard to cultural resources for the proposed SCH#2008021075; cEQA Notice of Completion; Negative Declaration for the Seashore Village Residential Project, located at 5515 River Avenue in Newport Beach; Orange County, California.

1. Response to Comments

B Response to Comments Dave Singleton, Program Analyst, Native American Heritage Commission, dated March 5, 2008.

- B-1 This letter identifies various recommended actions to assess project impact on historical resources and has no specific comments on the Initial Study. The Initial Study acknowledged potential historical resources impact and provided appropriate mitigation measures. No response is necessary.



1. Response to Comments

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1. Response to Comments

LETTER C – Lennie DeCaro, Owner 5406 and 5408 Neptune Avenue, Newport Beach, CA 92663 (33 pages)

Comment Letter

Phone: (949) 433-4827

Lennie DeCaro
Owner: 5406 & 5408 Neptune
Newport Beach, CA 92663

Email: justice41@cox.net

March 13, 2008

Via email (BNichols@city.newport-beach.ca.us)
(949) 644-3309

Original mailed to:
City of Newport Beach
Attn: Brandon Nichols
3300 Newport Blvd.
Newport Beach, Ca 92663

RE: 5515 River Ave. Mitigated Negative Declaration (Seashore Village, LLC)

Dear Mr. Nichols, planning department, & planning commissioners,

Lennie DeCaro, (DeCaro), in opposition to this project provides the following comments on the mitigated negative declaration (MND) for the 5515 River project, (Seashore Village, LLC). The opposition considers this project to have numerous significant adverse environmental impacts on the applicant, surrounding area, and city of Newport Beach. The project will adversely impact residents public access to the beach, negatively effecting environmental justice with displacement of low income tenants, project will increase traffic on Neptune Ave. through the expansion and density of project, it will negatively impact privacy, sunlight, increase noise, reduce on-street parking, and is contrary to the goals of Newport Beach general plan. Project will heavily impact nearby residents during the construction phase of the project in terms of air quality, noise, traffic, and negative fiscal impacts will fall on the residents, as it will be nearly impossible to rent property to anyone that would have to put up with at least two years of construction. There is no mention of any mitigation to property owners for loss of rents, there is no mention as to a performance bond to the city to ensure that work would be completed within their "goal" timeframe. Currently, "large" builders are facing having bonds called, inability to pay subcontractors and are having projects stopped in midstream. This is a likely scenario with this ill thought out project and the residents will ultimately pay the price.

This project would also lead to a diminution of property values, negatively impact homeowners whose patios and frontage are on Neptune Avenue, as project seeks to turn this street into an alley. The aesthetics of the area will be negatively affected, specifically injured are the immediate surrounding neighbors. There is also an invalid assumption of "less traffic" based on formula using "housing type" instead of "room count". This incorrect assumption allowed exclusion of traffic study based on less than 300 trips per day. Project is inconsistent with stated goals of the cities, inconsistent with character of neighborhood, study has not been presented to prove that added residents would not negatively impact services including police, school, and library. There is an incomplete water plan that was submitted, invalid income survey done by sellers own management company, (recently hired within the past year), this study lacks impartiality and is doubtfully certified, but unable to review as it was not included in



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1. Response to Comments

this MND. There is further potential project bias from involvement with applicant architect on General Plan/LCP implementation committee, which was intended to primarily include public input. This committee, addressed some of the very issues challenged in this MND, and was to involve the public, utilizing architects only as a subcommittee. Instead, this committee changed and became contrary to the original stated intended purpose and city council resolution and included numerous architects (or related fields); absent are detailed minutes and public input. Further, this project is contrary to Coastal Commission goals of public access to the beach. There is inadequate study of the alternatives to this project, which were suggested by DeCaro in the spirit of compromise. These suggestions by DeCaro would solve the majority of the negative impacts.

C-1
Cont'd

Noticing was also inadequate as documents were not released online until February 28, 2008 and further, none of the 10 exhibits that are listed in the Planning Commission Agenda were attached or available online as of 3-16-08. 30 Days from 2-20-08 would also have deadline incorrect for review period, this would conclude on 3-21-08.

C-2

DeCaro asserts an environmental impact report (EIR) must be prepared, circulated and ultimately certified, instead of the proposed MND, because there is substantial adequate evidence to support a fair argument that the project may, and in fact will have significant adverse environmental impacts to traffic, land use, noise, aesthetics, air quality, and safety amongst the other aforementioned issues. CEQA requires only one issue to support a fair argument to demand an EIR; this project contains numerous factual arguments that support a demand for an EIR.

C-3

Further, the failure of the applicant to indemnify the city for CEQA challenges to this project, will leave the city in the position of having to absorb costs for legal challenges to the MND that may result in substantial damages awarded to a successful challenge to the MND. The city should uphold its fiduciary responsibilities to the citizens and city and not grant the discretionary approvals for said project to the applicant and demand an EIR for any subsequent project revisions. This would be the most appropriate action that would responsibly act in a manner that is protective of the residents and city from cost of potential litigation in a challenge to the MND.

DeCaro further asserts the MND does not adequately analyze the impacts and fails to clearly describe the numerous impacts the project will create.

AN EIR IS REQUIRED

I request this project complete an Environmental Impact Report as the mitigated negative declaration has not addressed the numerous issues that were raised to staff prior to release of the MND, nor do they adequately address the issues that have been raised in the following objections to the MND. There is no doubt that a fair argument can be made that numerous potential significant effects remain that have not been addressed nor disclosed in the mitigated negative declaration.

The CEQA guidelines equate fair argument and substantial evidence as one in the same. Substantial evidence consists of facts, reasonable assumptions predicated upon facts and expert opinion supported by facts. The MND's analysis of impacts is legally inadequate, as it fails to clearly describe the projects impacts, and offers no mitigation for the unstated impacts.

1. Response to Comments

CEQA requires preparation of an EIR whenever a project *may* have a significant adverse impact on the environment. (Pub. Resources Code 21151.) “If there is substantial evidence of a significant environmental impact, evidence to the contrary does not dispense with the need for an EIR when it can still be “fairly argued” that the project may have a significant impact.” (Friends of “B” Street v. City of Hayward (1980) 106Cal.App.3d988, 1001.) Therefore, the appropriateness of an MND is only when, due to the nature of the project or the mitigation measures that have been accepted by the project proponent *before the CEQA review process begins*, there is not a fair argument that there *may* be adverse impacts.

C-3
Cont'd

“Mitigated negative declaration” means a negative declaration prepared for a project when the initial study has identified potentially significant effects on the environment, but (1) revisions in the project plans or proposals made by or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (2) there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.” *Per Public Resources Code section 21064.5*

Additionally, “the significance of an activity may vary with the setting.”(CEQA Guidelines Section 15064 (b).) As an example, the threshold for finding negative impacts to be “cumulatively significant” can be found, because the nature of this area and the Neptune Avenue cul-de-sac have been a consistently quiet area and street for decades. The intense amount of traffic, noise, and air pollution generated on Neptune avenue as a result of this project attempting to turn Neptune into an alley, and potentially forcing over one hundred cars, (just from the development), coupled with additional beach traffic that would use this to loop through neighborhood in search of parking, make this an extremely significant finding. (Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App.3d 692, 718-721.) Further the projects impact on traffic analysis depends upon the existing setting. (City of Orange v. Valenti (1974) 37 Cal.App.3d 240, 249.)

C-4



The Projects significant impacts must be adequately addressed, as well as address the identified mitigation measures that can reduce impacts and describes and compares the impacts of the potentially feasible alternatives. If the only reason the alternative is not studied is due to a prospective developer’s profit potential, then clearly outside interests are being protected over long time residents quality of life.

C-5

(3.1) AESTHETIC IMPACTS WOULD BE SIGNIFICANT

“Any substantial, negative effect of a project on view and other features of beauty could constitute a “significant” environmental impact under CEQA.” (Quail Botanical Gardens Foundation, Inc. v. City of Encinitas (1994) 29 Cal.App.4th 1597,1604.) According to the California Court of Appeal, lay opinions that articulate the basis of the opinion can constitute substantial evidence of a negative aesthetic impact. (Ocean View Estates Homeowners Assoc., Inc. v. Montecito Water District (2004) 116 Cal.App.4th 396, 402.) Expert testimony on the matter is not required because the overall aesthetic impact of a project is a subjective matter for

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1. Response to Comments

which personal observations are sufficient evidence of the impact. (Id.; Oro Fine Gold Mining Corp. V. County of El Dorado (1990) 225 Cal.App3d872, 882.)

One of the effected properties, 5408 Neptune Avenue, has a direct view of the ocean from the living room & balcony. This view has a straight line of sight directly to the public access opening for the beach. View corridor map (exhibit 2 p. 75 from MND) illustrates the view corridor to my property was substantiated; yet no mitigations or discussions addressed this issue. The current apartment building legal height is of no consequence as the building is setback from 5408 Neptune by at least 60'. This large unencumbered parking lot offers the uninterrupted view and is evidenced in applicant picture 11a, where the large setbacks are obvious.

C-6
Cont'd

Our property was purchased nearly 30 years ago based in part on the understanding of the benefits of living next to the building with the current zoning and setbacks and we paid a premium for this additional space next to our home. I have objected to applicant(s) and city regarding the numerous negative impacts, yet the MND doesn't address my ocean view, nor does MND address any mitigation. Our view is a direct line of sight to the (prox 50') open space on the sand. However, with rooftop decking, the view would be even greater. It is inarguable that there is a significant value placed on ocean views, amounting to hundreds of thousands of dollars in difference between view and non-view properties. If the discretionary approvals for modifications are approved, I would lose the ocean view in its entirety, suffer an extreme loss in marketability and enjoyment of property, lose the privacy from new unit proximity and incur safety, traffic, runoff drainage, and noise issues through the prospect of turning our cul-de-sac into an alley.

Plans for extension of "the sunset view park" will also have public views impacted that were not addressed in the MND.

C-7

The modification permit (Chapter 20.93 establishes findings required for approval of a modification permit. To approve the modification the following three findings must be made:

1. *"The granting of the application is necessary due to practical difficulties associated with the property and that strict application of the zoning code results in physical hardships that are inconsistent with the purpose and intent of the zoning code."*

C-8

Clearly this doesn't exist, there is no practical difficulty that revising plans couldn't accommodate. The only physical hardship would be that the project would transfer hardships to adjoining properties as the result of granting of this modification permit. The project has no practical difficulty; modification need is created solely by applicant's choice of design, rather than any innate characteristic of the lot. Adequate space exists for a scaled down version. This is new construction and there are a number of design alternatives that could provide full utilization of the lot while maintaining the required setbacks. The height modification can also be realized by a different design as well. Units are not marginal in size; in fact they are quite large, easy to scale down.

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

C-9

1. Response to Comments

This finding cannot be made. Existing neighborhood consists of two story buildings with majority 24' or less. Proposed project exceeds this considerably. Reducing side yard widths will create the appearance of a huge mass project that will tower over the existing residences. The "existing" neighborhood included the current apartment building for nearly forty years and was to provide for a mix of uses that were planned to include an apartment building, duplexes and single-family areas. This modification allows for buildings that are too tall, too close to existing residences and too dense. NOT compatible.

C-9
Cont'd

3. "The granting of such an application will not adversely affect the health or safety of persons residing or working in the neighborhood of the property and will not be detrimental to the general welfare or improvements in the neighborhood."

C-10

This finding cannot be made either. This development is directly adjacent to neighbors and directly negatively will impact them. This development is in direct view of the public. This development will obscure views to the beach and its massing will overwhelm the area and take away the open area that is felt with the existing setbacks of 60' and more for the current apartment.

Other properties will also be affected by the height of the proposed buildings and the expansion of the building envelope. MND incorrectly states surrounding area residential units are of similar height (three stories). This is incorrect. The surrounding properties are one and two stories. 5408 Neptune, directly bordering proposed project is less than 20' ht and typical of many homes. There are NO three-story units as the surrounding area is zoned for max. 24'. Current listings for this area, available online, all consist of one and two story units, and aerial photos supporting that the current apartment building at prox 27' is the only building zoned for 28' and erected in the vicinity and surrounding area units do not exceed 24', (except possibly from a couple of homes where the architect was jailed for falsifying the heights and Newport allowed building heights to remain). The aesthetics of this height differential will become obvious and very negative if the height differential is accentuated due to the granting of the side yard setback and height modifications.

C-11



This side yard modification puts project too close in proximity to the older units, intensifying the differences in height and style. Planning commission should not allow the discretionary approval for the setback modifications, most egregious would be to allow encroachment into the minimum 25' setback. The building proximity from 25' to 3' will accentuate this differential and will be obvious that it is not in keeping with the existing neighborhood. We purchased the property in the 1970's due to the large setback from the apartment building, the quiet, privacy, and view this entailed. The apartment building is currently approximately 60' to 100' feet from our house and the modification is seeking to reduce the minimum setback requirement of 25' by 88%, (a change from required minimum of 25' to an inappropriate 3'). Properties are purchased knowing the existing zoning and setbacks, so any modification that would be improved would be a significant impact to the rest of the neighboring community that has abided by the restrictions.

C-12

The MND omitted mentioning this Modification permit (25' setback reduced to 3') information altogether (p 39) under the environmental analysis and therefore, neither mitigation nor their impacts were addressed. It should have read, "a modification permit is also requested for a 3-foot side yard setback where the MFR zone requires approximately 25 feet side yard

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1. Response to Comments

setback based on lot width, (under discretionary approvals pg. 25). This is clearly a significant impact and will negatively affect all surrounding properties, losing the feel and look of open space that the reduced footprint the apartment had on the property. The omission of this modification permit on page 39 is a significant impact that the lack of analysis of which, is legally inadequate.

**C-13
Cont'd**

Applicant appears to want the best of both types of zoning. They would like to not only have the building height currently 28' for MFR, but don't want the setback restrictions that comes with this zoning. More troubling is that they appear to be trying to have it both ways. They are looking to go even further on both height and setback through the modification requests. These are discretionary approvals; the city should follow the vision that these restrictions sought to protect and disallow the modification permits. If these height restriction modifications are approved it will create a domino effect of other residences requesting the same.

C-14

The MND incorrectly asserts that the proposed project would allow for more public visual open space. There is no question that the density of the project removes visual open space. The existing apartment unit has a private pool area and an L-shaped building that is deeply set back from River (north) as well as Neptune and Seashore (east). The setbacks are a minimum of 60' (possibly 100'). Page 47 in the MND accurately depicts the enormous open space between the buildings. This picture also illustrates that one can see the ocean between the buildings. In the 1980's there was no fence blocking the view at all. In fact the street was open from River direct through to Seashore. Again, this can be proven by the applicant's very own documents. Please reference page 373 of Appendix D; this is an example of a historical map that proves the area adjacent to 5408 Neptune was open as a road that was originally used to access River Road to Seashore. It also proves that Neptune has always been a cul-de-sac.

C-15

Again, in the spirit of compromise, I have suggested a win-win for the community that deserves serious consideration if this project wants to proceed. The opportunity for the city to create a more pedestrian friendly development with sidewalks, on street parking, public access, visually more open space, more aesthetically appealing than buildings sandwiched together, and a better fit for the neighborhood is an opportunity for everyone to have their concerns addressed, while removing many objections should be seriously considered.

C-16

The total square footage for the *existing* apartment building is only 48,744 square feet (per title search, *or 48,753 p.57 MND*). This proposed project will actually increase to 57,906. This equates to proposed project being roughly 19% larger than the existing apartment building footprint. This does not take into consideration that current apartment is approximately 27' and proposed units will be taller by an average of approx. 20%. There is no way MND can claim that this project is less dense, will generate less traffic or will be in any way beneficial to our community if accepted as proposed.

C-17

MND states project as *gross floor area of 57,906* with a floor area ratio of .78. Again, these calculations are incorrect. Entire lot area is approx 63,597 square feet (orig. bldg. Permit p.408 appendix D in MND document), which equates to .91 FAR. Again, the MND is factually incorrect in its assertion that it would give more open area, when the facts are contrary to this.

C-18

The MND combines both building and parking of existing apartment and is misleading. The floor area is what should be referenced when discussing the visual open space. This project will significantly reduce the visual open space area. The current open parking space areas, not only allow a feeling of open space, they actually have ample parking for tenants and their guests without the need for the tenants to use the street. This frees the street up to visitors wishing to use the recreational amenities and park at the west side of this property that taxpayer dollars were spent to maintain for the public enjoyment. If this development is allowed to go forth as presented, it will be “giving” this developer the park and courts that belong to the city. The massing will give the impression that this is a private facility and the lack of parking this development will create will be the final straw.

C-18
Cont'd

3.3 AIR QUALITY IMPACTS WOULD BE SIGNIFICANT

The MND incorrectly asserts that implementation of the project would result in lower density residential land uses than currently exist on site and emissions from construction and operation of the project would not exceed the SCAQMD thresholds. MND states emissions would be a net reduction due to a net reduction in residential units. The MND fails to analyze the footprint is approximately 19% larger than existing unit and the square footage of building goes from 48,744 sq ft to a development encompassing 57,906 square feet.

C-19

Nor has the MND factored in that the existing apartment building has had a vacancy factor during this past year of at least 30%, even if you were to base it on Newport Beach average vacancy, one could safely assume that at any given time rental units are conservatively at 10% vacancy rate. Compound this with the fact that the majority of units (40) only have one tenant, and remaining 14 units are for two adults. Therefore, the number of people residing at current apartment building (10% vacancy) would be approximately 49 as a maximum number. 24 residences with 12 four bedrooms and 12 three bedroom equates to 84 residents, or 71% more impact on the environment. I used bedroom numbers based on their presentation, as MND drawings are illegible for detail. These additional residents from this project will not only be using more resources, but will add to the traffic volume, and this added volume would result in an increase in air pollutants, which is not acknowledged in the MND.

C-20



Neptune Avenue is a cul-de-sac and is narrow (30”) compared to River (60’); it is unable to handle traffic turning around in this narrow road. This project is suggesting Neptune as the alley to the new development; however, this street was not designed to accommodate this and would result in backups of the additional traffic. Further, the original ingress/egress (on River) for the existing site was removed in order to densify this project by putting in condos where cars had previously accessed the site.

C-21

In 1981, the public accessed Seashore through this area adjacent to 5408 Neptune, (Appendix D map.373) this route was blocked to through traffic with the addition of a fence, likely to avoid a prescriptive action by the public, since public had used this access for years. The MND has not studied the negative impact of trying to turn the established Neptune Avenue into an alley, and how this would impact traffic. The MND should study the alternative I

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<p>suggested which is to utilize the current parking lot/setback to accommodate the developments ingress/egress by requiring it be a road. This would put the problem that applicants are creating, back to a more equitable solution. The project as presented puts the entire negative impacts onto the neighbors.</p>	C-21 Cont'd
<p>MND states 42% of project would be paved, but doesn't analyze type of pavement nor mitigations. Will alley that accesses resident driveway be comprised of asphalt? These air quality impacts are not adequately analyzed. Asphalt batch plants emit PM, carbon dioxide, nitrous oxides, sulfur oxides, carbon monoxide, volatile organic compounds, methane and hazardous air pollutants. These impacts must be properly studied in the MND and then adequate mitigation must be included.</p>	C-22
<p>MND states there will be short- term generation of air pollutants during construction, primarily including exhaust from construction, dust from demo, and motor vehicle trips. The MND claims exemption because SCAQMD has yet to establish regional emissions.</p>	C-23
<p>Analysis is inadequate; modeling was for a site at 82 feet from construction. This site is closer than 82 feet to a number of adjoining residents and these figures are not adequately studied, nor mitigations offered. In using URBEMIS2007 modeling, inputted assumptions for this modeling are not included. MND incorrectly asserts that the <u>model run</u> is included in Appendix B. Appendix B is listed as "archaeological record search".</p>	C-24
<p>Short-term impacts also negated to mention the release of asbestos and lead paint. Property has confirmed asbestos and due to age of construction, lead is assumed as well. MND states: CO2 emissions <i>are likely not to be</i> considered substantial enough to result in a significant cumulative impact relative to GHG emissions and climate change impacts. This was not studied adequately, and they are using assumptions instead of studies.</p>	C-25
<p>Long term impacts are based on faulty short term impacts and incorrect assumptions of reduced vehicle trips as MND use ITE 2003, which has substantial variability. Further, because MND is using the assumption there are no short-term impacts, therefore there are no long-term impacts are incorrect. There are short-term impacts; therefore long-term impacts need analysis as well. MND presumes operational emissions would be reduced because the number of units are reduced. They fail to analyze based on the total square footage of buildings as compared to the apartment, or room count. There is an obvious connection to an increase in residents and traffic, based on size of home and rooms. This project would result in an increase not a decrease in traffic.</p>	C-26
<p>Construction LSTs are not based on any grading plan, so the amount of disturbed soil is an unknown. Further, and once again, MND inadequately studied construction LSTs and provided the assumptions for the modeling in Appendix A. In reviewing the modeling, it appears that in order to comply, construction was extended to 18 months and removed trenching for utilities as well as mass grading. "Phasing" of the project was used as a tool to gain compliance, however, cumulatively; surrounding residents are exposed to the same amount of pollutants, only over a longer period of time. Modeling also assumed construction would take place in the winter with 60-degree weather. Additionally, to lower emissions, model removed the</p>	C-27

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trenching for utilities. This would be inaccurate, as each unit will need under-grounding of utilities, trenching for foundations etc..

**C-27
Cont'd**

Additionally phasing is a poor idea, a likely scenario is that project ends up sitting for much longer and the MND has no mitigations to guarantee this won't happen.

There are 2 areas where emissions would exceed the LSTs, PM10 and PM2. Mitigation measure state they will bring down pollutants to an acceptable level, however, Rule 403 measures need to be called out specifically in the mitigation, and the table is based on incorrect assumptions.

C-28

Included below is excerpt from the Newport Beach draft EIR (5-22-2006) from the Environmental Quality Affairs report, that addresses this URBEMIS modeling, (same model used in this MND) and the associated problems.

C-29

“ recommends that “projects generating or attracting vehicular trips, especially heavy-duty diesel vehicles, perform a mobile source health risk assessment” in accordance with California Environmental Quality Act (“CEQA”) Guidelines published on the CEQA website. The final EIR should include a mobile source health risk assessment and provide the results of the analysis.

Appendix B contains Air Quality Data based on computer analysis from a modeling program titled “URBEMIS 2002 for Windows 8.7.0.” Although Pb and PM_{2.5} have been previously noted as potential health hazards, they are not included in the modeling. The final EIR should identify how the proposed Project would deal with these hazards, and identify other possible analysis tools that could be utilized.

C-30

In this same Appendix B, the URBEMIS modeling results are potentially confusing and contradictory. Compare the results from Appendix B, sheet #1 (marked page: 1, 3/8/2006, 2:36 pm) and sheet #5 (also marked page: 1, 3/2/2006, 2:37 pm). The titles on these pages are identical regarding on-road motor vehicle emissions summarized in pounds/day for summer. The final EIR should explain the difference, for example, in ROG from 2937.54 lbs/day to 359.52 lbs/day, and state how the City can assure that the correct numbers are used in subsequent analyses. Also, ROG is not defined. Is this related to the volatile organic compounds (VOC's) defined on page 4.2-2 of the DEIR? If so, the final EIR should fully explain. If not, the analysis of VOC's should be included in the final EIR?” underscoring added.

C-31

3.4 BIOLOGICAL RESOURCES - INADEQUATE STUDY ANALYSIS

MND relies on only a site survey, yet doesn't provide field data sheets, nor even a written report, signed and certified by Senior Biologist, nor is Phil Brylski listed on pg. 101 as a preparer with The Planning Center. Data regarding biological resources on the project site should have been obtained through a literature review that would include data on biological resources in the

C-32



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project vicinity, and applicable reference materials, with the objective of assessing and documenting existing conditions of the onsite biological resources that may not be immediately obvious with merely a site review. Sensitive biological resources present, or potentially present, onsite should have first been identified and documented through a literature review using the following resources: California Department of Fish and Game (CDFG2007), California Natural Diversity Data Base (CNDDDB 2007), and the California Native Plant Society (Tibor 2001 and CNPSEI 2007).

A biological assessment survey to document existing conditions and to determine potential impacts to sensitive biological resources based on current site plans should have included notes of biological resources, such as plant and wildlife species, on field data sheets that would also notate date, time and conditions notes were taken under. These data sheets are not included.

The California Department of Fish and Game (CDFG) administers the state Endangered Species Act. The State of California considers an “endangered” species one whose prospects of survival and reproduction are in immediate jeopardy, a “threatened” species is one present in such small numbers throughout its range that it is likely to become an endangered species in the near future in the absence of special protection or management, and a “rare” species is one present in such small numbers throughout its range that it may become endangered if its present environment worsens. “Rare” species applies to California native plants. State threatened and endangered species are fully protected against take, as defined above. Species of Special Concern is an informal designation used by CDFG for some declining wildlife species that are not state candidates. This designation does not provide legal protection, but signifies that these species are recognized as sensitive by CDFG and no determination of impacts can adequately be assessed by on hearsay. Because the community is near to wetlands and dunes, further confirmation from the CDFG is required.

The California Native Plant Society (CNPS) has developed an inventory of California’s sensitive plant species (Tibor 2001). This inventory summarizes information on the distribution, rarity, and endangerment of California’s vascular plants. The inventory is divided into four lists based on the rarity of the species. In addition, the CNPS provides an inventory of plant communities that are considered sensitive by the state and federal resource agencies, academic institutions, and various conservation groups. Determination of the level of sensitivity is based on the number and size of remaining occurrences as well as recognized threats. Sensitive habitats are natural communities that support concentrations of sensitive plant or wildlife species, are of relatively limited distribution, or are of particular value to wildlife (CNDDDB 2007).

Sources used for the classification of sensitive resources that should have been notated and reviewed are as follows: Plants - California Department of Fish and Game (CDFG 2007), California Natural Diversity Data Base (CNDDDB 2007), and California Native Plant Society (Tibor 2001 and CNPSEI 2007); Habitats - CNDDDB (2007), Holland (1986) Wildlife - CDFG (2007), CNDDDB (2007). Sensitive plant communities occur near the vicinity of the project site. 4.0 of Newport Beach Coastal Resource Protection, 4.1.1 There are terrestrial, (non-marine) natural communities that are known to occur within the coastal zone in the city of Newport Beach and its sphere of influence. MND offered inadequate analysis.

**C-32
Cont'd**

There also appear to be large trees, species and potential nesting of birds not addressed. MND states trees are classified as “small”, however photographs suggest otherwise. No photos are included in the MND classifying landscaping. Historical research photos (2004) illustrate three large palms. Page 41 of Appendix D you can also see the tops of the trees including one of the palms. MND appears to have purposefully omitted pictures that show the apartment in a positive light. This is quite contrary to pictures that I have. Further, page 46 shows different trees behind the parking. This entire area behind the wall is landscaped.

C-33

The project may violate the city of Newport’s tree ordinance as it fails to identify if the existing trees are covered by this G-1-G-3 policy. Newport Beach defines landmark trees based on size, age, and type. Historical photos of subject site show three extremely large palm trees that could qualify based on size, age or species. However, the MND has no documentation presented, except to state two small ornamental pine trees exist on property. This is ambiguous and clearly inaccurate based on photo from 2004, and there is no study to confirm if this would be a negative impact to the community to remove trees that have been in the community since 1972.

Mitigation for removal of the trees are uncertain. The MND does not provide any mitigation for the loss of the mature palm trees. The MND must analyze how trees would be replaced.

C-34

MITIGATIONS ARE IMPROPERLY DEFERRED. The courts have held it is a violation of CEQA to approve a project based on a negative declaration without first resolving how adverse impacts will be mitigated. (Sundstrom v. County of Mendocino (1988) 202 Cal.App.3d296.) The courts found that the development and implementation of mitigation measures after project approval was a violation of CEQA. (Id. At 306-308; see also Gentry v. City of Murrieta (1995) 36 Cal.App.4th 1359, 1396.) Courts have prohibited the deferral of mitigation because “There cannot be meaningful scrutiny of a mitigated negative declaration when the mitigation measures are not set forth at the time of the project approval.” (Oro Fino Gold mining Corp. v. County of El Dorado (1990) 225 Cal.App.3d 872,884.)

C-35

There are a number of mitigation measures for potentially significant effects that are mitigated only by statements that future plans would provide mitigation, without specifying the mitigation measures or requiring that the plans be submitted prior to project approval. This issue is throughout the MND. Plans need to be completed and submitted as part of the CEQA review process, and prior to the approval of any environmental review document. (Pub. Resources Code Section 21080(c)(2).)

MND states that it will provide more landscape than existing and this will make it more pleasing than the existing building because landscaping is doubled, but without a detailed plan, the mere coverage of area doesn’t make it more attractive. The project could be removing many large shrubs or tall trees only to be replacing them with small planters, but that use more area. The impact would be substantial and negative to have the mature landscaping removed.

The numerous trees surrounding the property, (neighborhood trees) could be considered “special trees” giving character to the community. Per city code, Special Trees shall be retained, unless there are overriding problems. Prior to consideration for any removal of a Special Tree(s),

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the General Services Director, or designee, shall prepare a report identifying and implementing specific treatment to retain the tree(s). If specific treatment is unsuccessful or impractical in retaining a tree(s) then a full staff report shall be made to the Commission before any further action considering removal is taken. Prior to any removal of Special Tree(s), the City must comply with the noticing provisions of the Removal of City Trees section set forth in this Policy, unless a Special Tree is considered hazardous that necessitates an emergency removal. Any such removal must be recommended by the General Services Director and the Risk Manager and approved by the City Manager.

**C-36
Cont'd**

Special Trees may be considered for removal under the provisions of this Section provided a special report by the General Services Director is provided to the Commission detailing the necessity of removal and any specific previous treatment of the tree. After receipt of the application, a Tree Inspection Report shall be prepared by the City's Urban Forester (Attachment 2) to determine if the tree(s) meets the criteria outlined in the above All Other City Trees section for consideration for removal. Simultaneously, the Urban Forester shall provide a notice of the proposed tree removal to the adjacent property owner (if not the applicant), the private property owners immediately adjacent to the applicant's property, and the appropriate community association if applicable, (not applicable to the emergency removal of hazardous trees under Item C nor to trees that meet the criteria of Item E in the preceding All Other City Trees section).

The Urban Forester shall determine whether in his/her judgment additional specific treatment can be initiated to retain the tree provided the costs are reasonable. If a tree(s) is to be removed, the tree(s) will be posted at least 30 days prior to the removal with a sign notifying the public that they have the right of appeal. The sign shall also note a staff contact. Once a recommendation is made by the Urban Forester and the Parks and Trees Maintenance Superintendent to the General Services Director and the General Services Director or designee concurs, then the applicant, the adjoining owners, private property owners on either side of the street within 500' in each direction of the tree location and a legally established community association, if applicable, shall be notified of the decision to remove or retain the tree within 30 days of the proposed removal. A legally established community association is responsible for notification of all association members pursuant to their established procedure.

The General Services Director, or a designee, shall prepare a staff report for a regularly scheduled PB&R Commission meeting of all trees recommended for removal, except for those trees categorized in Paragraph C. (dead, diseased, or dying trees) or Paragraph E (claims and safety issues) in the preceding section on All Other City Trees. Only an applicant, an adjoining property owner, or a legally established community association, the City Manager, a PB&R Commissioner, or a Councilmember may appeal the decision of the General Services Director not to remove a tree to the Commission. The Commission, in considering any appeal, shall determine whether the removal meets the criteria outlined in this Policy, as well as any unique factors which may be pertinent to the removal or retention of tree(s). The decision of the Commission will be considered final unless called up by at least one Councilmember or the City Manager.

The General Services Department will delay any tree removal(s) for at least 14 calendar days following the date of the Commission decision in order to allow time The General Services Department will delay any tree removal(s) for at least 14 calendar days following the date of the Commission decision in order to allow time for a Councilmember or the City Manager to call the item.

C-36
(cont'd)

3.5 CULTURAL RESOURCES -INSUFFICIENT STUDY OF POTENTIAL IMPACTS AND MITIGATIONS

MND misrepresents the importance of findings from Archaeological data. MND states records search was conducted and no archaeological evidence on or near the site was found. The MND neglected to state that the prior studies that were done did not include this area; therefore there were no sites that could be found if they were never studied. Of the areas studied, including within one-quarter mile, records check found a minimum of 11 archaeological sites within one mile of project.

C-37

MND states sites are not “expected” to extend into project area. However, study further states that area and surrounding properties were developed without the benefit of an archaeological investigation and therefore, no data is available to ascertain the general level of sensitivity for similar resources to be present. The McKenna study concludes, the Newport Coastal area is generally considered sensitive for prehistoric archaeological resources, and should be considered moderately sensitive for both historic and prehistoric archaeological resources.

MND admits only a limited archaeological records search was conducted by McKenna et al. However, the findings are significant. It continues to state area is moderately sensitive for historic archaeological resources regarding the historic railroad alignment. MND has not been surveyed for cultural resources and potential for subsurface evidence remains. Mitigations must include defined archaeological monitoring program.

Archival research has indicated it is sensitive for the presence of prehistoric period archaeological resources within the project area. Surface survey is an inadequate method for defining and evaluating these resources, and even that wasn’t performed. Mitigations for this potential impact would be to implement a program of subsurface testing, utilizing traditional or remote sensing methods, designed and implemented by a Registered Professional Archaeologist. Testing would determine the nature and extent of archaeological deposits. If deposits were located, they would be evaluated according to the eligibility criteria of the California Register of Historical Resources. If eligible for listing on the California Register of Historical Resources, measures to mitigate the effects of the project on archaeological resources would be designed and implemented. Avoidance is the preferred method of mitigation. If, however, avoidance is not feasible, alternative methods may be developed. If alternative mitigation includes data collection excavations, these must be conducted according to CEQA Guidelines Section 15126.4.

Per notice from the Native American Heritage Commission dated March 5, 2008 and received Mar 10, 2008 (available at city 3-17-08), they recommended that a records search of recorded sites be done (CHRIS) and that the record search would determine: if a survey is required to

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determine whether previously *unrecorded* cultural resources are present. Study consultant performed search but did not state whether a survey would be required.

The NAHC also recommends that project applicant contact the Native American Heritage commission for a Sacred Lands file search of the project. MND study shows no evidence of contact or results of this recommendation.

I contacted the Native American Heritage Commission and confirmed that the project site is in close proximity to previously discovered prehistoric burial sites and is believed to hold numerous Native American cultural resources. They suggest early consultation with Native American tribes in the area as the best way to avoid unanticipated discoveries once a project is underway. They also state that lack of *surface* evidence of archeological resources does not preclude the existence of archeological resources. Lead agencies should consider avoidance, as defined in Section 15370 of the California Environmental Quality Act (CEQA) when significant cultural resources could be affected by a project. (3-19-08 Dave Singleton)

The existing paved area currently in the setback of 60', if used as the driveway, as it presently is used, could help to mitigate the impacts by avoiding the excavation for foundation footings that will be required in order to support the three story condos.

**C-38
Cont'd**

3.6 GEOLOGY AND SOILS -INSUFFICIENT STUDY OF POTENTIAL IMPACTS AND MITIGATIONS

MND states EGA consultants prepared an investigation included in Appendix B. This mislabeling of where to find the documents is confusing. Appendix B addresses archaeological Records Search. Geotechnical Investigation is found in Appendix C. This document also has been marked with purple highlighter. It is unclear if this is to emphasize or to delete.

As stated in *McQueen v. Board of Directors of the Mid-Peninsula Regional Open Space District* (202 Cal.App.3d 1136, 1143; 249 Cal.Rptr. 439), "An accurate project description is necessary for an intelligent evaluation of potential environmental effects of a proposed activity". A vague or ambiguous project description will render all further analyses and determinations ineffectual. It is critical that the project description be as clear and complete as possible so that the issuing agency and other responsible agencies may make informed decisions regarding a proposed project.

While an MND provides a general description of the project, key elements are either missing or yet to be decided. For example, there is no indication as to how much grading will occur. This is a key factor in addressing other impacts including, but not limited to, traffic on haul routes, noise, vibration, and air pollutant emissions. Vibration will occur to the land immediately adjacent to the property during construction. Mitigation measures that could be used include: using augers and providing buffer zones between residences and the use of vibratory equipment. Mitigation could also include alternative ways of compaction within these buffer zones that does not create excessive vibration.

C-39

C-40

EGA completed a preliminary investigation. They requested grading and foundation plan be reviewed and approved prior to construction. There is no mention of the appendix C in their contract or study and may not be site specific.

C-41

There is also an issue for inadequate drainage runoff could impact surrounding properties as water table is found at 6'-8" below grade. There is no grading/specific drainage plan to determine depth and disturbance of soil. Soil records also show water table at 1' below surface on records check for area soils.

C-42

3.7 HAZARDOUS MATERIALS

Study found 17 of 44 samples testing positive for asbestos. No lead based paint was tested for. 1972 was during time when lead was commonly found in paint. Study stated that prior to demolition, it *may require* a lead based paint survey to be performed. Again, MND is deferring possible mitigations, because they have not done a conclusive study.

C-43

New development could “uncover previously undiscovered soil contamination as well as result in the release of potential contaminants that may be present in building materials (e.g. mold, lead, etc.). This could result in a significant impact. Lead was not tested for, and the mitigation is therefore deferred, mold and other toxics were not addressed.

Mitigations should include detailed means of enforcement and the agencies/departments of enforcement of the City’s proposed policies should define the timelines and response times for enforcement of each regulation and policy. Most importantly, all impacts – whether potential or definite – should be analyzed in light of the response, clean up, and remediation times attendant to the regulations/policies and enforcement cited by the City as the factors that render all impacts less than significant.

3.8 HYDROLOGY/ WATER QUALITY IMPACTS WOULD BE SIGNIFICANT

The plan as submitted appears as an incomplete boilerplate report. Plan describes that by filtering directly into the ground, this avoids the need for regular maintenance, however acknowledges that drains would require general property maintenance. The long-term operation and maintenance requirements for the Treatment Control BMPs are not defined adequately as they state that there will be no common maintenance control, that instead, individual investors will be caring for their individual areas. It doesn’t identify the entity that will be responsible for long-term operation and maintenance of the Treatment Control BMPs, and does not describe the mechanism for funding the long-term operation and maintenance of the Treatment Control BMPs.

C-44



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Section VI is entirely missing, as well as language either omitted or accentuated by use of colored marker. Page 10 is blank, Page 11 checks box for common area landscape management as both “included” and “N/A”. States “N/A” regarding a spill contingency plan based on “Small SFD development” (sic).

**C-44
Cont'd**

Plan is inadequate as it states common area litter control is N/A as “*common areas minimal and maintained by individual home owners*”. There is guest parking, alley way and paved walkways that are private and shared by the development. They identify no one being in charge to clean or maintain these areas, nor do they state who will be responsible for street sweeping of parking lots or maintenance of broken irrigation systems that would be used for the trees they have depicted in artist rendering of proposed development. These trees will require pesticides, fertilization and watering, far greater than zeroscape plantings. The application is inadequate in that it does not state who will provide common area catch basin inspection. It has marked both included and “N/A” under Uniform fire code implementation. Plan should also consider sand filtration prior to release of treated water into storm drain if individual percolation would be inadequate during heavy rains, considering the high water table in Newport Beach.

Plan does not address actions for the construction phase that should include how demolition debris is disposed of or stored, covered, transported and does not include grading and drainage plans to prevent flooding of other properties. Design objectives that need to be addressed would include: All surface runoff and subsurface drainage being directed to the nearest acceptable drainage facility, via sump pumps if necessary, as determined by the Building Official. Drains cannot discharge onto neighboring properties, all roof drains shall be required to connect into a tight-line drainage pipe or concrete swales that drain to the nearest acceptable drainage facility. Water runoff needs to address landscape plans that would utilize only native, drought-tolerant landscape materials.

Plans appear to show drain trench in front of 5408 Neptune Avenue, instead of on their property, transferring maintenance responsibilities to the city.

C-45

Drainage appears to be designed to go directly into the ground but not called out in sufficient detail as to location, size, etc. Pollutant concerns should be addressed due to the water table at approx. 5' below surface, possibly at 1', and soil is class D, subject to saturation, poor drainage, etc.

C-46

New project will exacerbate water use and runoff, thereby increasing pollution. Current apartment parking doesn't have access to wash cars at the premises. Existing landscaping is well established and appears to consist primarily of zero-scape plantings. Project would *increase* water usage and subsequent pollution due to increased watering of planted areas and fertilizing, numerous residents washing their cars in their driveways, and numerous residents hosing off prior to entering the condos. Much of this water would be on impervious surfaces, increasing pollution in the runoff.

There is no plan for a common maintenance district to control landscape areas, so possibilities of broken sprinkler heads are much more likely to go unattended to. It is also much more likely that each individual unit will supply hoses to shower off prior to coming into their new homes, causing a continual runoff of water. The MND claim that the new project will result in less surface runoff are incorrect as there will be an increase in water usage. Increases will be

primarily in the impervious areas due to hosing off and washing of cars. There is also a real potential of flooding neighbors if grading is toward surrounding residences. This is in an area that has flooded significantly. If runoff is put back into the ground, relying on a filtering system, this could over saturate the grounds and potentially impact surrounding properties as well.

C-46
Cont'd

There is also no discussion of the Clean Water Act that would limit the amount of runoff or limit the percentage of increase a project generates on the amount of runoff.

C-47

3.9 LAND USE /PHYSICALLY DIVIDE AN ESTABLISHED COMMUNITY

The introduction of such a dense massing of homes may create a distinct community whereby rehab facilities could proliferate. The potential is already rumored and there is nothing that the city could do because as individually owned condos, each residential unit could house 6 people and be within the law. My research uncovered that one of the primary rehab house owners is listed as a tenant in the existing building. The directories search in the MND would have shown this but they only show directories up to 2002. It is a reasonable conclusion one could draw, that someone who owns several rehab homes in Newport Beach, yet decides to become a tenant, may possibly be part of this investor group. There is evidence to suggest that this exact type of thing is happening in other cities at this moment. There are areas currently in California that have been redeveloped and taken over by rehab facilities. This potential outcome may be in the future for West Newport.

C-48

Densification of this site and the lack of parking spaces to accommodate the additional owners will physically divide the community. Residents and visitors will no longer be able to find parking on the street to use the park. Further, the dense development will give the appearance that the park is part of "their own private community". The MND fails to address that the number of cars are directly related to the number of bedrooms. There is only one area in the MND that describes the fact that the current site has only eight (8) studios, (32) thirty-two one-bedrooms, and only fourteen (14) two bedroom units. Nowhere in the entire MND do they address the amount of parking spaces that the apartment currently has. It appears this is not addressed because it would accentuate the difference between the abundance of parking currently, compared to what it will become if this area is allowed to become over developed.

C-49

The issue that needs to be addressed is that the current parking accommodates current residents with parking to spare. Proposed parking with increased residents will not provide adequate parking. It may be technically within guidelines, but this is a public resource and every reasonable attempt to provide adequate parking must be demanded. I believe current site has more parking spaces than proposed site and current site has fewer residents. MND doesn't state apartment number of existing spaces and analysis doesn't cover this aspect. MND states project will only have 63 total spaces. New development has minimum of 83 bedrooms compared to existing total of 68 bedrooms.



1. Response to Comments

MND *incorrectly* describes the floor area Ratio for said project as .78 FAR. It is miscalculated, the proposed project is 57,906 square feet with the lot size 63,597, and the actual FAR is .91. Lot size is also incorrectly stated in parts of the MND as 1.49 (prop. description 3.0), it is actually 1.46 and MND consultant/McKenna documents stated this correctly in their study (Exhibit B). However, where the description should be absolutely correct, the MND is inaccurate. MND also *incorrectly* stated on the same page, under the property description of existing apartment building square footage, wherein it *inflated* the square footage to 64,885. The *actual* square footage of existing building, confirmed by original building permit and county recorder is 48,744 with a floor area ratio of .76.

C-50

MND also appears to be trying to have apartment building appear it the worst light possible. MND, again under property description (3.2 of 466 page environmental assessment report) states: estimated % of property covered by buildings and/or pavement at 97%. There is no reason to combine the two except to imply that the existing structure is massive and envelopes nearly the entire property. At the beach parking equates to a better standard of living. This was one of the reasons that the apartment building was such a good neighbor. MND appears to continually ignore major negative impacts, or spins descriptions to imply something other than the real facts suggest. The building mass of existing apartment is considerably less. (.76FAR to proposed .91FAR).

C-51

Another interesting MND omission that was just revealed (available 3-17-08) is on page 75 of 128, entitled "Exhibit 2 project plans". Apparently someone did take notice of my complaints for the past two years on this project and illustrated that 5408 Neptune does in fact have an ocean view and they were aware of it. However, this map that shows the view corridor is not addressed, no mitigation, no discussion, period. The PR team for the past two years has ignored any attempt to compromise or address neighbors concerns. There was never any attempt to mitigate the many issues when there has been two years during this process where applicant could have changed the siting and reduced the density.

C-52

The MND should consider the option of purchasing the site for the city to extend the existing park for the residents of West Newport. At least one council member has stated that increasing park space was a goal, as well as sidewalks. Certainly, allowing anything close to the densification this project is asking for is contrary to the city's best interests. Photos already show how tall the apartment looks in contrast to the other homes, but because of the generous setbacks of over 60', it is much less obvious and obtrusive. There isn't the stark contrast that the new development will have. However, if one puts this massive grouping of condos together, the height differential will be obvious.

C-53

5408 Neptune, which is on a double lot, is less than 20' in height and will be dwarfed by a bldg nearly double its height. The Seashore building also appears to be approximately the same height as 5408 and will also suffer the same disproportionate look. This project will result in a complete lack of privacy, shadows will be cast over the patios and aesthetics will be compromised in this neighborhood. Newport should not be supporting 3 story homes in West Newport; these larger homes with more bedrooms will just create more of the traffic that makes the quality of life at the beach decline.

1. Response to Comments

Documents on the Agenda and part of the MND were not released until March 17, 2008. Documents/plans for project are illegible as far as detail determining dimensions on floor plans. However it appears one model could easily convert to add an additional bedroom. There are no conditions to limit the number of bedrooms. The number of rooms does in fact have a definite impact on quality of life and densification of this area and needs analysis.

C-54

I have been told the apartment building was at one time 30-40% vacant, even assuming a 10% vacancy rate; you have very few occupants that live there based on the preponderance of one-bedroom units. Apartment area is extremely quiet and they have always had ample parking to accommodate all the tenants and their guests within the confines of their site. This has allowed the public and neighbors to enjoy the park and the public beach. The MND omits references to the number of existing parking spaces, therefore inadequate analysis is derived.

C-55

MND is stating there will be less impacts based on a formula for daily trips, that (ITE) admits is extremely variable. A study should compare the likely number of residents driving, based on number of bedrooms. The study also needs to address the demographics of this area of Newport Beach. Primarily this area will draw more teenagers or adults, based on the popularity of this area in that age group. A direct correlation exists between number of bedrooms, number of tenants and number of cars.

C-56

It has also been rumored that there is already a rehab unit(s) in the apartment. If this were true, it appears contrary to the recorded message that states in order to qualify for a one-bedroom apt., you must make \$66,200 per year and no co-signers are accepted. If it is not true, then one must wonder why a rehab owner is listed as a tenant. It is also likely that in order for investors to recoup their investment that this area will become primarily weekly summer rentals.

C-57

There are potential severe impacts that will further divide this community if this area becomes a primarily a rehab area. The MND offers no mitigations to protect the community.

The same potential exists for this proposed development. Further, there appears to be a need for CC&R's and a homeowner association to manage and control this area; MND suggests none. Further, MND basically states there will be no one in charge of maintaining common areas, that the individual will be responsible for their own area. This will clearly create significant impacts that have not been addressed adequately.

C-58



1. Response to Comments

The following is an article that appeared in the Boston Banner on 12/13/2007.

<http://www.baystatebanner.com/issues/2007/12/13/news/local12130711.htm>

‘Sober houses’ under legal review by city

1.1 BY KENNETH J. COOPER

The Roxbury development that has become Safe Haven Sober Houses started quietly enough a decade ago when a one-man real estate company based in Hull bought an undeveloped parcel on the eastern foot of Fort Hill.

That was about the last quiet moment. The ongoing saga has seen the project shift from single-family townhouses for sale to multiple-occupancy bedrooms for weekly rent sober houses.

Some neighbors and their elected representatives have criticized the development — in both its forms — as too dense. The original plan was to erect 22 modular townhouses on a little more than an acre and a half.

The courts have been kept busy with lawsuits, appeals and a criminal prosecution that the city is now pursuing against Safe Haven’s operators on charges of converting garages and basements into bedrooms without building permits. The permits the developers did have were issued in 2003 on a unanimous order from the State Building Code Appeals Board after the Boston Redevelopment Authority sat on the application for more than four years.

More than 100 tenants recovering from substance abuse live in 11 or 12 townhouses on Washington, Juniper and Guild streets, Safe Haven states in a recent court filing.

“The development went up as a condo development, not a sober house,” said City Councilor Chuck Turner when asked to distill his concerns about Safe Haven. “Another concern is the quality of services.”

Turner, state Sen. Dianne Wilkerson and state Rep. Gloria Fox, in separate interviews, recited a litany of concerns: fatal overdoses on site, residents’ purchases at a liquor store a block away, serious sex offenders among the tenants and, as Wilkerson puts it, “such a high concentration” of recovering substance abusers.

Unlike residential treatment programs, sober houses by definition provide only housing — not services to help tenants move beyond their addiction. The staff is supposed to collect rents, assure safety and enforce rules, but is not charged with monitoring individual behavior. Support and peer pressure from other former addicts is supposed to keep residents on track.

Because they do not provide treatment, sober houses are not licensed or regulated by any level of government. They enjoy the protection of state and federal anti-discrimination laws, which define recovering substance abusers as disabled.

C-59

1. Response to Comments

Some sober houses in other states, reacting to bad publicity or proposed regulation, have banded together to impose quality standards on themselves. California has two such groups: the Sober Living Network, based in Santa Monica, and the statewide California Association of Addiction Recovery Resources (CAARR) in Sacramento.

C-59
Cont'd

The Banner asked the directors of both organizations, and Douglas Polcin, a national expert on sober houses, about the concerns cited about Safe Haven. Though they disagreed on some points, all three characterized most of those concerns as worrisome and inconsistent with a well-managed sober house.

Overdoses

Sgt. Bruce Smith, a community services officer with the Boston Police Department's Area B station, said at least three fatal overdoses have occurred at Safe Haven.

Told at least three fatal overdoses have occurred at Safe Haven, which opened last year, Polcin groaned and muttered: "No, no."

Ken Schonlau, director of the Sober Living Network, said, "it happens," but could recall only one fatal overdose on the premises of its 320 member houses. (Underscore added).

The same potential exists for this proposed development. Further, there appears to be a need for CC&R's and a homeowner association to manage and control this area; MND suggests none. Further, MND basically states there will be no one in charge of maintaining common areas, that the individual will be responsible for their own area. This will clearly create significant impacts that have not been addressed adequately.



1.2.1 EXISTING LAND USE /DESCRIPTION INADEQUATE.

Defines current access via two driveways on River, but states access to and from "Seashore Street and Neptune Avenue is blocked by a wooden fence", implying "access" to Neptune Avenue. Fact: There has never been any access from subject site to or through Neptune Avenue.

C-60

The significance is that this project proposal is attempting to turn Neptune Avenue from a cul-de-sac into an alley, using Neptune as the primary access to all of its units. Meanwhile, applicant is requesting to use one of the two existing driveways on River as their own private driveway for the sole benefit of only one of their proposed condos.

C-61

This proposal to use one of the two existing River Avenue driveways for the benefit of just one of the proposed single-family condo units is unfair to existing homeowners. Applicant is attempting to effectively "take" from the cities existing residents that have purchased property on Neptune, requiring us to give our street over to the developers to further accommodate their economic gains at our economic loss. There is no valid reason they cannot use the existing driveway with current ingress/egress. This is purely to maximize their profits at the existing taxpayers expense. There are no physical constraints that would make this infeasible. It is not the role of the city to provide for the most profitable investment opportunity for investors. The role of the city is to protect and enforce existing code and to maintain the community vision and standards through fair application of code.

C-62

1. Response to Comments

While the apartment building originally had open access to Seashore Drive from an opening to the street from the apartment parking area, Neptune Avenue never was accessible. The apartment owner put up a fence years ago to discourage the public from walking through the complex to access the beach and to stop public from using this access road and parking in their guest parking spots.

**C-62
Cont'
d**

Neptune however, has never been open for through-traffic or pedestrian access to the apartment bldg.. Neptune has always had a permanent blockade erected by the city, as well as postings of “no parking” signs. Neptune has always had terminus at 5406 Neptune Ave. Seashore on the other hand was used at one time to access the beach and verified through maps found in the MND, mentioned previously.

C-63

Mitigations that should have been studied and presented are absent. An obvious mitigation would be to reduce the project density, while maintaining a portion of the open space of the current footprint. Utilizing the current driveway on River Avenue and continuing this directly through to Seashore Avenue effectively eliminates the majority of objections that residents have and the city should have.

The city encourages use of sidewalks and public parking. Coastal commission encourages public access. Neptune residents do not want their cul-de-sac turned into an alley. I have numerous issues with loss of ocean view, privacy, safety, traffic, noise, etc. If this area adjacent to my home had a standard 30' road put in, this would solve nearly all of the issues. I offered this as a compromise, as I would still be giving up privacy and safety with the added adjacent traffic, but discussed this with the applicant and was told they can't afford financially to give up any properties.

Absent a compromise, I informed them this would likely result in litigation, and this didn't concern the applicant. Based on this, I would request information as to if the applicant has or will sign a letter that would indemnify the city from potential CEQA lawsuit.

C-64

This mitigation I have suggested is a compromise that would not only solve many issues, it would actually benefit the look of the development as a defined community. Placing this huge block of taller condos crammed next to older duplexes does not fit in with the character of the community. However, an appropriate approach is found in the adjacent Lido Sands community. This community serves as an excellent example of a well-done community of single-family homes, that are decidedly different and defined it its own small grouping, but in keeping with the community aesthetics.

C-65

Setting apart of the new development would be in keeping with the transitional changes one expects when transitioning to different types or styles of housing. An inclusion of a new street would appeal aesthetically as it would give the distance needed to accommodate the break in design styles. Our community and the development would be better served with this approach.

The proposed project could have the opportunity to benefit the surrounding neighborhood and the developer at the same time, if applicant would agree to compromise. The project needs to be scaled down and to include the suggested road improvement. This road requirement would utilize the area that is currently within the required minimum setback. The apartment is currently set back at least 60'. The required setback to accommodate 30' road with sidewalks could be provided, with the majority of the road being within the required 25' setback. However, applicants are asking for a modification to this setback from the current minimum of 25' to reduce it to 3', (min. 88% reduction of setback).

1. Response to Comments

SAFETY: Public dedication of right of way should be required due to the impact on the area. River Avenue is 60' geometric and clearly able to handle larger volume of traffic as it is wider and does not intersect with pass through traffic. Neptune is a 30' geometric that has always had terminus at 5408 Neptune. It is reasonable to assume a serious negative impact would result during any emergency requiring immediate evacuation, as there is the potential of 100 or more cars from this new development that would be attempting to access out from the narrower Neptune Avenue.

C-66

Neptune Ave. currently has sidewalk and on street parking, further narrowing this road. Inability to adequately turn vehicles around will prove to be a safety trap during an emergency. Current driveway access on River Avenue that would extend access as a new street to Seashore is the appropriate, safe alternative that should have been studied. Homes effected on Neptune currently face toward the ocean, trash pickup is on River Avenue. Project proposal would have trash trucks traversing through Neptune Avenue, as it would become the alley for both sides of their development. There appears to be no area in the MND that shows where units would store all of the trashcans. So many trash receptacles to accommodate so many large condos could create a health and safety issue with harboring of rodents and insects. There are no mitigations for assuring property owners will clean this section of the road.

C-67

Neptune is a city street. The city is responsible for street sweeping. The city cannot legally sweep the private driveways within this development and therefore, the cleanliness of their "alley portion" is contingent upon them cleaning this themselves. They present the city with allowing trash trucks to enter upon a private driveway to pick up trash.

C-68

There are challenges to the turning an established street effectively into an alley, with inconsistent geometrics. It appears that by calling it a "driveway" is simply a way to avoid the requirements of a street. However, the intent for a driveway is to serve one home, not the manner that they are intending to use this definition. Fairness dictates that this "driveway (x 24) not be allowed. If the suggested road from River straight to Seashore is put back in, they can call the area behind the units the alley that it is and grant an easement for trash pick up only.

C-69



It is neither the city nor the resident's responsibility to ensure profitability for developers, nor would it even be logical for this developer to claim that it would not be profitable if he were required to remove the units to make way for the road improvements. Since the property hasn't even been sold, and this is for discretionary approval, they have nothing at stake. This is contrary however to the existing Newport residents that this project will negatively impact. As a property owner for 30 years, I hope the planning commission takes the concerns of the resident impacts into consideration over the potential developer concerns for investor profitability.

Positive impacts from inclusion of new road, would be enhanced safety utilizing access for emergency vehicles using road instead of alley, fire hydrant accessibility, pedestrian safety with sidewalks allowing for appropriate drainage, defined public walkway and roadway, direct public access to beach that occurs at 55th Street at Seashore, aesthetically more suitable to neighborhood

Issues regarding applicant attempt to turn Neptune Avenue into an alley include: diminution of property value, traffic, noise, safety, air quality, inconsistent with vision for the city, and modification permit, etc. It is an inappropriate demand on existing homeowners to benefit a developer that hasn't

1. Response to Comments

even purchased the property to date. Orange County fire authority has not addressed the adequacy of ingress/egress into a private driveway that has overhanging structure, etc. If they intend to use the existing fire hydrant, this too would be inadequate based on location.

C-69
Cont'd

1.2.2 SURROUNDING LAND USE: DESCRIPTION INADEQUATE

Applicant states: “*site is surrounded by residential uses, such as “vacation rental units” to the north, south, and east and a city park to the west*”. This would give one the impression this area is primarily a “weekly rental area”. Instead, this is primarily owner occupied or yearly rental units in the area. Current apartment bldg is the major source of rentals for this area, allowing for affordable housing to the residents of Newport Beach.

C-70

The “*city park to the west*” is directly adjacent to the existing site. If this overly dense project proceeds as presented, it will effectively be a taking of city park space, as the appearance and marketing of property will be to the sole benefit of these new condos. Currently, many residents and visitors have access to the park because of the apartment building’s adequate parking for its own residents, which allows for plenty of off street parking on River Avenue. Because the apartment building primarily serves just one tenant per unit, they have always had adequate “on site” parking. The parking lot is never full and adds to the city’s open space through its current footprint.

C-71

If applicant is allowed to have this overly-dense project with inconvenient tandem parking to accommodate numerous additional bedrooms, (which correlates to additional residents), then it is reasonable that these additional residents will be using River Avenue to park in front of their units. This will effectively discourage visitor use of the city park because this will create inadequate parking to service this need.

Further, the public parking lot on Seashore, which is intended for public parking to access the park and beach will be further burdened by the additional need for parking that the additional residents would require. Again, with each additional bedroom that increases the number of residences, it also increases the likelihood of numerous guests as well.

C-72

Applicant has presented that they intend to market units for 3.3 million. With this price tag, (completely unrealistic), the likelihood that investors will need to turn to weekly rentals or sober living homes is a much more likely scenario. This will further burden the city of Newport Beach with the demand it will place on parking, as well as the other police and enforcement needs that will be required.

C-73

After a marketing/lobbying group canvassed residents concerns, it appeared the presentations of this plan had been specifically tailored to give “opinion” that the PR team felt would favor existing residents concerns. I was told this will increase property values and will get rid of “those tenants” in favor of homeowners. This is not based on fact. I had also been told it would be used primarily for wealthy seniors using these homes as second homes, when in fact; marketing statistics do not bear this out, as seniors are not looking for three story buildings with narrow hallways. I won’t comment further on the numerous falsehoods I was told, because they are not in writing. But I will state that any presentation based on what it can do for the community, needs to be critically evaluated.

1. Response to Comments

CEQA demands public involvement, yet this “public outreach” by PR lobbying firms, serves to discourage the intent of CEQA, through attempts to “inform” residents that most likely won’t feel it necessary to read the full documentation presented to the city on the project. If I felt this was a positive for our community and for the nearby residents, I would be in favor, but as presented, I am adamantly opposed. I believe this is a potential nightmare in the making. This project is too dense and comes at the expense of nearby homeowners and tenants, who the city should be looking to protect.

C-73
Cont'd

3.11 NOISE IMPACTS WILL HAVE SUBSTANTIAL IMPACTS

MND claim impact would be less than significant because the project-generated noise during the operations phase of the project would be from project generated traffic (mobile-source noise) and on-site operations. They state that project would result in net reduction of trips; therefore, level is reduced to insignificance because it would result in a decrease in traffic noise. This is incorrect. First, the daily trips are based on highly variable study, secondly, these are not cars, and these are eighteen-wheelers, trucks, large equipment and power tools. One eighteen wheeler, (per FHWA) is the equivalent to the noise generated from 19 cars.

C-74

Noise impacts will be increased due to homeowners use of gardening equipment, such as lawn mowers, leaf blowers, additional cars directly adjacent to the front of our building from the access using Neptune as the projects alley. 5408 Neptune will not only be affected by one side of street with access to their garages, but both sides of the street will access garages through Neptune “Alley”. Trash trucks will spill their exhaust and the additional noise from 24 additional stops. Currently trash is picked up on only the west side of property.

C-75

C-76

Current apartment bldg uses no regular gardener, no lawnmowers or leaf blowers. MND doesn’t address restrictions or mitigations for project’s resulting increase of additional noise felt by residents due to project proximity to existing buildings and increase of additional noise sources, including additional cars, people, television, radios, etc. Project wishes to have a permit to have 3 feet side yard setbacks. Currently, the existing building primarily has the apartment over garage space and so there is typically no living area on ground floor. This adds to the peacefulness of the neighborhood.

C-77

Current site has small balconies. Typically very small, and they aren’t large enough for entertaining. Project will have ground floor patios that will encourage much larger gatherings and more noise. The quality of life for the surrounding neighbors will be impacted. To visualize the impact, stretch out your arms from side to side; this will be the difference between buildings. The MND doesn’t address that this is not the vision for Newport Beach when given an opportunity to have a more aesthetic development put in instead.

C-78

Construction noise would exceed db levels, vibration etc. The excessive noise and vibration will exceed standards, but an exemption is claimed based on city standards. However, nearby homeowners will be unable to rent their units for a minimum of two years due to the construction noise, dirt, vibration, etc. and the MND has not address the financial mitigations to accommodate existing residents.

C-79



1. Response to Comments

Analysis and mitigations are inadequate. Noise levels are measured at 50 feet; vibrations have not addressed ways to mitigate the vibrations through different methods of construction, etc. Note that the range of 70db to 90 db at distances of 50 feet are for one piece of construction equipment. This area is directly adjacent to residential properties within 50 feet and the receivers would be at least 70 to 90 DBA, which is in violation of the exterior NAC criteria for residential properties. MND lists sound levels on PCH from 1971, Society of Automotive Engineers for use in studies of aircraft flyover noise, uses PCH hwy pavement, traffic levels, roads, and receivers all pertaining to PCH. It appears this was from another study or the information is unclear as to its relevance. It appears study was done for the noise for the new units, such as planning for noise attenuation for new construction, not analysis based on harm to existing residents. CEQA demands that the documentation be put forth in a language and manner that is understood. What is apparent is that this noise study offers no mitigations, nor is it adequately studied.

C-80

C-81

3.12 POPULATION AND HOUSING WILL HAVE SIGNIFICANT IMPACTS

One of the most troubling aspects is that the MND claims to not displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere. This MND states it will need to replace housing for 6 units based on a survey, yet it states this as a less than significant impact. The MND had a pro-forma to include what the developer could afford for "in-lieu" fees. This is inappropriate. The in lieu fees are not enough to replace the units and are based on limited data that study admits could not verify all information. Further, the pro-forma is not included, nor were the rent surveys. A firm was hired to study the adequacy of the pro-forma with out being able to verify the information. The escrow papers would have been the first most obvious set of documents. This should be required to understand exactly how much "profit" and who is claiming this now.

C-82

The MND looks at this project in terms of profit potential, instead of what is fair and equitable to the community. It is obvious to the neighborhood that the majority of the tenants would have been considered lower to moderate income. Yet, since the project was attempted in 2006, it was removed. Laws prohibit evicting tenants within 24 months of application, and it gives the appearance and it is my opinion that there was an intentional removal of low-income tenants in an effort to avoid the costs associated with low-income housing compliance laws.

Since this application resurfaced a year after the identical project was withdrawn, the property owner hired a new property management company, (who did the rent survey that the low income housing replacement is predicated upon). The apartment owner is also now requiring property management to enforce a "specific" income requirement of \$66,200 and not allow a co-signer. It is my belief that there were some "tenants" that were making in the six figures while the survey was being done. One listed tenant owns several rehab homes in Newport Beach.

1. Response to Comments

Newport is a special town that deserves protection. The coast and its resources are too important to squander, just to benefit the financial gain of a group of investors. I believe that some of this original team are still involved in this limited partnership. This original team made no effort to mitigate or compromise. The team solution was that they could get it through. Had I not had my background and not understood the process, I too would have resigned myself to the inevitable.

C-82
Cont'd

As a property owner that has handled rentals for years, it would be extremely difficult to find tenants that could qualify without a co-signer but had to additionally verify income requirement of \$66,200, yet this is what the apartment building has enacted within the past year. I have complained to the city to verify this, stating I felt this was an obvious attempt to circumvent the law to get rid of the lower income tenants. Inclusionary housing is expensive for developers and it would benefit them if this weren't an issue. I believe prior to the developer application, majority of low-income tenants have "moved out".

There has appeared to be a purposeful eviction of low income housing tenants, but without the original rent studies, this is speculation. I do not accept however, any study wherein it is conducted by the property manager who works for the owner who is purportedly in escrow trying to close the deal. Keyser Marston study requested in PRA was never made available to me.

The project is presented in a light that gives it a misleading depiction through use of "artist renderings" that are not to scale. MND (p15) architectural renderings won't be able to look like the pictures. Most buildings benefit substantially from landscaping, and these renderings look nice because of the 45-degree angle, mature abundance of landscaping, wide planted walkways, beautiful towering trees with canopies the width and height of the condos. Then there is the reality. The MND shows the front and rear of the actual individual view (p27); this is in stark contrast, and more in line with what this dense development would actually look like.

C-83



There appears to be little difference between the two styles, but couple that with exact same style home side by side with such density and this doesn't appear to be the type of vision Newport had in mind. Is Newport's vision to put as many homes jammed next to each other and towering over the existing residences on a lot that should have been maintained as an apartment building as one of the few areas in Newport to actually accommodate tenants? This development will not have the large canopied trees as depicted in the "renderings", because there is no room to accommodate them. The reality will be 6 feet shared walkway between homes with no apparent walls between them for privacy. The design and density doesn't make sense.

Newport wanted to have articulated interesting sides to the buildings, but these units are primarily flat on the entire length of buildings because they are put too closely together, with too many units for the lot. They don't fit in with the city vision for new development; they don't fit in with the neighborhood. This area has been undergoing some nice changes with well-done remodels, but this opportunity to let this development go in will do a disservice to the entire area and the people that have invested in rebuilding new homes.

1. Response to Comments

The proposed development is too dense for the property. Feasible alternatives exist which include siting the homes using setbacks that were originally intended in this zone, and reducing the size of the development. These are viable alternatives that haven't been studied because the investors want to make more money. If it isn't feasible, then the investor should use their contingency as an escape clause. These applicant/investors don't yet own the property; they don't have the vested interests in protecting the neighborhood that the residences do. The investors won't be living in these units.

C-83
Cont'd

Applicant has already submitted a pro-forma to determine how many millions he would be satisfied with making. The applicant only has the advantage if the residents don't feel they have a voice. Having a planning commissioner attend a private hearing and speaking in a manner that appeared positive was probably not encouraging to some that showed up. The priority for the planning commission who must review these objections is to protect our coastal resources over the construction of residential development.

3.13 PUBLIC SERVICES & 3.14 RECREATION

There exists a moderate impact to libraries and schools and a potential major impact on police services. Without knowing how property will be used, absent CC&R's restricting their use, and lack of a homeowner association it is deferring any potential mitigation as it isn't considering the consequences that land use changes may encompass. MND failed to study new ways development might be used and provided for no mitigations.

C-84

West Newport Park effectively would be taken over by this development, most will assume it is private, city should have entertained idea of purchasing this as city has stated West Newport is in need of park expansion. There is metered parking directly in front of the single-family units. It appears there is no block wall. Absent a continuous block wall, it will be too convenient for residents to park directly on the street in front of their house, when this property is intended for visitors to the beach/park.

C-85

3.15 TRANSPORTATION/TRAFFIC IMPACTS WOULD BE SIGNIFICANT

Incorrectly states project qualifies for an exemption under the City Traffic Phasing Ordinance. However the definition under exemption (C.) states: *"The following projects are exempt from the provisions of this chapter:*
1. Any project that generates no more than three hundred (300) average daily trips. This exception shall not apply to individual projects on the same parcel or parcels of property, such as changes in land use or increases in floor area, that in any twenty four (24) month period cumulatively generate more than three hundred (300) average daily trips" 15.40.030 Standards for Approval--Findings—Exemptions)

C-86

Further, Trip generation was calculated using the Institute of Traffic Engineers (ITE) Trip Generation Manual (7th edition 2003). An article by traffic consultants Nelson/Nygaard opined on the variability of ITE and stated: *"Even where there is a strong correlation between the amount of development and trip generation rates, there is still considerable variation in the rates observed in different surveys. For the land use type "Single*

C-87

1. Response to Comments

Family Detached Housing”, for example, ITE reported rates ranged from a low of 4.31 daily trips per dwelling unit, to a high of 21.85 daily trips. The Trip Generation manual reports that, “This land use included data from a wide variety of units with different sizes, price ranges, locations and ages. Consequently, there was a wide variation in trips generated within this category.”

C-87
Cont'd

APPENDIX / ISSUES FOR CLARIFICATION OR CORRECTION (466 P doc)
I previously described errors regarding (p8 & 13) property description. Existing bldg, acreage etc.

C-88

Hydrogeology states soil is Class D, states (p125) depth to water table is less than one foot. This differs with other areas in the MND, (p15) states that geotech investigation found ground water at depth of six to eight feet below.

Soil listed as hydric (p15) with slow infiltration rates. This is a concern for the proposal to have water return to the ground instead of filtered and sent into storm drain. Additional environmentally appropriate mitigations need to be studied further.

(p341) City directories don't include residents from the past six years.

(page 373, (1981) page372 (1972 revised from 1965) These historical topographic maps show that the existing site had the road connect from River to Seashore. This is the same road that should be put back. The public had used this paved access for years before property owner fenced it off.

C-89

PUBLIC ACCESS

MND is not consistent with the Coastal act. The following are pertinent as to the negative impacts this project will have as it relates to public access. As stated earlier, public had at one time directly access the beach from River to 55th Street opening. This is the same opening that 5408 enjoys its view corridor from. The public has been deprived of access based on property owner fencing in entire property. However, the pedestrian public would still access occasionally. One could still see a small area of ocean between the houses on the sand as evidenced in MND picture showing how wide the parking area is. It encompasses the views of three buildings as seen on page 43 (figure 11 site photographs) in the MND.

C-90

The opened area between the houses on Seashore beachfront & 55th is intended for public access. The proposed project has not provided for any permanent access to the public. Project also effectively removes the access to the public to utilize the park. The park will appear to belong to the new development and the more convenient access to the beach will be cut off and force people to all go to the 54th street opening. Again, this appears to be an attempt to have this area be private. This area already is afforded privacy by the lack of the pedestrian sidewalks. People will not walk through an area that clearly are private home side yards that are only 3' wide.

The city has one opportunity to afford the public access to the beach that was intended from the 50's. The city should not miss this opportunity to ensure that our beach access serves all, not only the rich. The following coastal act sections are particularly



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relevant to this property and public access. This road should be dedicated, returned as a roadway, include sidewalks for access to the public, fire hydrant and large enough area to turn large vehicles around in the event of a fire or emergency. Mitigation should have studied this possibility.

C-90
Cont'd

The city of Newport Beach has determined that Coastal Act policies are relevant to Newport Beach.

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

C-91

This project does not provide maximum access.

Section 30212 of the Coastal Act states, in relevant part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

C-92

(2) adequate access exists nearby...

This project would remove existing access and provide for access only to the condo owner, not the public. The opening to the beach for this area is 55th st., providing a near direct access (line of sight) to the beach.

Section 30213 of the Coastal Act states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

C-93

This project actually removes recreational facilities effectively because the existing park and tennis courts will appear as private and parking will be severely impacted with this development.

Section 30240 (b) of the Coastal Act states:

Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

This project severely effects this provision in the overly dense design that will make it appear that park is part of the open space for this development.

The City's recently updated certified Land Use Plan (LUP) also contains the following policies that would apply to the proposed development:

Public Access and Recreation/Shoreline and Bluff Top Access, Policy 3.1.1-1 states, *Protect, and where feasible, **expand and enhance public access to and along the shoreline** and to beaches, coastal waters, tidelands, coastal parks, and trails.* Access road next to property would accomplish this stated policy.

C-94

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Policy further states under “shoreline access”, that the city will **require** all new development causing or contributing to adverse public access impacts, to provide easements or **dedications** in areas where public access is inadequate. All beach access openings serve specific homes. 55th street created the vertical access that was created specifically to serve this area. The public should not be deprived of access to 55th Street opening. One of the main tenets of the Coastal Act is preservation of coastal access.

C-94
Cont'd

City of Newport Beach stated goals include under the Local Coastal Program and Coastal Land Use Plan: (I objected to staff that the applicant is on this committee, during processing of his application and should have been removed due to conflict of interest.)

C-95

3.1.1-2 *Protect public street ends providing access to the beach*
Project removes protection

3.1.1-7. *protect public right of access. Where substantial evidence of prescriptive rights exists, actively pursue public acquisition or require access easements as a condition of development.*
Project area could pursue prescriptive rights based on history of access through area adjacent to 5408 Neptune

C-96

3.1.1-8 *...prescriptive rights...parcel must be designed or conditions imposed to avoid interference with prescriptive rights...*

C-97

3.1.1-9. *protect expand coastal access...*

3.1.1-12 *Protect public access through setback and other property development regulations of the zoning code that control building placement.*
This would directly stop the modification permit. If the committee for which the applicant is on, has sought to change the above policies in a manner that would be favorable to this particular development, then the policy revisions should be looked at again, as the intentions of protecting our coast should not change.

3.1.1-14 *REQUIRE an offer to dedicate (OTD) an easement for vertical access in all new development projects causing or contributing to adverse public access impacts... sufficient size to accommodate two way pedestrian passage... landscape buffer... sited along the border or side property line of the project site or away from the existing or proposed development to the MAXIMUM FEASIBLE EXTENT.*
Placing vertical easement away from both existing and proposed project is easily accomplished with a road and sidewalk in side area. This is the fitting solution that complies with city and coastal acts and removes most of the objections, allowing Neptune to remain the cul-de-sac, and if buildings are sited properly, maintain my ocean view.

C-98

3.1.1-19 *...develop long-range plan for public trails and walkways*



1. Response to Comments

Policy 3.1.5-2 PROHIBIT new PRIVATE streets, or the CONVERSION OF PUBLIC STREETS TO PRIVATE STREETS, WHERE SUCH A CONVERSION WOULD INHIBIT PUBLIC ACCESS TO... SHORELINE

C-99

This is exactly what the project is intending to do and is contrary to this policy. This would be converting a private road, (Neptune) to turn into a “private driveway”. This project seeks to have “the individual driveways” going in the opposite direction to be called a “driveway” that hooks up into the established city street, Neptune Ave. They wish to have the “driveway” to be treated as a private road for emergency and city services. This does not qualify in any manner for conversion without being out of compliance with said policy.

Conclusion

Other neighbors and tenants have had this project presented in a manner to appeal to their “perceived” individual likes while consistently implying that nothing can be done to stop this project. Public outreach conducted by applicant at a non-city facility this month, where a planning commissioner appeared to favorably answer some questions redirected from applicant, could lead one to believe nothing can be done, even though this was probably not the intention. Troubling is that none of my tenants have had any notifications to date at all from applicant.

C-100

The intention of applicant appears to utilize the public relations firm to market to the neighborhood to avoid upset residents writing in to object to projects. We all know this is how developers operate, it is just smart business and this isn't to fault them, but there is a point where the process is no longer fair and this is bordering on this precipice. The planning commission and council are there to protect the city from land use decisions that will affect the quality of life for its residents forever. This is the type of project that demands an EIR, if not an outright rejection as presented.

Most PR firms will try to market the development in advance through “coffee chats” and informal friendly meetings, in order to tailor the project to their perceived specific interests. I was told, (based on my age I presume) that these units would be primarily second residences for retired people that would seldom be there. I was also told they would be marketing the units for 3.3 million, again to appeal to the thought of increased property values. Instead, I recognized the sales pitch. However I was most insulted when a “proponent” tried to state it would be getting rid of “those” tenants. I informed him “those” tenants had never been a problem, always quiet, and the fact that tenants are controlled by a manager, you don't have the problems associated with “rehab facilities” or weekly vacation rentals, which is by far, a much more likely scenario when investors try to recoup their money for a condo.

It is my belief through my research that this investor group is primarily the same group from two years ago. I am troubled by the inclusion of the applicant to participate within committees that could affect the outcome of this project for which I believe he would benefit and would certainly be in violation of the Brown Act for conflict of interest concerning financial interests. I spoke to staff and expressed my objections, yet applicant is still on the committee. Committee was intended to have public input, and not to consist primarily of developer related members. I had a Public Records Act refused by planning department, after I was told I initially

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could receive the Marston Keyser rent study, as I felt this would prove that tenants were being evicted or offered incentives to move if they were low income. I felt this study would validate this. I expressed my concerns, yet this MND has accepted a pro-forma without seeing the escrow papers, determining how many investors, in which to spread the profit/risk.

**C-100
Cont'd**

I submitted numerous letters to planner addressing detailed concerns, yet none of my objections were included in the MND. None of my objections were taken into account in studying my suggestions as alternatives.

I have asked for an extension of time to respond from Newport Beach, the lead agency. I have been told this will likely be continued, however, I am still required to submit objections to the MND to protect my interests during this comment period.

In closing, this is the wrong project for Newport. It is too dense, too tall, and too close to other residences, it doesn't fit in, it is benefiting the developers to the detriment of the existing citizens, just to name a few concerns! I request this project be denied, or at the very least demand an EIR.

Regards,

Lennie DeCaro
Owner of adjacent property



1. Response to Comments

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C Response to Comments from Lennie DeCaro, Property Owner of 5406 & 5408 Neptune Avenue, Newport Beach, California, Dated March 13, 2008.

- C-1.** This comment contends that the proposed project will have numerous significant adverse impacts in the areas of public access to the beach, displacement of low income housing, traffic, privacy, sunlight, noise, parking, air quality, noise, loss of rents, etc. The issue of performance bond is also mentioned. The comment summarizes those topics that are to be discussed in the rest of the letter with no specific comments. Please refer to appropriate response in the following section.
- C-2.** The comment suggests that inadequate noticing was provided. Pursuant to Section Sections 15105 (c) & 15073 (b) of the CEQA Guidelines, the Mitigated Negative Declaration/Initial Study (MND/IS) was forwarded to the State Clearing House on February 19, 2008 for distribution to responsible and trustee agencies for a 30-day review period. Pursuant to Section 15072(b) and 15105, the notice was posted on-site in the area where the project is to be located and also mailed to the owners and occupants of contiguous property. The posted and mailed notices indicated that the 30-day review period would begin on February 20, 2008 and end on March 20, 2008; however, because the site was posted on February 20, 2008, it was determined by the City Attorney's Office that the public comment period began the following day, February 21, 2008 with the public comment period concluding on March 21, 2008. The project was continued from the March 20, 2008 Planning Commission hearing to allow for the full public comment period. Therefore, adequate noticing has been provided and no further response is necessary.
- C-3.** The commenter contends that an Environmental Impact Report (EIR) must be prepared for the project because there is substantial adequate evidence to support a fair argument that the project will have significant adverse impacts. The commenter also concludes that the Initial Study fails to clearly describe or offer mitigation for potential significant impacts. As detailed in responses to this comment letter, the Initial Study prepared for the project, does substantiate that project-related impacts will be less than significant or will be reduced to a less than significant level upon implementation of the recommended mitigation measures. There are no conditions which require the preparation of an EIR for this project. Comments regarding applicant indemnification of the City are not within the purview of the environmental review for this project.
- C-4.** The comment claims that the proposed project would result in a cumulatively significant impact due to the intense amount of traffic, noise, and air pollution generated on Neptune Avenue. The comment inaccurately describes Neptune Avenue as a cul-de-sac. Neptune is not a cul-de-sac because there is not an adequate turning radius for vehicles and does not comply with City's Standards STD-102-L and STD-103-L (cul-de-sac standards) to safely turn around. In addition, as shown in Table 17, *Project-Generated Traffic*, of the Initial Study, the proposed project would result in a net decrease in traffic volumes by 178 average daily trips. Although the proposed project would create a new connection from Neptune Avenue to River Avenue, River Avenue terminates at the project site and a new vehicle access to Seashore Drive or any other streets for convenient beach access would not be created. The project site would be clearly marked and appear as a private property to discourage public from entering and using the driveway as a pass-thru. All visitor parking would also be clearly marked as residents only. Since this new access would only connect River Avenue and Neptune Avenue, where River Avenue terminates at the site, any changes to the circulation pattern in the area would be minimal, including beach traffic. The comment that the proposed project would force over one hundred cars from the development is inaccurate.
- C-5.** The comment asserts that project's significant impact must be adequately addressed and mitigation measures should be identified. It also asserts that the Initial Study should compare the project impacts to feasible alternatives. The Initial Study was prepared in compliance with the appropriate section of the CEQA Guidelines, and concludes that potential project-related impacts can be mitigated to a less than significant level. CEQA



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does require evaluation of project alternatives for projects for which all impacts can be mitigated to less than significant and Mitigated Negative Declarations can be processed.

Aesthetic Impacts

- C-6.** The comment asserts that any substantial, negative effect of a project on view and other features of beauty could constitute a significant environmental impact under CEQA and that lay opinions that articulate the basis of the opinion can constitute substantial evidence of a negative aesthetic impact. The comment also asserts that the proposed project would result in the obstruction of the ocean views from the living room and balcony of the property at 5408 Neptune Avenue. The commentor further indicates that the view would be greater with rooftop decking. However, there is no rooftop decking.

The existing apartment building has a side setback of approximately 60 feet near the River Avenue site boundary and narrows toward Seashore Drive by approximately 15 feet. The property at 5408 Neptune Avenue currently has an ocean view from the second floor living room and the patio via the open-parking area of the existing apartment complex and the approximately 30-foot-wide open area between the three-story buildings on 55th Street (see Figure 1, *View Corridor Analysis*).

Figures 1 and 2, *View Corridor Analysis* and *Photo of View Corridor*, respectively, show the view corridor from 5408 Neptune Avenue. As proposed, a modification permit is being requested by the project applicant to reduce the minimum building-separation distance required by the MFR Zoning District from 10 feet to 6 feet, to reduce the minimum front-setback distances along Seashore Drive and River Avenue from 20 feet to a minimum of 10 feet, and to reduce the minimum side setbacks from 25 feet (which is based on the lot width) to a minimum of 4 feet.

As shown in Figure 1, a structure that conformed to the specified 25-foot side setback (along eastern property boundary) as required per the zoning code in the MFR Zoning District would obstruct the current view corridor of 5408 Neptune Avenue. This would impose a negative visual impact to the existing residence, as it would obstruct the existing private view afforded to it. Although the City does not have private-view protection policies or regulations, when a deviation is requested from what is normally permitted by the Zoning Code, it is reasonable to take into consideration the resulting private view impacts the deviation creates. However, the proposed 4-foot side setback along the eastern project boundary would not negatively impact the private view to the existing residence anymore than a conforming project would. Additionally, as shown on Figure 1, a structure which conformed to the specified 20-foot street setback along Seashore Drive as required per the zoning code would obstruct the current view corridor of 5408 Neptune Avenue. Similar to the reasoning provided above, the proposed 10-foot front setback along Seashore Drive would not negatively impact the private view to the existing residence anymore than a conforming project would.

The City's General Plan and Coastal Land Use Plan focus on the protection of public views. As stated in the Initial Study, Policy 4.4.2-2 of the Coastal Land Use Plan states, "preserve public views through the height, setback, floor area, lot coverage, and building bulk regulation of the Zoning Code in effect as of October 13, 2005 that limit the building profile and maximize public view opportunities" (emphasis added). Additionally, pursuant to General Plan Policies NR 20.1 to NR20.4 and Coastal Land Use Plan Policy 4.4.1-6, the emphasis is on the protection of public views. Since the reduced setbacks would not negatively impact the private view to the existing residence anymore than a conforming project would impact the view, and because the project would not obstruct public views, the proposed project would not result in a significant view impact.

The commentor is also concerned over the degradation of property values. CEQA does not require an MND to address economic impacts associated with a proposed project, which by themselves do not cause or contribute to physical impacts on the environment. Specifically, the CEQA Guidelines state that "Economic or social information may be included in an EIR or may be presented in whatever form the agency desires" (emphasis

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added, CEQA Guidelines, Section 15131). Further, the Guidelines state that the "Economic and social effects of a project shall not be treated as significant effects on the environment" (Section 15131[a]). The intent of CEQA is to evaluate and mitigate physical impacts on the environment. In conclusion, the comment regarding project impacts on property values is acknowledged. This issue, however, is not within the purview of the environmental review of the project per CEQA, and therefore, this comment will be forwarded to the appropriate decision-makers for their review and evaluation.

- C-7.** CEQA requires analysis of project-related impacts in comparison to existing conditions. Sunset View Park is approximately 0.5 mile east of the project site and existing intervening multi-story residential development precludes ocean views in the direction of the project site. Development of the proposed project will not alter potential views from Sunset Park.
- C-8.** The commenter correctly notes the findings that must be made to approve the requested Modification Permit. These findings must be made by the decision-makers (City Planning Commissioners). In the application for the permit, the applicant has concluded that development of the same type of building that currently exists on the project site would not be compatible with the changing character of the area and would not result in a marketable residential product. The proposed development, 24 single-family homes and duplexes situated on individual pads, are designed to represent individual homes similar to development in surrounding R-1 and R-2 zoned areas. Although the MFR codes allow the proposed use, strict application of this zoning designation would preclude this type of development because of the required large setbacks. Ultimately the City's decision-makers are charged with making the finding that the proposed project would be consistent with the purpose and intent of the Zoning Code
- C-9.** As noted in the previous response, the required finding referenced in this comment would need to be made by the City's decision-makers. The Modification Permit application concludes that the proposed development is "highly compatible with the existing neighborhood and the general West Newport area" and that the proposed homes and duplexes would be "similar in size, proportion and separation to the buildings along Seashore Drive and River Avenue." The project has been designed to appear as if each unit is situated on a 30-foot wide lot, and the side setbacks provided are consistent and compatible with the required 3-foot side yard setbacks of the surrounding 30- and 40-foot-wide lots in the neighborhood. The City's decision-makers will consider the application and the specifics modifications requested and determine whether they agree with this finding.
- C-10.** Based on the analysis in the Initial Study, the proposed project would not adversely affect the health or safety of persons residing or working in the neighborhood or detrimental to property or improvements in the neighborhood. As stated in response to Comment C-9, the project has been designed to include setbacks comparable to the setback requirements of the surrounding R-1 and R-2 lots and similar setback and distancing requirements are common throughout the City and have not proven detrimental. This finding, however, is a specific finding that will be required by the City's decision-makers with respect to the requesting zoning requirement modifications to approve the proposed project. Additionally, as concluded in response to Comment C-6, the proposed project would not obstruct or prevent public views of the ocean.
- C-11.** As shown in Figure 3, *Surrounding Area Photographs*, existing residential units along the ocean side of Seashore Drive include three-story buildings and three-story buildings also exist on the north side of Seashore Drive, River Avenue, and Neptune Avenue. Under the R-1 and R-2 districts, a 24-foot base height limit with an additional 5 feet in height to the ridge is permitted and 3-story structures are commonly designed and constructed.

The site is in the 28/32-foot height-limitation zone that permits buildings and structures to exceed the 28-foot height limit up to a maximum of 32 feet through the approval of a use permit. Ridges of pitched roofs are permitted to exceed the height limit by 5 additional feet. The six duplex units that are proposed to exceed the 28-foot base height limit have



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been designed with low-pitched gable roof lines, resulting in a maximum midpoint elevation of 28 feet 10 inches (10 inches over the maximum limit) and a maximum ridge elevation of 31 feet 4 inches (1-foot 8-inches under the maximum ridge limit)..

- C-12.** The commenter's objection to modifying the MFR required setbacks for the project are noted and will be forwarded to decision-makers. The sideyard setback reduction would place the proposed residential units in close proximity to the existing units along the eastern boundary. However, as discussed in response to Comment C-6, the proposed project is designed to appear as if the units were situated on individual 30-foot-wide lots and setbacks comparable to surrounding R-1 and R-2 lots. Using the R-1 and R-2 development standards as a guide for determining acceptable setbacks and building separation, the proposed setbacks would not intensify the difference in height or style of the surrounding development. Additionally, the duplex proposed closest to the 5408 Neptune Avenue property maintains a minimum setback of 7 ½ feet and increases to a setback of 13 feet, providing a significantly increased sideyard setback area than that of comparable R-1 and R-2 lots with 3-foot sideyard setbacks.
- C-13.** The commentator also stated that the MND omitted mentioning the modification permit component of the reduction of the required 25-foot sideyard setback to 3-feet. Pursuant to this comment, the third paragraph provided in question a) on page 39 of Initial Study has been modified to include all the components of the modification permit as shown in Section 2, Revisions, of this to Comments. Additionally, for consistency, the second bullet point provided in Section 1.5, Discretionary Approval, on page 25 has also been modified as shown in Section 2. However, as concluded in response to Comment C-6, these modifications would not alter the conclusion of the visual-impact analysis and no mitigation measures are required as a result of the modification.
- C-14.** Please refer to response to Comment C-8.
- C-15.** The proposed project may appear to remove visual open space as commented. However, the proposed project would provide 675,416 cubic feet, which would exceed the open space requirements of 247,313 cubic feet as required under the MFR Zoning District. The proposed open space areas also exceed the existing open space, which is 590,072 cubic feet. Additionally, as stated in the response to Comment C-13, as developed, the project site consists of minimal landscaping areas, which includes the landscaped lawn area and trees located around the pool area of the L-shaped apartment complex. As proposed, the project would provide more landscaping areas (approximately 18,390 square feet) than currently exists on-site (approximately 9,393 square feet). As such, the project would not result in a significant aesthetic or visual impacts and no mitigation is required.
- C-16.** A street that connected River Avenue and Seashore Drive did not exist. The street referenced in the historic map shown in page 373 of Appendix D that connects River Avenue to ocean front is actually 54th Street and there was never an access from River Avenue to Seashore Drive immediately east adjacent to the project site. In addition, Neptune Avenue is not a cul-de-sac, as it does not provide adequate turning radius required for a cul-de-sac.

The commenter's suggested revisions to the project are forwarded via this Response to Comments document to decision-makers for consideration.

- C-17.** The square footage comparison of the existing apartment to the proposed development is noted. The MND refers to residential densities based on the number of units per acre. The project site is currently developed with a 54-unit apartment complex. The proposed project would reduce the existing density to 24 single-family units, a decrease in 30 units. The reduction in the number of residential units would directly result in a reduction in traffic generation in comparison to the existing use.
- C-18.** The lot area for the project site is 1.49 acres (64,904 square feet). The City of Newport Beach uses floor-area limit, not floor area ratio to evaluate residential development.

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Floor Area Limit is calculated based on the net acreage of the site after subtracting the setbacks. The maximum floor-area limit for the project is 1.75, which equates to 72,133 square feet. The proposed project would result in a floor-area limit of 1.23, or 50,706 square feet. In accordance with the provision outlined in Section 20.10.30(M) of the Municipal Code, the 200 square feet of floor area of required parking devoted to enclosed parking was not included in the floor-area limit calculation. Additionally, the comment incorrectly references the paved parking area as open space. The existing development has approximately 9,393 square feet of landscaping and open space, while the proposed project would result in 18,390 square feet of landscaping and open space area.

The current large setbacks do provide visual openness in some angles as commented. However, as shown in Figure 4, *Site Photographs*, the existing building has 48,744 square feet of building area under one roofline, which is significantly larger than all other structures in the area. Additionally, the existing large setbacks for the site are not typical of the surrounding development. As shown in Figure 3, *Surrounding Area Photographs*, and Figures 5a and 5b, *Side Setbacks*, adjacent buildings in the area have approximately three- to four-foot side setbacks. Aesthetic impacts are subjective and one aspect of visual character cannot be the sole basis of finding visual impact as significant. The proposed project would provide required tenant and guest parking.

The comment regarding “giving” the developer the park is not based on any factual data and is speculative only. The park will remain as a public park and there would be no design treatment to suggest that it is a private facility.

Air Quality

C-19. Emissions associated with the proposed project have been calculated to respond to the comment and are shown in Table 1 below. As demonstrated within Table 1, total emissions from both stationary and mobile sources are a small fraction of the SCAQMD regional emissions thresholds. These emissions assume that all these emissions are based on new project-related vehicle trips without subtracting the emissions associated with the existing uses. The comment regarding the footprint of buildings being 19 percent larger than the existing uses would not change the fact that emissions from the proposed project are still far below the South Coast Air Quality Management District (SCAQMD) CEQA significance thresholds for all analyzed pollutants.



Summer	VOC	NO_x	CO	SO₂	PM₁₀	PM_{2.5}
Proposed Uses						
Stationary Sources	2	<1	2	0	<1	<1
Mobile Sources	2	3	23	<1	3	1
Total Project	4	3	25	<1	3	1
SCAQMD Regional Thresholds	55	55	550	150	150	55
Significant?	No	No	No	No	No	No
Winter	VOC	NO_x	CO	SO₂	PM₁₀	PM_{2.5}
Proposed Uses						
Stationary Sources	5	1	11	0	2	1
Mobile Sources	2	3	22	<1	3	1
Total Project	7	4	33	0	5	2
SCAQMD Regional Thresholds	55	55	550	150	150	55
Significant?	No	No	No	No	No	No

C-20. As shown in Table 1, the emissions attributable to the proposed project with 100 percent occupancy and without deducting the emissions occurring under the existing uses

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would still not result in an exceedance of the SCAQMD CEQA significance thresholds and would consequently not result in a significant air quality impact.

- C-21.** Please see Response C-16.
- C-22.** The comment is incorrect in its assertion that asphalt emissions were not accounted for within the air quality analysis. The air quality analysis did model emissions associated with paving. Emissions associated with paving equipment and evaporative emissions from asphalt were calculated using the URBEMIS2007 model and included within Table 5 of the Initial Study.
- C-23.** To clarify, the Initial Study stated that there were no thresholds established for greenhouse gas emissions. Emissions of criteria pollutants were calculated compared to the SCAQMD significance thresholds and a finding of less than significant air quality impacts was presented. A finding of less than significant greenhouse gas emissions was also presented due to the small scale of emissions associated with this project.

The Localized Significance Threshold (LST) analysis followed the protocol established by the South Coast Air Quality Management District (SCAQMD) of using the closest distance between the air pollutant source and the receptor of 25 meters (82 feet). This approach is also consistent with the closest distance analyzed of 25 meters for health risk assessments per Rule 1401. The LST screening approach is also considered by the SCAQMD to be conservative because it applies worst-case wind direction and speeds. In addition, the project is under mandatory compliance with Rule 402 and Rule 403 which apply to nuisance and dust emissions from construction activity as they occur. Lastly, if there is a problem with dust plumes or air pollution, the sensitive residences proximate to the project site can call the code enforcement division of the SCAQMD to ensure that excessive emissions resulting from construction activities do not occur.

- C-24.** There were four references within the air quality section to Appendix A for the modeling output. There was a typographic error in another reference to Appendix B, which did not have the air quality modeling. The air quality modeling assumptions had been provided in Appendix A of the Initial Study. The typographic error in page 57 of the Initial Study has been revised and is reflected in the Revisions to the Initial Study Section.
- C-25.** Demolition activities that involve Asbestos Containing Materials (ACM) are required to comply with SCAQMD Rule 1403. Mandatory compliance with this rule will result in less than significant air quality impacts related to ACM.

The United States Environmental Protection Agency, in June 18, 2003, established a lead paint rule, which allows landfills to accept residential lead-based paint waste at municipal landfills. This Rule was enacted to accelerate the removal of lead based paint from residences so that people, especially children, would not be exposed to ingested lead. The existing structures may or may not contain lead-based paint. Demolition of structures that may potentially contain lead paints is beneficial to the environment because it removes a substance that can cause central nervous system disorders. Unlike asbestos, lead is only a concern when ingested. Demolition of the existing structures would remove the potential for oral ingestion of lead paints. Demolition debris would be loaded and removed from the project site to be disposed of at a local landfill.

Greenhouse gas emissions were quantified per recommendations of the SCAQMD, which currently does not have an established threshold for evaluating greenhouse gas emissions. The SCAQMD does have significance thresholds for criteria pollutants to identify substantial pollutant emitters. As shown in Table 1, the project emissions are far below the significance thresholds established for criteria pollutants, due to the minimal amount of development associated with the proposed project. The rationale that the SCAQMD significance thresholds are an indicator of whether the project results in substantial quantities of the emissions was also applied for greenhouse gases. Because the proposed project would not result in an exceedance of the SCAQMD significance thresholds for criteria pollutants, it was surmised that the project would likewise not

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result in substantial amounts of greenhouse gases. This project is minimal in scale relative to other development projects. Based on the SCAQMD significance thresholds, it is not the intent of the SCAQMD to identify projects with such a small scale as substantial pollutant emitters. Consequently, it is unlikely that the SCAQMD or any other regulatory agency would determine that the greenhouse gas emissions from the project would result in a significant impact relative to global climate change.

- C-26.** As discussed previously, Table 1 shows that project related emissions are far below SCAQMD CEQA significance thresholds even if all of the vehicle trips were considered new and without deducting the existing trips. The finding and significance would not change and the proposed project would not result in significant air quality impacts.
- C-27.** The evaluation of construction LSTs is based on SCAQMD modeling methodology. The project is not anticipated to involve mass grading. Trenching emissions are quantified and shown in the attached appendix. Trenching emissions were found to be less than that which would occur during the fine grading phase and would not result in an exceedance of the SCAQMD CEQA significance thresholds for construction activities.

Projects are constructed in phases. The phases used within the air quality analysis were developed by the SCAQMD. The construction schedule was estimated to follow an 18-month schedule. This duration is not unreasonable for a project of this scale.

The temperature of 60 degrees used in the analysis for winter conditions is a SCAQMD recommended default. Deviation from this default value would not result in a meaningful change in air pollutant emissions nor change the finding of significance.

- C-28.** Project compliance to SCAQMD Rule 403 is mandatory. The commentor's assertion that it is a mitigation measure is incorrect. A mitigation measure goes beyond regulatory requirements. Rule 403 is a regulatory requirement of the SCAQMD. Consequently it does not need to be "called out specifically in the mitigation."
- C-29.** A health risk analysis is only necessary for projects that have prolonged usage of diesel-fueled vehicles. Diesel exhaust is the primary cause of respiratory cancer risk in the South Coast Air Basin. The SCAQMD does not require nor recommend a health risk analysis for construction activities of such a short duration as necessary for the proposed project. Health risk analyses are conducted for diesel exhaust exposure over a lifetime (70 years). Consequently, a health risk analysis for construction activities of such a short duration would not result in a significant health risk impact. Diesel-fueled vehicles would be used intermittently at the project site during construction and would not constitute a major source of diesel exhaust exposure. The operational phase of the project would not result in a daily use of diesel vehicles. Consequently, no health risk analysis is warranted for the proposed project.
- C-30.** The analysis of lead emissions generated from the proposed project is not required nor recommended by the SCAQMD. The South Coast Air Basin has been in a state of attainment for lead for at least two decades. With the banning of lead-based paints and lead in gasoline, lead emissions are only of concern from stationary industrial sources whose processes involve lead emissions. Consequently, the air quality analysis of project related emissions does not need to evaluate lead.

The commentor's assertion that PM_{2.5} was not evaluated is incorrect. It was evaluated within the Initial Study and found to result in less than significant air quality impacts.

- C-31.** This comment pertains to the commentor's confusion of the interpretability of the air quality appendix of a different project and, as such, does not relate to the proposed project. It is not the responsibility of the CEQA analysis for the proposed project to clarify confusion on another project. If the commentor is implying that the appendix is confusing for both the proposed project as well as the Newport Beach DEIR, this is standardized output that the SCAQMD had developed for the URBEMIS model.



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In regards to the comment that ROG is not defined, reactive organic gases are those compounds that have high enough vapor pressures that under normal atmospheric conditions leads to vaporization. The SCAQMD considers ROG and VOCs to be synonymous. ROG is Reactive Organic Gases and VOCs are Volatile Organic Compounds.

Biological Resources

- C-32.** As shown in Figure 6, *Aerial Photograph*, the project site is a completely developed site with very limited landscaping. There is no need to conduct a literature review to include data on biological resources in the project vicinity. A field visit by the staff biologist indicated that on-site plants are ornamental landscaping materials and are not of any significant biological importance. As indicated, no potential habitat for special status species exists on- or off-site and no additional investigation was deemed necessary. Per your comment, Phil Brylski has been added to the list of preparers.
- C-33.** The City of Newport Beach does not have any tree ordinance concerning on-site trees. Council Policies G-1, Retention or Removal of City Trees, is applicable only to City trees and G-3, Reservation of Views, deals with views lost due to excessive plant growth. These policies are not applicable to the proposed project. Removal of all on-site landscaping, including mature palm trees, would not conflict with these City policies.
- C-34.** As part of the Condition of Approval N. 36, two City trees (Cajeput trees) on Seashore Drive would be removed to accommodate the sidewalk construction on Seashore Drive. However, these are not designated as special trees by the City and they would be removed in compliance with the tree ordinance. Additionally, draft Condition of Approval No. 37 stipulates that new City-designated street trees will be planted along River Avenue frontage. All street trees would be planted per City standards and guidelines provided by the City General Services Department and not further analysis or mitigation measures are necessary. The Draft Conditions of Approval is contained in Appendix B of this document.
- C-35.** Condition of Approval No. 17 states that "All landscape materials and landscaped areas shall be installed and 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." The Initial Study states that the existing apartment complex provides approximately 9,393 square feet of landscaping area and the proposed project would provide approximately 20,987 square feet. Figure 7, *Landscape Plan*, has been provided.
- C-36.** It is the City's policy to retain City trees categorized as Landmark, Dedicated, or Neighborhood trees, which have historical significance, and/or contributed to and give character to a location or to an entire neighborhood. Landmark, Dedicated, and Neighborhood trees are identified by species by Attachment 1 of Retention or Removal of City Trees ordinance (Council Policy G-1). The proposed project would require removal of two city trees on Seashore Drive. These two trees are identified as Cajeput trees (*Melaleuca quinquinervia*) and are listed under Attachment 1. The proposed project would not impact any special trees as defined by the City Code.

Cultural Resources

- C-37.** As stated, the entire project site is already developed, which means the project site is underlain by engineered soils that have been disturbed previously. Therefore, although the project area may be potentially sensitive for cultural resources, the on-site potential would be minimal. No confirmed artifacts have been reported near the project site. In the absence of a confirmed artifact, implementation of Mitigation Measures 2 and 3 have been deemed an appropriate site-specific level of response based on the analysis and recommendations, as is typical industry practice. Because the lead agency recognized

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the potential for discovery upon deeper excavation beyond previous development, Mitigation Measures 2 and 3 have been incorporated to reduce impacts to a less than significant level.

- C-38.** The Native American Heritage Commission has reviewed the Initial Study and has responded in a standard response letter dated March 5, 2008. The Initial Study recognizes the potential for discovery of subsurface cultural resources and provided Mitigation Measures 2 and 3 to reduce impacts to a less than significant level.

Geology and Soils

- C-39.** It was a typographical error and it does not alter the conclusion of the analysis. Pursuant to your comment, the title page for the geotechnical investigation has been revised. The text with purple highlighter was not intended to emphasize or delete the text.
- C-40.** The project description indicates that the project site will be balanced, which indicates that there would be no significant import or export of soils. Construction impacts during the grading phase were addressed in the traffic, noise, and air quality sections of the Initial Study. Vibration impacts have been addressed in the noise section of the Initial Study. Please refer to Noise for vibration impacts.
- C-41.** As indicated in the Initial Study, the proposed project is required to comply with the criteria and seismic design parameters of the Uniform Building Code, California Building Code, and the Structural Engineers Association of California. All grading and foundation plans are required to be reviewed and approved prior to any site disturbance. There has been a typographical error in page 65 of the Initial Study. The Geotechnical Investigation report prepared by EGA Consultants dated June 13, 2007 is included in Appendix C of the Initial Study instead of Appendix B. The typographical error has been revised in Section 2, *Revisions to the Initial Study*.
- C-42.** The project subsurface exploration consisted of the excavation of six exploratory borings to a maximum depth of 10 feet below grade. No seepage or surface water ponding was noted on the project site and groundwater was encountered at depths of approximately 6 to 8 feet below grade. Groundwater was encountered at 4 feet below grade at the River Avenue sidewalk elevation, which is approximately 2.5 feet below the project site area elevation. The soils investigation report also acknowledges that the perched groundwater encountered is subject to tidal fluctuations. Whereas area soil records may show the water table at 1 foot below surface, the on-site subsurface exploration presents more accurate description of the site condition. Based on various elements considered in the geotechnical report, including tidal fluctuation, the report concluded that there are no significant geotechnical constraints on-site that cannot be mitigated by proper planning, design, and sound construction practices. The engineering properties of the soil and native materials and the surface drainage offer favorable conditions for construction of the proposed project. All on-site runoffs are required to be contained within the site and would not drain to surrounding properties. Pursuant to this comment, Figure 8, *Preliminary Grading Plan*, has been included as part of this response.

Hazardous Materials

- C-43.** The Initial Study discloses that existing structures on-site are required to be surveyed for lead-base paint prior to demolition. In June 18, 2003, the United States Environmental Protection Agency established a lead paint rule, which allows landfills to accept residential lead based paint waste at municipal landfills. This Rule was enacted to accelerate the removal of lead-based paint from residences so that people, especially children, would not be exposed to ingested lead. The existing structures may or may not contain lead-based paint. Demolition of structures that may potentially contain lead paints is beneficial to the environment, because it removes a substance that can cause central nervous system disorders. Unlike asbestos, lead paint is only a concern when ingested. Demolition of the existing structures would remove the potential for oral ingestion of lead paints. Demolition debris would be loaded and removed from the



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project site for disposed at a local landfill. Therefore, lead-base paint survey and removal will be administered through the California Division of Occupational Safety and Health as required. The Initial Study is not deferring possible mitigation.

Hydrology and Water Quality

- C-44.** Prior to issuance of grading permits, a final Water Quality Management Plan (WQMP) will need to be prepared and approved by the Building Department and Code and Water Quality Enforcement Division. The WQMP will provide appropriate Best Management Practices (BMPs) to ensure that no violations of water quality standards or waste discharge requirements occur. The WQMP included in Appendix E of the Initial Study would be supplemented and refined to the satisfaction of the Building Department and Code and Water Quality Enforcement Division. Ongoing property maintenance of common areas including maintenance of the Best Management Practices (BMPs) as set forth in the WQMP would be the responsibility of the Homeowner's Association (HOA). An HOA would be established and Conditions, Covenants and Restrictions (CCR's) adopted that identify the association's common area and responsibilities, explain the obligation of the association to collect assessment, and the obligation for owners to pay the assessments. For clarification, the Project Description as been supplemented to include this information (please see Section 2.2 of this Response to Comments). As included in Condition of Approval No. 41, all on-site utilities shall be owned, operated, and maintained by the community/association. Condition of Approval No. 26 also specified that 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 that could impair water quality would be used, stored, or spilled on the site. These may include frequent parking area vacuum truck seeping, removal of wastes or spills, limited use of harmful fertilizers or pesticides, and the diversion of stormwater away from potential sources of pollution (e.g., trash receptacles and parking structures). Also as part of this condition of approval, preparation of Stage 2 WQMP is required; this lists and describes all structural and non-structural BMPs. The Stage 2 WQMP must also identify the entity responsible for the long-term inspection, maintenance, and funding for all structural (and, if applicable, treatment-control) BMPs.

Draft Condition of Approval No. 23 requires that prior to issuance of grading permits, a Storm Water Pollution Prevention Plan and Notice of Intent are prepared and submitted to the State Water Quality Control Board approval and made part of the construction program. This plan will detail measures and practices that would be in effect in during construction to minimize the project's impact on water quality. The Initial Study identifies these required procedures for the proposed project to follow and implement. Detailed actions for the construction phase that include how demolition debris is disposed of or stored, covered, and transported would be addressed in the SWPPP. No grading permits will be issued without the evidence that proper clearances have been obtained through the State Water Resources Control Board.

- C-45.** As required under the draft Condition of Approval No. 39, on-site runoff will be retained on-site prior to entering the underground stormwater drainage system. The open bottom trench which the commenter is referring to is located within the project site prior to entering the underground stormwater drainage system. As shown in Figure 9, *Construction Staging and WQCP*, the open bottom trench which the commenter is referring to is located within the project site. The proposed project would not transfer any maintenance responsibilities to the City.
- C-46.** Please see Response C-44. Figures 8 and 9 show proposed drainage concept for the project, including perforated drain trench detail. The geotechnical investigation conducted on-site borings and determined that ground water table is at 6 to 8 feet below ground, not at 1 foot. The comment regarding soil class D subject to saturation and poor drainage is inaccurate. The native soils consists generally of moist, medium dense, non-cemented, fine- to medium-grained, beach sand, subject to percolation and good drainage.

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Automated irrigation system will ensure that heavy watering of the landscaped area does not occur. All landscape materials and landscaped areas will be installed and maintained in accordance with the approved landscape and irrigation plans 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 Department and the General Services 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 will be adjustable based on either a signal from a satellite or an on-site moisture-sensor.

Furthermore, as indicated in the WQMP, the proposed BMP's are designed to filter pollutants naturally back in the ground on-site. The Figure 8, *Preliminary Grading Plan*, shows the location of stormwater pipes and details of perforated drain trench and groutless paver system. The asphalt paving at driveways with areas of groutless paver systems would allow filtering of first flush runoff from the driveway. In addition, patios and walks would be constructed with concrete that flows to the 6- to 8-inch drainage system equipped with an inline perforated drain trench, which would allow the pollutants to filter through the gravel bed back into the soil. As discussed, the underlain soils generally consist of beach sand with high infiltration rate. Additionally, the site will be graded so that all runoff water is retained and treated on-site and that neighboring properties are not affected by the proposed development. The combination of paver system, erosion-resistant plants that absorb water, gravel side yards, and gravel trench drains will contribute to retain runoff water on-site without flooding the project site or the surrounding properties.

- C-47.** Section 3.8 Hydrology and Water Quality, on page 70 of the Initial Study, discusses regulations under Section 402 of the Clean Water Act and its requirements under National Pollutant Discharge Elimination System permitting program.

Land Use

- C-48.** The concern regarding rehabilitation facilities is speculative and is also a socio-economic issue which is beyond the scope of CEQA unless it would result in a physical impact.
- C-49.** The proposed project would result in a less dense project with 24 single-family residences than the current 54-unit apartment complex.

The 54-unit apartment complex currently provides a total of 100 parking spaces, 26 in carports, 29 under the building, and 45 open. This results in a parking ratio of 1.85 per unit. The proposed project would provide a total of 63 parking spaces, with 48 dedicated residential spaces in garages and carports and 15 open guest spaces. Therefore, the proposed project would have a parking ratio of 2.62 per unit. The City does not require the parking spaces to be calculated based on the number of bedrooms and the proposed project provides adequate parking per the City guidelines. The City of Newport Beach Municipal Code 20.66.040 Parking Standards for Residential Districts requires 2 spaces per unit plus 0.5 guest space for each dwelling unit.

The comment that the proposed project would give the appearance of a private community park is inaccurate and speculative. The park would remain as a public park and there would be no design treatment to give it the appearance of a private facility.

- C-50.** The project site has a lot size of 65,108 square feet, which is 1.49 acres. Pursuant to this comment, the following text has been revised. This change would not alter the conclusion of the impact analysis. Page 2 of the Initial Study has been modified as follows:

The current permitted density at the site is 51 units per acre and the proposed project would yield 16 units per acre. The project proposes a gross floor area of ~~57,906~~ **50,706** square feet and a floor area ratio limit of 0.78 1.23.



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- C-51.** The Phase I Environmental Site Assessment Report states that the estimated percentage of property covered by buildings and/or pavement is 97 percent. It merely describes the existing site condition without any value judgment.
- C-52.** Figure 1, *View Corridor Analysis*, show the view corridor from 5408 Neptune Avenue. However, this plan shows that the view corridor from this address is very narrow and even with the conforming side setback, the view would be obstructed. As stated in the Initial Study, the proposed project would not impact the public views. Please refer to Response C-6, C-7, and C-11 for additional discussion regarding project-related view impacts.
- C-53.** The proposed project is a private project which, based on the findings of the Initial Study, would not result in significant environmental impacts. Consideration of project alternatives, such as City purchase of the site for public park use, is not required by CEQA. Please refer to Responses C-6 through C-18 with respect to the potential visual impact and compatibility with surrounding development.
- C-54.** The Mitigated Negative Declaration/Initial Study was released for public review on February 20, 2008. The comment refers to the Planning Commission Report, which is separate from the CEQA noticing requirement.
- The project description as included in the Initial Study is sufficient to address the potential environmental impacts of the proposed project. As noted, project implementation would replace an existing 54-unit apartment building with a total of 24 housing units, resulting in a net reduction of 30 housing units on the property. Potential future modifications of the individual units would be subject to City permits, are speculative, and are not within the realm of the CEQA analysis.
- C-55.** Please refer to Response C-49.
- C-56.** The traffic analysis has been prepared in accordance with the City's Traffic Phasing Ordinance. The use of ITE Trip Generation Manual for trip generation is the widely accepted industry standard of traffic analysis.
- C-57.** Please refer to Response C-48.
- C-58.** A Homeowners Association will be formed and appropriate Covenants, Conditions, and Restrictions (CC&R) adopted. Condition of Approval No. 41 requires that all on-site utilities to be owned, operated, and maintained by the community/association (see Appendix B for list of draft Conditions of Approval). The HOA will also be responsible for maintenance of common areas.
- C-59.** The commentor's submittal of the 'Sober Houses' article is acknowledged and this information will be forwarded to decision-makers. The potential for the proposed project for this use is speculative and beyond the scope of CEQA review. As noted above, formulation of an HOA will be required for the project.

Existing Land Use /Description Inadequate

- C-60.** Pursuant to this comment, the following text has been revised. This change does not alter the conclusion of the impact analysis. Page 1 of the Initial Study has been modified as follows:
- Vehicular** access from and to Seashore Street ~~Drive~~ and Neptune Avenue is blocked by a wooden fence. **Pedestrian access from Neptune Avenue to the project site is blocked by a wooden fence.**
- C-61.** Neptune Avenue is not a cul-de-sac and it does not have an adequate turning radius for large emergency vehicles. Neptune Avenue is a public right-of-way, which the future

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residents of the Seashore Village project have the right to use. In addition, the traffic generated by the proposed project would be minimal, with 14 AM peak hour trips and 18 PM peak-hour trips. Furthermore, Neptune Avenue is not the only access roadway to the project site; there is access from and to River Avenue, which may be more convenient for some of the future residents. The proposed project would actually result in a net reduction in traffic by 178 average daily trips. The proposed project has less development intensity and less project related traffic compared to the existing use and no mitigation measures are necessary.

- C-62.** The comment that one of the two driveways on River Avenue for use of just one single-family unit is unfair and that the proposed project should retain the existing ingress/egress for the proposed project is not a feasible design alternative and would impose undue restriction in development of the project site.

The current site plan allows for use of both Neptune Avenue and River Avenue for access. The internal roadway would be a minimum of 26 feet. Neptune Avenue is not a cul-de-sac and it terminates at the project site. Opening Neptune Avenue to connect to River Avenue would actually improve the mobility of large emergency vehicles serving Neptune Avenue. All on-site parking, vehicular, and pedestrian circulation systems would be constructed in accordance with the City's standards and reviewed by the City Traffic Engineer.

- C-63.** Please refer to Responses C-16.

Indemnity

- C-64.** Draft Condition of Approval No. 20 stipulates that "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 Seashore Village Residential Development Project including, but not limited to, the approval of Tentative Tract Map No. 2007-001, Modification Permit No. 2007-044, Use Permit No. 2007-011 and Coastal Residential Development Permit No. 2007-001; and/or the City's related California Environmental Quality Act determinations, the certification of the Mitigated Negative Declaration and/or the adoption of a Mitigation limited to, damages awarded against the City, if any, costs of suit, attorney's 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, attorney's 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."

- C-65.** Please refer to Responses C-8 through C-11.

- C-66.** Please refer to Responses C-61 and C-62.

- C-67.** Draft Condition of Approval No. 16 requires that trash container storage for the individual units are to be screened from view of neighboring properties and public places, except when placed for pick-up by refuse collection agencies, and that trash containers are not to be located within the required parking areas. The type and volume of solid wastes generated by the proposed residential development would be comparable to other residential use in the surrounding area and would not create unusual health and safety hazards. (See Section 2, *Revisions to the Initial Study*, of this Response to Comments)



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- C-68.** As part of long-term post construction operation of the site to minimize the water quality impact, a list of good housekeeping practices would be incorporated, including, but not limited to frequent parking area vacuum truck sweeping.
- C-69.** As specified in Response C-62, the internal roadway would be a minimum of 26-feet and all onsite parking, vehicular, and pedestrian circulation systems would be required to comply with City standards and reviewed by the City Traffic Engineer. Additionally, the City of Newport Beach Fire Department has reviewed the proposed plans and location of existing fire hydrant and has determined that additional fire hydrants would not be necessary. The project is not within the jurisdiction of the Orange County Fire Authority.

Surrounding Land Use

- C-70.** Pursuant to this comment, page 1, Surrounding Land Use has been modified as follows:
- The project site is surrounded by residential uses, such as including vacation rental units, to the north, south, and east, and a city park immediately to the west.
- C-71.** As noted in this comment for the existing apartment building, the proposed project would provide adequate parking for its residents and visitors. The proposed project would comply with the City's parking requirements. The Municipal Code Section 20.66.040 Parking Standards for Residential Districts requires a minimum two parking spaces for each dwelling unit, plus 0.5 space for guest parking spaces per unit. The project is designed to provide a total of 2.62 parking spaces per unit, thereby exceeding the 2.5 space/unit requirement. The project would provide a total of 63 parking spaces, with 48 dedicated residential spaces in garages and carports and 15 open guest spaces. The existing 54-unit apartment complex currently provides a 1.85 spaces per unit (100 spaces total) consisting of 26 in carports, 29 under the building, and 45 open. . The City does not require the parking spaces to be calculated based on the number of bedrooms.
- C-72.** The proposed project provides more parking spaces than required by the City and project-related parking is not anticipated to overflow into the public parking lot on Seashore Drive.
- C-73.** This comment expresses a personal opinion and is speculative. The commentor's concerns and opposition to the project are noted and will be forwarded to decision-makers.

Noise

- C-74.** Based on industry-accepted methodology for the calculation of project-related vehicle trips, the proposed project would result in a net reduction of trips as compared to existing uses. Project-related vehicles during the operational phase would consist of light-duty automobiles and trucks as well as motorcycles. Because the project is a residential development, no 18-wheeler trucks are anticipated to access the site. Noise generated from large equipment and power tools are regulated through the City's municipal code limits established through Chapter 10.26.
- C-75.** Noise associated with property maintenance is governed under municipal code section 10.28.045. The City allows for the creation of noise associated with property maintenance but limits occurrence based on the aforementioned municipal code section. Due to the short duration of noise generated by property maintenance activities as well as the restrictions on the time of occurrence to the least noise-sensitive portions of the day, noise associated with property maintenance is not considered to result in a significant noise impact.

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- C-76.** Noise associated with trash trucks is regulated relative to time of occurrence. The City does not consider noise from trash trucks to result in a significant noise impact due to the brevity and infrequency of occurrence.
- C-77.** Noise associated with the operation of the project is regulated through the City's Municipal Codes. These Codes include Chapter 10.26 - Community Noise Control, and Chapter 10.28 .010 - Loud and Unreasonable Noise. Project occupants and landscapers are required to comply with these Municipal Code limits. Compliance with these Municipal Code limits would minimize noise generated by the proposed project to level is considered acceptable by the City and consequently would not result in a significant noise impact.
- C-78.** Noise associated with balcony use is also subject to the municipal code limits for noise. Consequently, noise associated with the operation of the proposed project would not result in a significant noise impact.
- C-79.** Noise and vibration associated with construction activity is unavoidable. The City has allowed the creation of noise and vibration from construction activity but restricted the hours of occurrence to the least noise-sensitive portions of the day, as specified under municipal code section 10.26.035. Construction-related noise and vibration will intermittently occur through the day until the project is completed. Subsequent to project buildout, construction noise and vibration will cease. CEQA requires an analysis of physical environmental impacts only and does not require provision of financial mitigations.
- C-80.** The assertion that noise levels were assessed for only a single piece of equipment is incorrect. Construction related noise was evaluated by construction phase and included typical equipment used for each construction phase. Construction of the proposed project would involve standard construction techniques and equipment. The statement that no alternative methods of construction or recommended is not accurate. To minimize vibration generated from jackhammering in close proximity to the existing residential uses, concrete saws would be employed during demolition of the existing pavement on the project site.
- The City of Newport Beach does not use Noise Abatement Criteria (NAC) for the assessment of noise impacts under CEQA. The assessment of noise impacts from the proposed project were based on the Municipal Code limits and industry standards.
- C-81.** The noise analysis also required an evaluation of site suitability for the proposed noise-sensitive residential use. Consequently, compatibility for the proposed residential use relative to noise from aircraft and PCH was assessed.



Population and Housing

- C-82.** The Initial Study states that the proposed project would result in displacement of approximately 122 residents based on average household size of 2.25. Also as documented in the Initial Study, the City currently has a rental vacancy rate of 7.7 percent. The Initial Study analysis concludes that, based on available rental units at comparable rates, the City's commitment to providing affordable housing units in the City, and project compliance with the Government Code Section 65590 and 65590.1, impacts related to displacement of residents would be less than significant.

Based on an income survey performed in June 2007 by the Las Brisas property manager, 6 of the 54 apartment units are occupied by persons of lower or moderate income. Therefore, to compensate for the loss of affordable housing, the applicant will be required to replace those 6 units at an off-site location within the City for a minimum period of 30 years. The applicant has agreed to commit \$1.35 million to subsidize the rents and/or purchase price of off-site replacement housing. The net cost to subsidize 6 replacement units is estimated at \$962,134, based on the City's Draft Technical

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Memorandum dated October 11, 2007, prepared by Economic and Planning Systems for the calculation of the City's affordable housing in-lieu fee.

- C-83.** Per draft Condition of Approval No. 17, all landscape materials and landscaped areas are required to be installed and maintained in accordance with the approved landscape plan. All landscaped areas are required to be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. Please see Figure 7, *Landscape Plan*. Therefore, adequate landscaping will be provided.

The proposed project has been designed to be compatible with the development pattern and character of the surrounding neighborhood, which generally consists of two- and three-story, single-unit and two-unit dwelling. Each unit would feature either a Craftsman or Plantation architectural style. Architectural details and enhancements (i.e., batt and board wood siding, louvered window shutters, decorative trim, and stone veneer) would be provided on all building elevations. The 2nd floor facades would be setback from the 1st floor on the rear elevations and cantilevered over the 1st floor on the front elevations, providing articulation and modulation to the building mass. The 3rd floor of each building would be set back from the front and rear elevations, towards the interior portion of each building envelope, to reduce the visual mass of the structures as viewed from the streets. In addition, draft Condition of Approval No. 7 states that, "The two structures that encroach into the side yard setback area immediately adjacent to the east property line shall be modified in height to conform to the 24-foot base height limit."

The proposed project is designed to appear as if the units were situated on individual 30-foot-wide lots with setbacks comparable to surrounding R-1 and R-2 lots. Using the R-1 and R-2 development standards as a guide for determining acceptable setbacks and building separation would not intensify the difference in height or style of the surrounding development. Under R-1 and R-2, the project site potentially allows 26 units due to loss of guest parking requirement. The project site is designated as Multiple-Unit Residential (RM) with a maximum development limit of 51 dwelling units.

Public Services and Recreation

- C-84.** The Initial Study has studied the impact of the land use change from multifamily residential to single and duplex residential units. Development density on-site would decrease as result of the proposed project and subsequently, public services demand would also be reduced. Furthermore, a homeowner's association and associated CC&Rs would be formulated.
- C-85.** The proposed project provides adequate parking per the City code. Construction of a continuous block wall to discourage residents to use the meter parking would not be necessary. In addition, the Applicant is required (draft Condition of Approval No. 46) to provide pedestrian walkways from River Avenue to Seashore Drive. Restricting access from Seashore Drive to the project site would also limit the public access to the pedestrian walkway. Please refer to Response C-52 with respect to potential City purchase of site for park expansion.

Transportation and Traffic

- C-86.** The said provision guards against piecemealing a project on the same parcel or parcels of property and does not apply to the proposed project. The proposed project alone is anticipated to generate approximately 185 trips, not considering the net reduction in trip from the existing use.
- C-87.** Using ITE Trip Generation Manual for trip generation rates is required per the City's Traffic Phasing Ordinance and is widely accepted industry standard. Although there is a wide variation in trip generation rates, the rates used for the project are comparable to all other similar developments in the City and the proposed project does not present exceptional circumstances whereby the use of specialized trip rates would be necessary.

Appendix

C-88. Please refer to Response C-42.

C-89. Please refer to Response C-16.

Public Access

C-90. Please refer to Responses 16 and 6. The proposed residential development is not a gated community and public access from River Avenue to Seashore Drive would be provided.

C-91. Development of the proposed project would provide improved public access to the beach compared to the existing apartment complex by allowing public walkway from River Avenue to Seashore Drive.

C-92. Please refer to Responses C-61 and C-62.

C-93. The comment that the proposed project would give the appearance of a private community park is inaccurate and speculative. The park will remain as a public park and there would be no design treatment to give it the appearance of a private facility.

C-94. Please refer to Responses C-16 and C-62.

C-95. Please refer to Responses C-92, C-62, and C-71.

C-96. Please refer to Response C-16.

C-97. Please refer to Responses C-62, C-71, and C-6.

C-98. Please refer to Responses C-92, C-62, and C-71.

C-99. The proposed project does not conflict with this policy since Neptune Avenue currently does not provide vehicular or pedestrian access to the beach. Additionally, there is no proposal to convert Neptune Avenue to a private street. Instead, the proposed project would improve the shoreline access for pedestrians through walkways.

C-100. CEQA requires analysis of physical environmental impacts. This comment expresses a personal opinion and is beyond the scope of the Initial Study analysis.



1. Response to Comments

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View Corridor Analysis (if Developed in Conformance with MFR Setback Requirements)



-  Existing View Corridor
-  Extent of Building Edge Per 20-Foot Setback Requirement of MFR Zoning Designation
-  Extent of Building Edge Per 25-Foot Setback Requirement of MFR Zoning Designation

0 100
Scale (Feet)

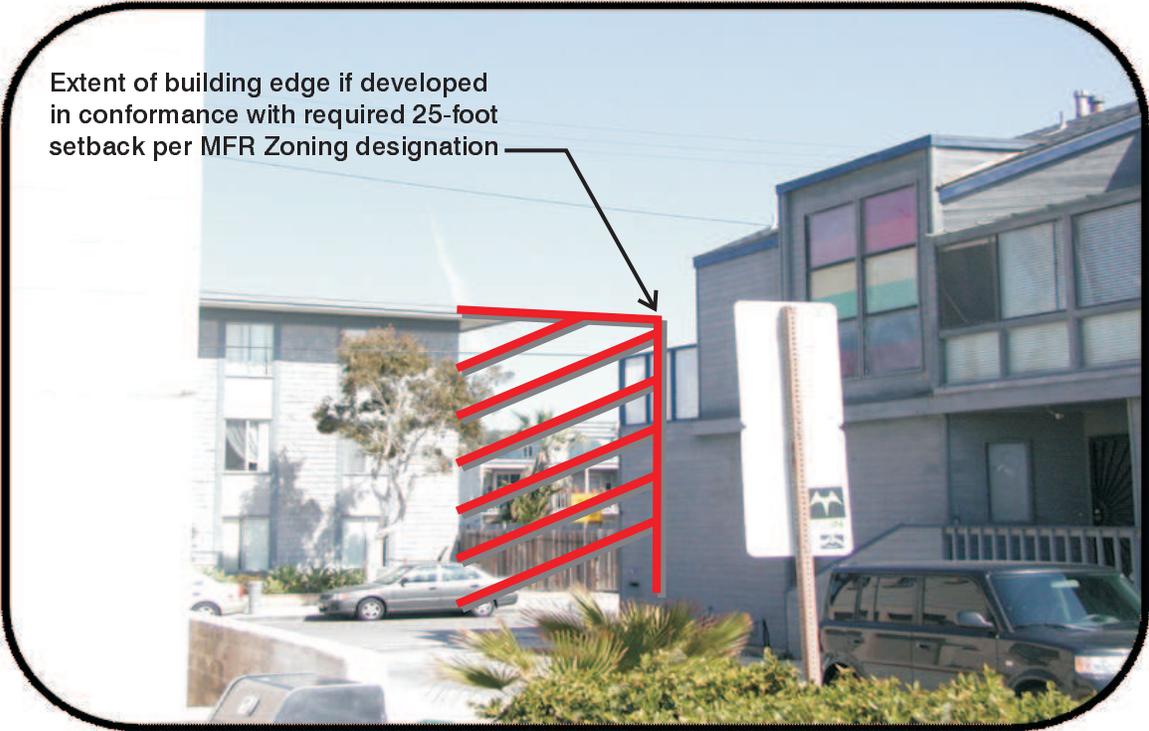


Photo Source: Google Earth Pro 2007

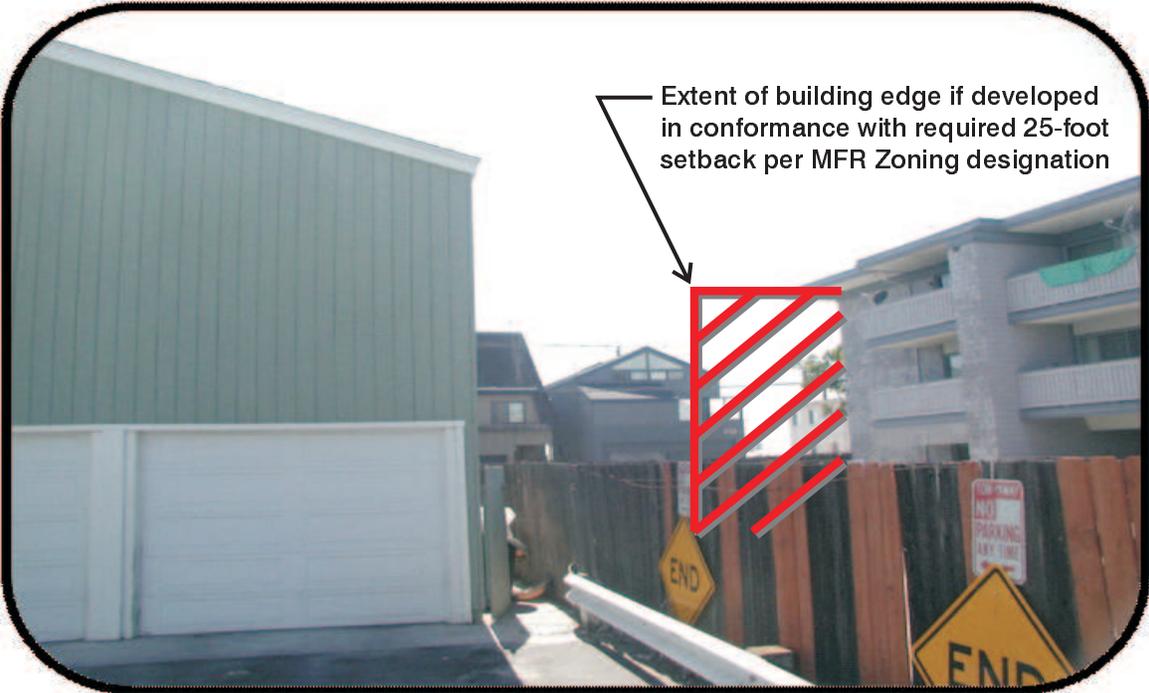
1. Response to Comments

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Photo of View Corridor



Looking northeast toward 5408 Neptune Avenue from 55th Street.



Looking southwest toward beach from 5408 Neptune Avenue

1. Response to Comments

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Surrounding Area Photographs



Seashore Drive looking west.



Seashore Drive looking southeast.

1. Response to Comments

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Site Photographs



View of the site looking south toward the ocean.

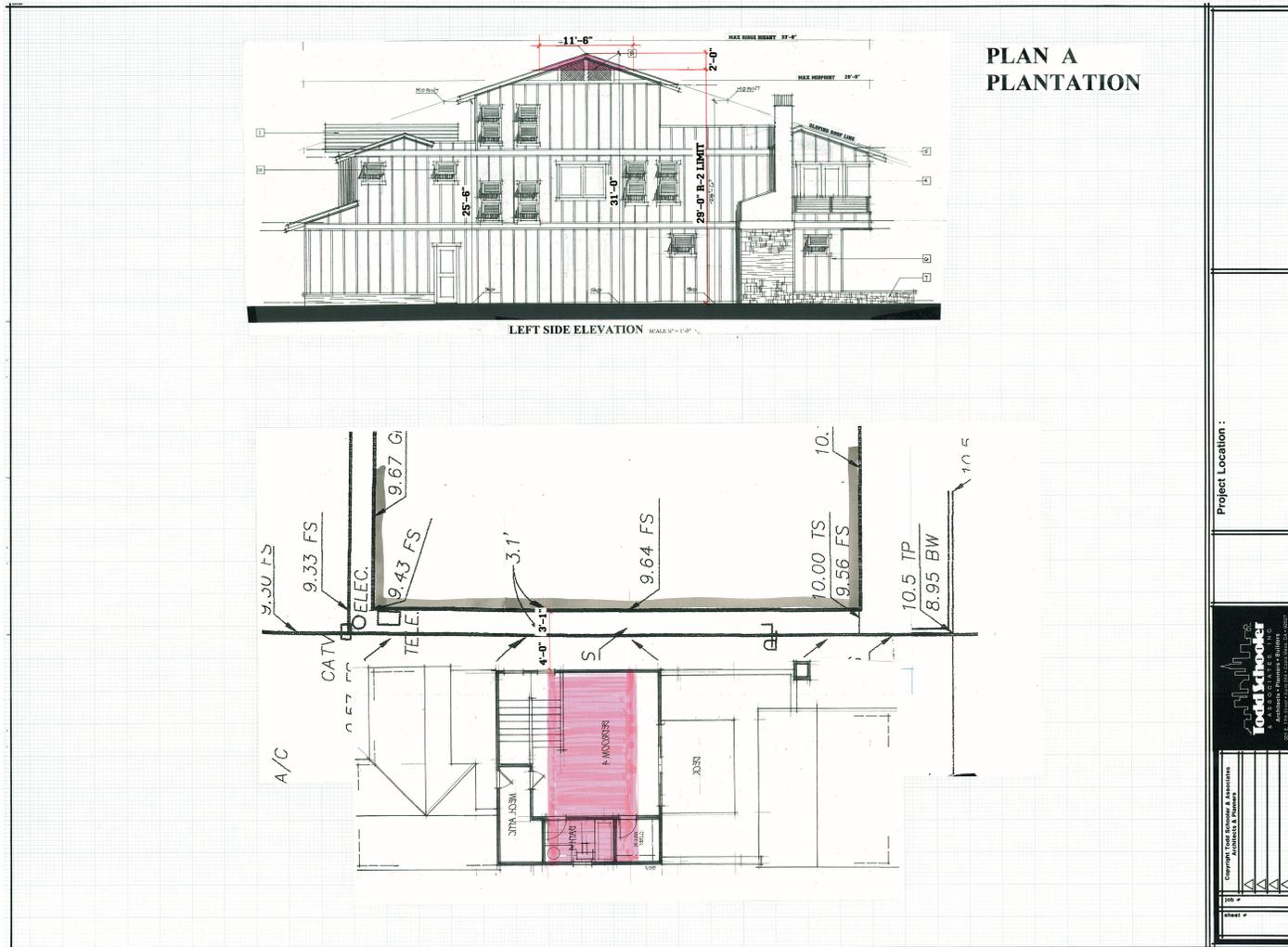


View of the site looking northwest.

1. Response to Comments

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Side Setback (Plan A: Plantation)



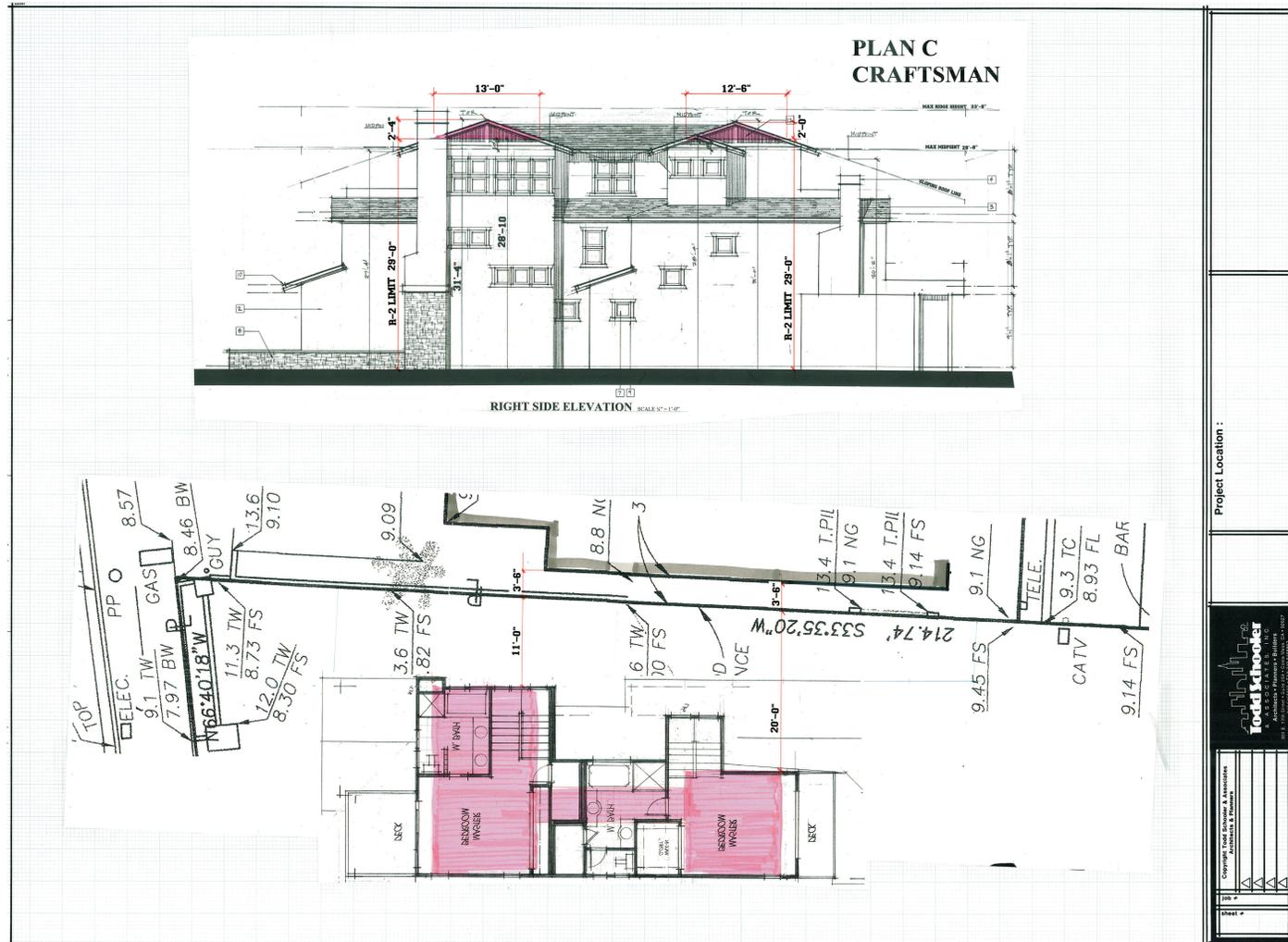
Project Location :
 Todd Schooler & Associates ARCHITECTS & PLANNERS 201 E. ARCHER ST. SUITE 100 SEASBORE, NC 28586 TEL: 252.781.1111 WWW.TODDSCHOOLER.COM
Sheet #



1. Response to Comments

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Side Setback (Plan C Craftsman)



Project Location :

Copyright, Todd Schooler & Associates
ARCHITECTS & ENGINEERS

Todd Schooler
ARCHITECTS & ENGINEERS
2014 UNIVERSITY DRIVE, SUITE 100
ANN ARBOR, MI 48106-1000



1. Response to Comments

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Response to Comments
Aerial Photograph



--- Site Boundary

Source: MSN Maps 2008

Seashore Village Response to Comments

0 125
Scale (Feet)



The Planning Center • **Figure 6**

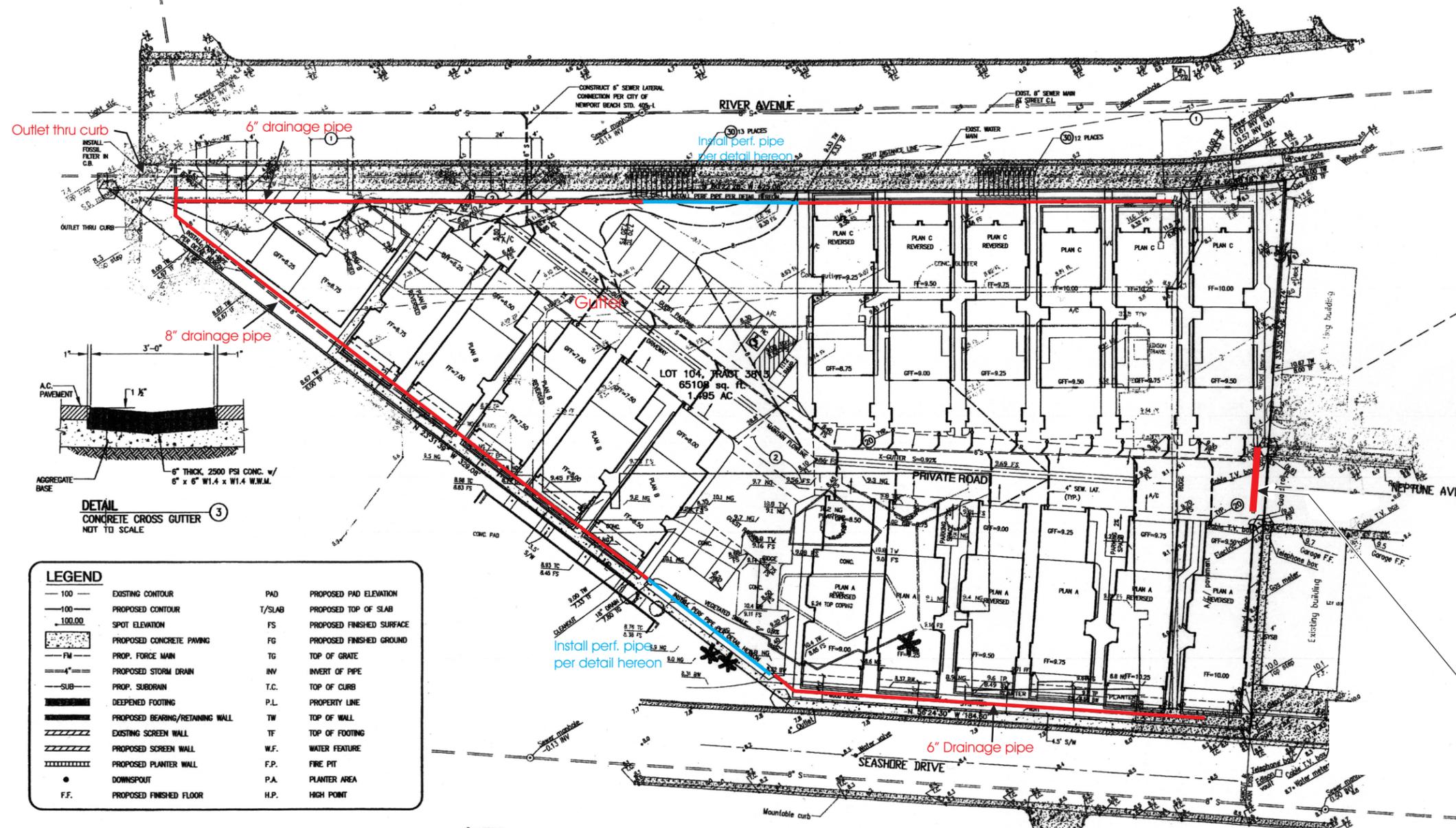
1. Response to Comments

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1. Response to Comments

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Preliminary Grading Plan



EASEMENTS

- 1 PROPOSED 24' WIDE INGRESS, EGRESS & PUBLIC UTILITIES EASEMENTS TO CITY OF NEWPORT BEACH.

WATER SERVICE

- 20 CONSTRUCT 1" WATER SERVICE PER CITY OF NEWPORT BEACH STD. 502-L.

SEWER CONSTRUCTION NOTES

- 20 CONSTRUCT 4" SEWER CLEANOUT & SEWER LATERAL PER CITY OF NEWPORT BEACH STD. 406-L (W/TRAFFIC RATED COVER).

CONSTRUCTION NOTES

- 1 REMOVE EXIST. CURB CUT PER CITY OF NEWPORT BEACH STD. 165-L.
- 2 GROUTLESS PAVERS PER DETAIL HEREON.
- 3 CONSTRUCT 3' WIDE CONC. GUTTER PER DETAIL HEREON.

CROSS SECTION

TRENCH DRAIN NOT TO SCALE

GROUTLESS PAVER DETAIL

NOT TO SCALE

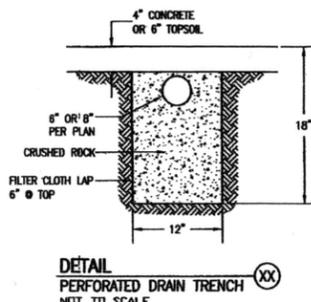


LEGEND

100	EXISTING CONTOUR	PAD	PROPOSED PAD ELEVATION
100	PROPOSED CONTOUR	T/SLAB	PROPOSED TOP OF SLAB
100.00	SPOT ELEVATION	FS	PROPOSED FINISHED SURFACE
[Symbol]	PROPOSED CONCRETE PAVING	FG	PROPOSED FINISHED GROUND
FM	PROP. FORCE MAIN	TG	TOP OF GRATE
4"	PROPOSED STORM DRAIN	INV	INVERT OF PIPE
SUB	PROP. SUBORRAIN	T.C.	TOP OF CURB
[Symbol]	DEEPEDED FOOTING	P.L.	PROPERTY LINE
[Symbol]	PROPOSED BEARING/RETAINING WALL	TW	TOP OF WALL
[Symbol]	EXISTING SCREEN WALL	TF	TOP OF FOOTING
[Symbol]	PROPOSED SCREEN WALL	W.F.	WATER FEATURE
[Symbol]	PROPOSED PLANTER WALL	F.P.	FIRE PIT
•	DOWNSPOUT	P.A.	PLANTER AREA
F.F.	PROPOSED FINISHED FLOOR	H.P.	HIGH POINT

ANY EXISTING/DAMAGED S/W CURB & GUTTER WITHIN B/W & FRONTING DEVELOPMENT SHALL BE RECONSTRUCTED.

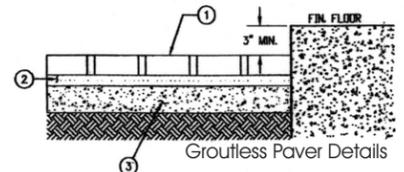
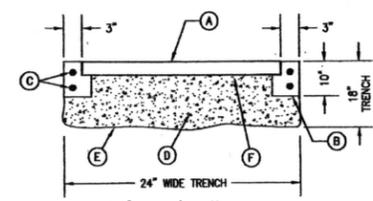
ENCROACHMENT PERMIT IS REQUIRED FOR ALL WORK ACTIVITIES WITHIN PUBLIC RIGHT-OF-WAY.



EASEMENT NOTE:
THE PLAT FOR THIS SURVEY WAS PREPARED WITHOUT A TITLE REPORT. UNPLOTTED EASEMENTS MAY EXIST ON THE SUBJECT PROPERTY.

BOUNDARY NOTE:
THIS IS NOT A BOUNDARY SURVEY. THE TOPOGRAPHIC FEATURES AS SHOWN ON THIS MAP MAY BE ADJUSTED RELATIVE TO THE PLAT UPON COMPLETION OF A BOUNDARY SURVEY.

- (A) INSTALL 6" WIDE TRAFFIC RATED FRAME AND GRATE WITH 3/8" SLOT OPENINGS, NDS TYPE 837 OR EQUIV. PH. 800-726-1994
- (B) FORM AND POUR PERIMETER CONCRETE CURB 10" DEEP BY 6" WIDE.
- (C) INSTALL #4 REBAR TOP AND BOTTOM (TYPICAL).
- (D) INSTALL CRUSHED ROCK 3/4" TO 1" DIA.
- (E) INSTALL MRAF1 FABRIC TYPE 140 N OR EQUIV. AROUND GRAVEL.
- (F) FILL REST OF TRENCH WITH CRUSHED ROCK TO 4" FROM TOP OF TRENCH.



- 1 2" GROUTLESS INTERLOCKING PAVER SYSTEM.
- 2 1" SAND BED.
- 3 4"-6" GRAVEL BASE.

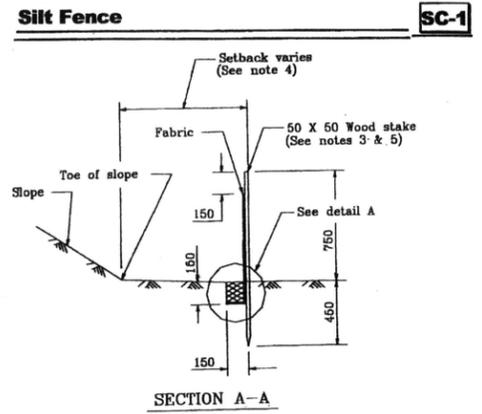
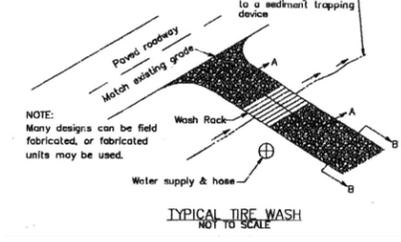
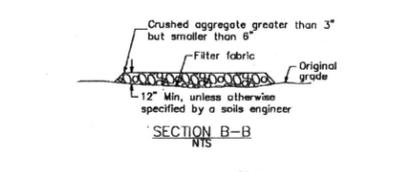
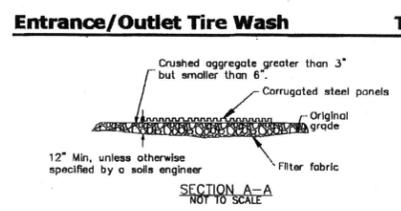
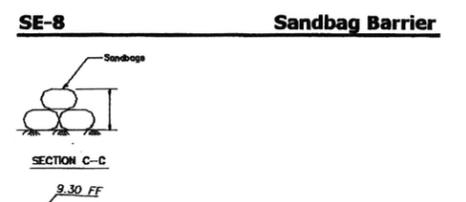
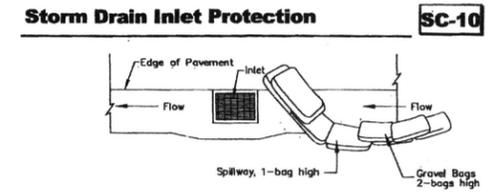
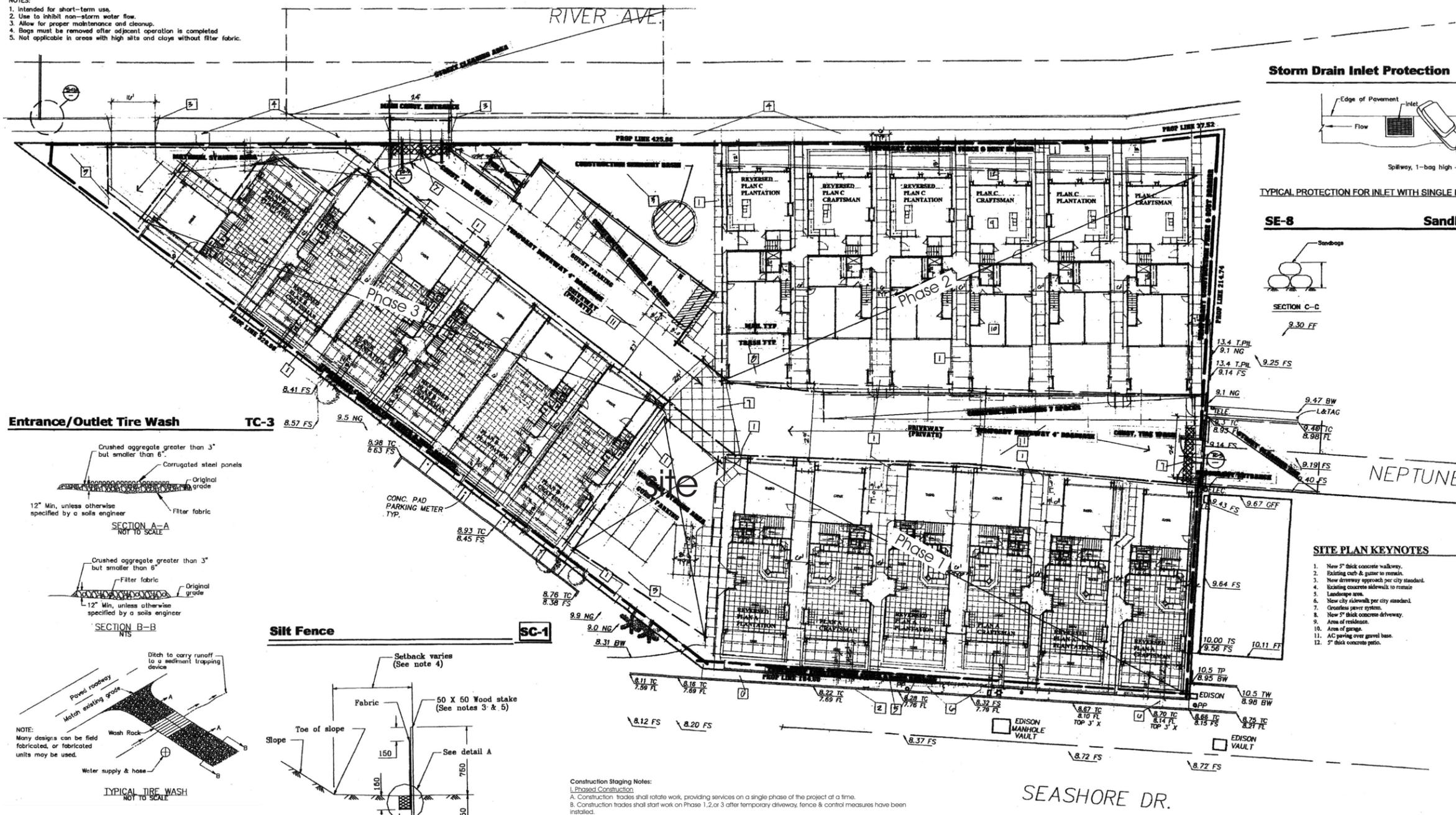
Construct Open bottom Trench Drain Per Detail Herein

1. Response to Comments

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Construction Staging & Water Quality Control Plan

- NOTES:
1. Intended for short-term use.
 2. Use to inhibit non-storm water flow.
 3. Allow for proper maintenance and cleanup.
 4. Bags must be removed after adjacent operation is completed.
 5. Not applicable in areas with high silts and clays without filter fabric.



- SITE PLAN KEYNOTES**
1. New 5" thick concrete walkway.
 2. Existing curb & gutter to remain.
 3. New driveway approach per city standard.
 4. Existing concrete sidewalk to remain.
 5. Landscape area.
 6. New city sidewalk per city standard.
 7. Graffiti jayver system.
 8. New 5" thick concrete driveway.
 9. Area of residence.
 10. Area of garage.
 11. AC paving over gravel base.
 12. 5" thick concrete patio.

- Construction Staging Notes:**
1. Phased Construction
 - A. Construction trades shall rotate work, providing services on a single phase of the project at a time.
 - B. Construction trades shall start work on Phase 1, 2, or 3 after temporary driveway, fence & control measures have been installed.
 2. Construction Sediment Basin
 - A. Construct 24" deep x 16" dia. Temporary lined gravel pit.
 - B. All construction clean-up shall be done in construction sediment basin.
 - C. All overflow shall drain to temporary driveway.
 3. Construction hours & days shall be per City of Newport Beach requirements.
 4. Construction noise levels shall be within City of Newport Beach standards.
 5. All material deliveries shall be unloaded on site.
 6. Construction primary entrance shall be taken from River Ave.
 7. Sheet sweeping shall be provided as shown a minimum of once a week or as required.
 8. Construction parking shall be per staging plan on site.

The calculation for impervious surfaces are as follows.

Lot area	65108 sq. ft.
Existing landscape	9393 sq. ft. 14.4%
Existing impervious surfaces	55710 sq. ft.
Proposed landscape	20987 sq. ft. 32.2%
Proposed impervious surfaces	44121 sq. ft.

The open space calculation is as follows.

Allowable open space	170.6' x 28' x 6' = 28,661 cu. ft.
Actual open space	= 675,416 cu. ft.

1. Response to Comments

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1. Response to Comments

LETTER D – California Department of Transportation (1 page)

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION

District 12
3337 Michelson Drive, Suite 380
Irvine, CA 92612-8894
Tel: (949) 724-2267
Fax: (949) 724-2592



Flex your power!
Be energy efficient!

PLANNING
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MAR 19 2008

March 13, 2008

Mr. Brandon Nicholas
City of Newport Beach
3300 Newport Boulevard
Newport Beach, California 92658

File: IGR/CEQA
SCH#: 2008021075
Log #: 2009
PCH

Subject: Sea Shore Village

Dear Mr. Nelson,

Thank you for the opportunity to review and comment on the **Initial Study and Mitigated Negative Declaration for the Sea Shore Village project**. The project proposes to construct 12 single-family detached units and 6 duplex units, on a 1.49 acre- site. The project is located on 5515 River Avenue in the City of Newport Beach. The nearest State route to the project site is Pacific Coast Highway (PCH).

Caltrans District 12 is a commenting agency on this project and has no comment at this time. However, in the event of any activity in Caltrans' right-of-way, an encroachment permit will be required.

Please continue to keep us informed of this project and any future developments, which could potentially, impact State transportation facilities. If you have any questions or need to contact us, please do not hesitate to call Maryam Molavi at (949) 724-2267.

Sincerely,

Ryan Chamberlain, Branch Chief
Local Development/Intergovernmental Review

C: Terry Roberts, Office of Planning and Research

D-1



"Caltrans improves mobility across California"

1. Response to Comments

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1. Response to Comments

D Response to Comments from Ryan Chamberlain, Branch Chief, Local Development/Intergovernmental Review, Department of Transportation, Dated March 13, 2008.

D-1 The comment indicates that Caltrans District 12 has no comment at this time. No response is necessary.



1. Response to Comments

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LETTER E – Department of Toxic Substances Control (5 pages)



Linda S. Adams
Secretary for
Environmental Protection



Department of Toxic Substances Control

Maureen F. Gorsen, Director
5796 Corporate Avenue
Cypress, California 90630



Arnold Schwarzenegger
Governor

RECEIVED BY
PLANNING DEPARTMENT

March 19, 2008

MAR 21 2008

CITY OF NEWPORT BEACH

Brandon Nichols
Associate Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, California 92658

NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
FOR THE SEASHORE VILLAGE PROJECT, NEWPORT BEACH, ORANGE COUNTY
(SCH#2008021075)

Dear Mr. Nichols:

The Department of Toxic Substances Control (DTSC) has received your submitted Initial Study (IS) and Mitigated Negative Declaration (ND) for the above-mentioned project. The following project description is stated in your document: "Development and operation of 12 single-family detached units and 6 duplex units, for a total of 24 units, on a 1.49-acre site. Access to the project site would be provided by two driveways on River Avenue and a driveway from Neptune Avenue. The western driveway on River Avenue would exclusively serve one single-family unit, and all other access would be provided through River Avenue and Neptune Avenue. The existing 54-unit apartment complex would be demolished." DTSC has the following comments; please address if applicable.

- 1) The ND should identify the current or historic uses at the project site that may have resulted in a release of hazardous wastes/substances, and any known or potentially contaminated sites within the proposed Project area. For all identified sites, the ND should evaluate whether conditions at the site may pose a threat to human health or the environment. Following are the databases of some of the pertinent regulatory agencies:
 - National Priorities List (NPL): A list maintained by the United States Environmental Protection Agency (U.S.EPA).
 - Envirostor: A Database primarily used by the California Department of Toxic Substances Control, accessible through DTSC's website (see below).



E-1

♻️ Printed on Recycled Paper

1. Response to Comments

Brandon Nichols
March 19, 2008
Page 2

- Resource Conservation and Recovery Information System (RCRIS): A database of RCRA facilities that is maintained by U.S. EPA.
 - Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS): A database of CERCLA sites that is maintained by U.S.EPA.
 - Solid Waste Information System (SWIS): A database provided by the California Integrated Waste Management Board which consists of both open as well as closed and inactive solid waste disposal facilities and transfer stations.
 - Leaking Underground Storage Tanks (LUST) / Spills, Leaks, Investigations and Cleanups (SLIC): A list that is maintained by Regional Water Quality Control Boards.
 - Local Counties and Cities maintain lists for hazardous substances cleanup sites and leaking underground storage tanks.
 - The United States Army Corps of Engineers, 911 Wilshire Boulevard, Los Angeles, California, 90017, (213) 452-3908, maintains a list of Formerly Used Defense Sites (FUDS).
- 2) The ND should identify the mechanism to initiate any required investigation and/or remediation for any site that may be contaminated, and the government agency to provide appropriate regulatory oversight. If necessary, DTSC would require an oversight agreement in order to review such documents. Please see comment No. 14 below for more information.
 - 3) All environmental investigations, sampling and/or remediation for the site should be conducted under a Workplan approved and overseen by a regulatory agency that has jurisdiction to oversee hazardous substance cleanup. The findings of any investigations, including any Phase I or II Environmental Site Assessment Investigations should be summarized in the document. All sampling results in which hazardous substances were found should be clearly summarized in a table.
 - 4) Proper investigation, sampling and remedial actions overseen by the respective regulatory agencies, if necessary, should be conducted at the site prior to the new development or any construction. All closure, certification or remediation approval reports by these agencies should be included in the ND.

**E-1
Cont'd**

Brandon Nichols
March 19, 2008
Page 3

- 5) If any property adjacent to the project site is contaminated with hazardous chemicals, and if the proposed project is within 2,000 feet from a contaminated site, then the proposed development may fall within the "Border Zone of a Contaminated Property." Appropriate precautions should be taken prior to construction if the proposed project is within a Border Zone Property.
- 6) If buildings or other structures, asphalt or concrete-paved surface areas are being planned to be demolished, an investigation should be conducted for the presence of other related hazardous chemicals, lead-based paints or products, mercury, and asbestos containing materials (ACMs). If other hazardous chemicals, lead-based paints or products, mercury or ACMs are identified, proper precautions should be taken during demolition activities. Additionally, the contaminants should be remediated in compliance with California environmental regulations and policies.
- 7) Project construction may require soil excavation or filling in certain areas. Sampling may be required. If soil is contaminated, it must be properly disposed and not simply placed in another location onsite. Land Disposal Restrictions (LDRs) may be applicable to such soils. Also, if the project proposes to import soil to backfill the areas excavated, sampling should be conducted to ensure that the imported soil is free of contamination.
- 8) Human health and the environment of sensitive receptors should be protected during the construction or demolition activities. If it is found necessary, a study of the site and a health risk assessment overseen and approved by the appropriate government agency and a qualified health risk assessor should be conducted to determine if there are, have been, or will be, any releases of hazardous materials that may pose a risk to human health or the environment.
- 9) If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, Chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5). If it is determined that hazardous wastes will be generated, the facility should also obtain a United States Environmental Protection Agency Identification Number by contacting (800) 618-6942.

**E-1
Cont'd**



1. Response to Comments

Brandon Nichols
March 19, 2008
Page 4

- 10) Certain hazardous waste treatment processes or hazardous materials, handling, storage or uses may require authorization from the local Certified Unified Program Agency (CUPA). Information about the requirement for authorization can be obtained by contacting your local CUPA.
- 11) If the project plans include discharging wastewater to a storm drain, you may be required to obtain an NPDES permit from the overseeing Regional Water Quality Control Board (RWQCB).
- 12) If during construction/demolition of the project, the soil and/or groundwater contamination is suspected, construction/demolition in the area should cease and appropriate health and safety procedures should be implemented.
- 13) If the site was used for agricultural, livestock or related activities, onsite soils and groundwater might contain pesticides, agricultural chemical, organic waste or other related residue. Proper investigation, and remedial actions, if necessary, should be conducted under the oversight of and approved by a government agency at the site prior to construction of the project.
- 14) EnviroStor is a database primarily used by the California Department of Toxic Substances Control, and is accessible through DTSC's website. DTSC can provide guidance for cleanup oversight through an Environmental Oversight Agreement (EOA) for government agencies, or a Voluntary Cleanup Agreement (VCA) for private parties. For additional information on the EOA or VCA, please see www.dtsc.ca.gov/SiteCleanup/Brownfields, or contact Maryam Tasnif-Abbasi, DTSC's Voluntary Cleanup Coordinator, at (714) 484-5489.
- 15) In future CEQA documents please provide the contact person's email address. Also, if the project title changes, please provide historical project title(s).

**E-1
Cont'd**

1. Response to Comments

Brandon Nichols
March 19, 2008
Page 5

If you have any questions regarding this letter, please contact Tong Qiao, Project Manager, at tqiao@dtsc.ca.gov or by phone at (714) 484-5470.

Sincerely,



Greg Holmes
Unit Chief
Southern California Cleanup Operations Branch - Cypress Office

cc: Governor's Office of Planning and Research
State Clearinghouse
P.O. Box 3044
Sacramento, California 95812-3044
state.clearinghouse@opr.ca.gov

CEQA Tracking Center
Department of Toxic Substances Control
Office of Environmental Planning and Analysis
1001 I Street, 22nd Floor, M.S. 22-2
Sacramento, California 95814
gmoskat@dtsc.ca.gov

CEQA#2080

E-1
Cont'd



1. Response to Comments

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1. Response to Comments

E Response to Comments from Greg Holmes, Unit Chief, Southern California Cleanup Operations Branch, Department of Toxic Substances Control, Dated March 13, 2008.

- E-1 As contained in Appendix D of the Initial Study, Shaw Environmental, Inc., conducted a Phase I Environmental Site Assessment in January 2008 to evaluate environmental conditions on the project and in the surrounding area. The Phase I included a site inspection, review of federal and state environmental records, review of historic uses. No adverse environmental conditions requiring regulatory action or further investigation were identified by the Phase I other than potential for asbestos containing materials (ACMs) and lead-base paint (LBP). There are existing regulations in place to remediate hazards from these materials (page 68 of the Initial Study). The listed comments are not applicable to the proposed project. No further response is necessary.



1. Response to Comments

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2. Revisions to the Initial Study

2.1 INTRODUCTION

This section contains revisions to the Initial based upon (1) additional or revised information required to prepare a response to a specific comment; (2) applicable updated information that was not available at the time of Initial Study publication; and/or (3) typographical errors. This section also includes additional mitigation measures to fully respond to commenter concerns as well as provide additional clarification to mitigation requirements included in the Initial Study. The provision of these additional mitigation measures does not alter any impact significance conclusions as disclosed in the Initial Study. Changes made to the Initial Study are identified here in ~~strikeout text~~ to indicate deletions and in **bold and double underline** to signify additions.

2.2 REVISIONS IN RESPONSE TO WRITTEN COMMENTS

The following text has been revised in response to comments received on the Initial Study.

Page 1, Section 1.2.1 Project Description Existing Land Use, is hereby modified as follows:

~~Vehicular~~ Access from and to Seashore Street ~~Drive~~ and Neptune Avenue is blocked by a wooden fence. **Pedestrian access from Neptune Avenue to the project site is blocked by a wooden fence.**

Page 1, Section 1.2.2, Surrounding Land Use, is hereby modified as follows

The project site is surrounded by residential uses, such as ~~including~~ **including** vacation rental units, to the north, south, and east, and a city park **immediately** to the west.

Page 2, Section, Proposed Land Use, is hereby modified as follows:

The current permitted density at the site is 51 units per acre and the proposed project would yield 16 units per acre. The project proposes a gross floor area of ~~57,906~~ **50,706** square feet and a floor area ratio ~~limit~~ **limit** of ~~0.78~~ **1.23**.

Page 2, Section 1.3.1 Proposed Land Use, is hereby modified as follows:

Homeowner's Association and CC&R

As part of the proposed project, a Homeowners Association will be formed and the Declaration of the Covenants, Conditions and Restrictions (CC&Rs) adopted. The CC&R will contain the ground rules for the operation of the association and identify the association's common areas and improvements. The CC&R will outline responsibilities for the maintenance of common areas and improvements designated as private, such as but not limited to landscaping, parking, and drive aisles. Membership in the association would be automatic with the purchase of the property.

Page 25 is hereby modified as follows:

Modification Permit. Request to reduce the minimum building separation distance required by the MFR zoning designation from 10 feet to 6 feet, and to reduce the minimum front setback distances

2. Revisions to the Initial Study

along Seashore Drive **and River Avenue** required by the MFR zoning designation from 20 feet to 10 feet. A modification permit is also requested for a ~~34~~-foot sideyard setback where the MFR zone requires approximately 25 feet sideyard setback based on lot width.

Page 39 is hereby modified as follows:

A modification permit is requested to reduce the minimum building separation distance required by the MFR zoning designation from 10 feet to 6 feet, ~~and~~ to reduce the minimum front setback distances along Seashore Drive **and River Avenue** by ~~from~~ 20 feet to 10 feet, **and to reduce the minimum side setback from 25 feet to 4 feet.** The current building designs are similar in size, proportion, and separation to existing buildings in the neighborhood. Typical building separation in the neighborhood is approximately 6 feet and has a minimum setback of 10 feet along River Avenue and 5 feet along Seashore Drive.

A modification permit is requested to reduce the minimum building separation distance required by the MFR zoning designation from 10 feet to 6 feet, **minimum side setback from 25 feet to 4 feet.** and to reduce the minimum front setback distance along Seashore Drive by 20 feet to 10 feet. The current building designs are similar in size, proportion, and separation to existing buildings in the neighborhood. Typical building separation in the neighborhood is approximately 6 feet and has a minimum setback of 10 feet along River Avenue and 5 feet along Seashore Drive.

Pages 57 through 1-29, Table 1-1 Summary of Environmental Impacts, Mitigation Measures and Levels of Significance After Mitigation, are hereby modified as follows ~~is hereby modified as follows:~~

The typographic error in page 57 of the Initial Study has been revised and is reflected in the Revisions to the Initial Study Section. These construction emissions were estimated using the SCAQMD's URBEMIS2007 and are included in Table 5; the model run is included in Appends ~~BA~~.

Page 65, Section 3.6 Geology and Soils is hereby modified as follows:

The below analysis is based on result of the Geotechnical Investigation report dated June 13, 2007, prepared by EGA Consultants, included as Appendix ~~BC~~.

Per your comment Page 101, Phil Brylski has been added to the list of preparers as follows:, Phil Brylski has been added to the list of preparers.

Phil Brylski
Staff Biologist

Appendix A. Air Quality Model



Appendices

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Urbemis 2007 Version 9.2.4

Combined Summer Emissions Reports (Pounds/Day)

File Name: C:\Seashore Village\SeashoreVillage.urb9

Project Name: Seashore Village

Project Location: Orange County

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

Summary Report:

CONSTRUCTION EMISSION ESTIMATES

	<u>ROG</u>	<u>NOx</u>	<u>CO</u>	<u>SO2</u>	<u>PM10 Dust</u>	<u>PM10 Exhaust</u>	<u>PM10</u>	<u>PM2.5 Dust</u>	<u>PM2.5 Exhaust</u>	<u>PM2.5</u>
2008 TOTALS (lbs/day unmitigated)	3.37	36.97	16.55	0.03	23.99	1.87	25.86	5.00	1.72	6.72
2008 TOTALS (lbs/day mitigated)	3.37	36.97	16.55	0.03	23.99	1.87	25.86	5.00	1.72	6.72
2009 TOTALS (lbs/day unmitigated)	13.27	24.45	17.93	0.01	0.04	1.81	1.85	0.01	1.66	1.68
2009 TOTALS (lbs/day mitigated)	13.27	24.45	17.93	0.01	0.04	1.81	1.85	0.01	1.66	1.68

AREA SOURCE EMISSION ESTIMATES

	<u>ROG</u>	<u>NOx</u>	<u>CO</u>	<u>SO2</u>	<u>PM10</u>	<u>PM2.5</u>	<u>CO2</u>
TOTALS (lbs/day, unmitigated)	1.54	0.33	2.29	0.00	0.01	0.01	403.33

OPERATIONAL (VEHICLE) EMISSION ESTIMATES

	<u>ROG</u>	<u>NOx</u>	<u>CO</u>	<u>SO2</u>	<u>PM10</u>	<u>PM2.5</u>	<u>CO2</u>
TOTALS (lbs/day, unmitigated)	2.02	2.69	22.99	0.02	3.24	0.64	1,958.34

SUM OF AREA SOURCE AND OPERATIONAL EMISSION ESTIMATES

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	<u>ROG</u>	<u>NOx</u>	<u>CO</u>	<u>SO2</u>	<u>PM10</u>	<u>PM2.5</u>	<u>CO2</u>
TOTALS (lbs/day, unmitigated)	3.56	3.02	25.28	0.02	3.25	0.65	2,361.67

Construction Unmitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Summer Pounds Per Day, Unmitigated

	<u>ROG</u>	<u>NOx</u>	<u>CO</u>	<u>SO2</u>	<u>PM10 Dust</u>	<u>PM10 Exhaust</u>	<u>PM10</u>	<u>PM2.5 Dust</u>	<u>PM2.5 Exhaust</u>	<u>PM2.5</u>
Time Slice 3/3/2008-4/4/2008 Active Days: 25	<u>3.37</u>	<u>36.97</u>	<u>16.55</u>	<u>0.03</u>	<u>23.99</u>	<u>1.87</u>	<u>25.86</u>	<u>5.00</u>	<u>1.72</u>	<u>6.72</u>
Demolition 03/03/2008-04/04/2008	3.37	36.97	16.55	0.03	23.99	1.87	25.86	5.00	1.72	6.72
Fugitive Dust	0.00	0.00	0.00	0.00	23.87	0.00	23.87	4.97	0.00	4.97
Demo Off Road Diesel	1.31	8.68	4.91	0.00	0.00	0.68	0.68	0.00	0.62	0.62
Demo On Road Diesel	2.02	28.22	10.51	0.03	0.11	1.19	1.30	0.04	1.09	1.13
Demo Worker Trips	0.04	0.07	1.13	0.00	0.01	0.00	0.01	0.00	0.00	0.00
Time Slice 4/7/2008-5/14/2008 Active Days: 28	<u>3.35</u>	<u>28.07</u>	<u>14.69</u>	<u>0.00</u>	<u>3.61</u>	<u>1.41</u>	<u>5.02</u>	<u>0.75</u>	<u>1.30</u>	<u>2.06</u>
Fine Grading 04/05/2008-05/14/2008	3.35	28.07	14.69	0.00	3.61	1.41	5.02	0.75	1.30	2.06
Fine Grading Dust	0.00	0.00	0.00	0.00	3.60	0.00	3.60	0.75	0.00	0.75
Fine Grading Off Road Diesel	3.31	28.00	13.56	0.00	0.00	1.41	1.41	0.00	1.30	1.30
Fine Grading On Road Diesel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Fine Grading Worker Trips	0.04	0.07	1.13	0.00	0.01	0.00	0.01	0.00	0.00	0.00
Time Slice 5/15/2008-5/30/2008 Active Days: 12	<u>2.36</u>	<u>20.19</u>	<u>9.60</u>	<u>0.00</u>	<u>0.01</u>	<u>1.00</u>	<u>1.01</u>	<u>0.00</u>	<u>0.92</u>	<u>0.92</u>
Trenching 05/15/2008-05/30/2008	2.36	20.19	9.60	0.00	0.01	1.00	1.01	0.00	0.92	0.92
Trenching Off Road Diesel	2.33	20.12	8.46	0.00	0.00	1.00	1.00	0.00	0.92	0.92
Trenching Worker Trips	0.04	0.07	1.13	0.00	0.01	0.00	0.01	0.00	0.00	0.00
Time Slice 6/2/2008-12/31/2008 Active Days: 153	<u>1.54</u>	<u>11.35</u>	<u>8.54</u>	<u>0.00</u>	<u>0.02</u>	<u>0.70</u>	<u>0.72</u>	<u>0.01</u>	<u>0.65</u>	<u>0.65</u>
Building 06/02/2008-08/07/2009	1.54	11.35	8.54	0.00	0.02	0.70	0.72	0.01	0.65	0.65

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Building Off Road Diesel	1.39	10.47	5.09	0.00	0.00	0.67	0.67	0.00	0.61	0.61
Building Vendor Trips	0.06	0.70	0.51	0.00	0.00	0.03	0.03	0.00	0.03	0.03
Building Worker Trips	0.09	0.18	2.94	0.00	0.02	0.01	0.02	0.01	0.01	0.01
Time Slice 1/1/2009-7/3/2009 Active	1.44	10.61	8.16	0.00	0.02	0.67	0.69	0.01	0.61	0.62
DAYS: 132										
Building 06/02/2008-08/07/2009	1.44	10.61	8.16	0.00	0.02	0.67	0.69	0.01	0.61	0.62
Building Off Road Diesel	1.30	9.79	4.94	0.00	0.00	0.63	0.63	0.00	0.58	0.58
Building Vendor Trips	0.05	0.66	0.48	0.00	0.00	0.03	0.03	0.00	0.02	0.03
Building Worker Trips	0.09	0.16	2.74	0.00	0.02	0.01	0.02	0.01	0.01	0.01
Time Slice 7/6/2009-7/14/2009 Active	13.27	24.45	17.93	0.01	0.04	1.81	1.85	0.01	1.66	1.68
DAYS: 7										
Asphalt 07/06/2009-07/14/2009	2.47	13.81	9.32	0.00	0.02	1.14	1.15	0.01	1.05	1.05
Paving Off-Gas	0.25	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Paving Off Road Diesel	2.08	12.55	7.05	0.00	0.00	1.09	1.09	0.00	1.00	1.00
Paving On Road Diesel	0.08	1.15	0.42	0.00	0.00	0.05	0.05	0.00	0.04	0.04
Paving Worker Trips	0.06	0.11	1.85	0.00	0.01	0.01	0.02	0.00	0.00	0.01
Building 06/02/2008-08/07/2009	1.44	10.61	8.16	0.00	0.02	0.67	0.69	0.01	0.61	0.62
Building Off Road Diesel	1.30	9.79	4.94	0.00	0.00	0.63	0.63	0.00	0.58	0.58
Building Vendor Trips	0.05	0.66	0.48	0.00	0.00	0.03	0.03	0.00	0.02	0.03
Building Worker Trips	0.09	0.16	2.74	0.00	0.02	0.01	0.02	0.01	0.01	0.01
Coating 07/06/2009-08/07/2009	9.36	0.03	0.45	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Architectural Coating	9.35	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Coating Worker Trips	0.01	0.03	0.45	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Time Slice 7/15/2009-8/7/2009 Active	10.80	10.63	8.61	0.01	0.02	0.67	0.69	0.01	0.62	0.62
DAYS: 18										
Building 06/02/2008-08/07/2009	1.44	10.61	8.16	0.00	0.02	0.67	0.69	0.01	0.61	0.62
Building Off Road Diesel	1.30	9.79	4.94	0.00	0.00	0.63	0.63	0.00	0.58	0.58

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Building Vendor Trips	0.05	0.66	0.48	0.00	0.00	0.03	0.03	0.00	0.02	0.03
Building Worker Trips	0.09	0.16	2.74	0.00	0.02	0.01	0.02	0.01	0.01	0.01
Coating 07/06/2009-08/07/2009	9.36	0.03	0.45	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Architectural Coating	9.35	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Coating Worker Trips	0.01	0.03	0.45	0.00	0.00	0.00	0.00	0.00	0.00	0.00

Phase Assumptions

Phase: Demolition 3/3/2008 - 4/4/2008 - Default Demolition Description

Building Volume Total (cubic feet): 1706342

Building Volume Daily (cubic feet): 56843.15

On Road Truck Travel (VMT): 789.49

Off-Road Equipment:

- 1 Concrete/Industrial Saws (10 hp) operating at a 0.73 load factor for 8 hours per day
- 1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 1 hours per day
- 2 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 6 hours per day

Phase: Fine Grading 4/5/2008 - 5/14/2008 - Default Fine Site Grading/Excavation Description

Total Acres Disturbed: 1.45

Maximum Daily Acreage Disturbed: 0.36

Fugitive Dust Level of Detail: Default

10 lbs per acre-day

On Road Truck Travel (VMT): 0

Off-Road Equipment:

- 1 Graders (174 hp) operating at a 0.61 load factor for 6 hours per day
- 1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 6 hours per day
- 1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day
- 1 Water Trucks (189 hp) operating at a 0.5 load factor for 8 hours per day

Phase: Trenching 5/15/2008 - 5/30/2008 - Type Your Description Here

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Off-Road Equipment:

- 2 Excavators (168 hp) operating at a 0.57 load factor for 8 hours per day
- 1 Other General Industrial Equipment (238 hp) operating at a 0.51 load factor for 8 hours per day
- 1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 0 hours per day

Phase: Paving 7/6/2009 - 7/14/2009 - Default Paving Description

Acres to be Paved: 0.67

Off-Road Equipment:

- 4 Cement and Mortar Mixers (10 hp) operating at a 0.56 load factor for 6 hours per day
- 1 Pavers (100 hp) operating at a 0.62 load factor for 7 hours per day
- 1 Rollers (95 hp) operating at a 0.56 load factor for 7 hours per day
- 1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day

Phase: Building Construction 6/2/2008 - 8/7/2009 - Default Building Construction Description

Off-Road Equipment:

- 1 Cranes (399 hp) operating at a 0.43 load factor for 4 hours per day
- 2 Forklifts (145 hp) operating at a 0.3 load factor for 6 hours per day
- 1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 8 hours per day

Phase: Architectural Coating 7/6/2009 - 8/7/2009 - Default Architectural Coating Description

Rule: Residential Interior Coatings begins 1/1/2005 ends 6/30/2008 specifies a VOC of 100

Rule: Residential Interior Coatings begins 7/1/2008 ends 12/31/2040 specifies a VOC of 50

Rule: Residential Exterior Coatings begins 1/1/2005 ends 6/30/2008 specifies a VOC of 250

Rule: Residential Exterior Coatings begins 7/1/2008 ends 12/31/2040 specifies a VOC of 100

Rule: Nonresidential Interior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 250

Rule: Nonresidential Exterior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 250

Construction Mitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Summer Pounds Per Day, Mitigated

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	<u>ROG</u>	<u>NOx</u>	<u>CO</u>	<u>SO2</u>	<u>PM10 Dust</u>	<u>PM10 Exhaust</u>	<u>PM10</u>	<u>PM2.5 Dust</u>	<u>PM2.5 Exhaust</u>	<u>PM2.5</u>
Time Slice 3/3/2008-4/4/2008 Active Days: 25	<u>3.37</u>	<u>36.97</u>	<u>16.55</u>	<u>0.03</u>	<u>23.99</u>	<u>1.87</u>	<u>25.86</u>	<u>5.00</u>	<u>1.72</u>	<u>6.72</u>
Demolition 03/03/2008-04/04/2008	3.37	36.97	16.55	0.03	23.99	1.87	25.86	5.00	1.72	6.72
Fugitive Dust	0.00	0.00	0.00	0.00	23.87	0.00	23.87	4.97	0.00	4.97
Demo Off Road Diesel	1.31	8.68	4.91	0.00	0.00	0.68	0.68	0.00	0.62	0.62
Demo On Road Diesel	2.02	28.22	10.51	0.03	0.11	1.19	1.30	0.04	1.09	1.13
Demo Worker Trips	0.04	0.07	1.13	0.00	0.01	0.00	0.01	0.00	0.00	0.00
Time Slice 4/7/2008-5/14/2008 Active Days: 28	3.35	28.07	14.69	0.00	0.57	1.41	1.99	0.12	1.30	1.42
Fine Grading 04/05/2008-05/14/2008	3.35	28.07	14.69	0.00	0.57	1.41	1.99	0.12	1.30	1.42
Fine Grading Dust	0.00	0.00	0.00	0.00	0.57	0.00	0.57	0.12	0.00	0.12
Fine Grading Off Road Diesel	3.31	28.00	13.56	0.00	0.00	1.41	1.41	0.00	1.30	1.30
Fine Grading On Road Diesel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Fine Grading Worker Trips	0.04	0.07	1.13	0.00	0.01	0.00	0.01	0.00	0.00	0.00
Time Slice 5/15/2008-5/30/2008 Active Days: 12	2.36	20.19	9.60	0.00	0.01	1.00	1.01	0.00	0.92	0.92
Trenching 05/15/2008-05/30/2008	2.36	20.19	9.60	0.00	0.01	1.00	1.01	0.00	0.92	0.92
Trenching Off Road Diesel	2.33	20.12	8.46	0.00	0.00	1.00	1.00	0.00	0.92	0.92
Trenching Worker Trips	0.04	0.07	1.13	0.00	0.01	0.00	0.01	0.00	0.00	0.00
Time Slice 6/2/2008-12/31/2008 Active Days: 153	1.54	11.35	8.54	0.00	0.02	0.70	0.72	0.01	0.65	0.65
Building 06/02/2008-08/07/2009	1.54	11.35	8.54	0.00	0.02	0.70	0.72	0.01	0.65	0.65
Building Off Road Diesel	1.39	10.47	5.09	0.00	0.00	0.67	0.67	0.00	0.61	0.61
Building Vendor Trips	0.06	0.70	0.51	0.00	0.00	0.03	0.03	0.00	0.03	0.03
Building Worker Trips	0.09	0.18	2.94	0.00	0.02	0.01	0.02	0.01	0.01	0.01
Time Slice 1/1/2009-7/3/2009 Active Days: 132	1.44	10.61	8.16	0.00	0.02	0.67	0.69	0.01	0.61	0.62

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Coating Worker Trips	0.01	0.03	0.45	0.00	0.00	0.00	0.00	0.00	0.00	0.00
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Construction Related Mitigation Measures

The following mitigation measures apply to Phase: Fine Grading 4/5/2008 - 5/14/2008 - Default Fine Site Grading/Excavation Description

For Soil Stabilizing Measures, the Replace ground cover in disturbed areas quickly mitigation reduces emissions by:

PM10: 5% PM25: 5%

For Soil Stabilizing Measures, the Water exposed surfaces 2x daily watering mitigation reduces emissions by:

PM10: 55% PM25: 55%

For Soil Stabilizing Measures, the Equipment loading/unloading mitigation reduces emissions by:

PM10: 69% PM25: 69%

For Unpaved Roads Measures, the Reduce speed on unpaved roads to less than 15 mph mitigation reduces emissions by:

PM10: 44% PM25: 44%

For Unpaved Roads Measures, the Manage haul road dust 2x daily watering mitigation reduces emissions by:

PM10: 55% PM25: 55%

Area Source Unmitigated Detail Report:

AREA SOURCE EMISSION ESTIMATES Summer Pounds Per Day, Unmitigated

<u>Source</u>	<u>ROG</u>	<u>NOx</u>	<u>CO</u>	<u>SO2</u>	<u>PM10</u>	<u>PM2.5</u>	<u>CO2</u>
Natural Gas	0.02	0.31	0.13	0.00	0.00	0.00	399.73
Hearth - No Summer Emissions							
Landscape	0.23	0.02	2.16	0.00	0.01	0.01	3.60
Consumer Products	1.23						
Architectural Coatings	0.06						
TOTALS (lbs/day, unmitigated)	1.54	0.33	2.29	0.00	0.01	0.01	403.33

Area Source Changes to Defaults

Operational Unmitigated Detail Report:

OPERATIONAL EMISSION ESTIMATES Summer Pounds Per Day, Unmitigated

Source	ROG	NOX	CO	SO2	PM10	PM25	CO2
Single family housing	1.23	1.67	14.26	0.01	2.01	0.40	1,214.60
Condo/townhouse general	0.79	1.02	8.73	0.01	1.23	0.24	743.74
TOTALS (lbs/day, unmitigated)	2.02	2.69	22.99	0.02	3.24	0.64	1,958.34

Operational Settings:

Does not include correction for passby trips

Does not include double counting adjustment for internal trips

Analysis Year: 2009 Temperature (F): 80 Season: Summer

Emfac: Version : Emfac2007 V2.3 Nov 1 2006

Summary of Land Uses

Land Use Type	Acreage	Trip Rate	Unit Type	No. Units	Total Trips	Total VMT
Single family housing	1.00	9.57	dwelling units	12.00	114.84	1,160.21
Condo/townhouse general	0.45	5.86	dwelling units	12.00	70.32	710.43
					185.16	1,870.64

Vehicle Fleet Mix

Vehicle Type	Percent Type	Non-Catalyst	Catalyst	Diesel
Light Auto	49.0	2.0	97.6	0.4
Light Truck < 3750 lbs	10.9	3.7	90.8	5.5
Light Truck 3751-5750 lbs	21.7	0.9	98.6	0.5
Med Truck 5751-8500 lbs	9.5	1.1	98.9	0.0

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Lite-Heavy Truck 8501-10,000 lbs	1.6	0.0	75.0	25.0
Lite-Heavy Truck 10,001-14,000 lbs	0.6	0.0	50.0	50.0
Med-Heavy Truck 14,001-33,000 lbs	1.0	0.0	20.0	80.0
Heavy-Heavy Truck 33,001-60,000 lbs	0.9	0.0	0.0	100.0
Other Bus	0.1	0.0	0.0	100.0
Urban Bus	0.1	0.0	0.0	100.0
Motorcycle	3.5	77.1	22.9	0.0
School Bus	0.1	0.0	0.0	100.0
Motor Home	1.0	10.0	80.0	10.0

Travel Conditions

	Residential			Commuter	Commercial	
	Home-Work	Home-Shop	Home-Other		Non-Work	Customer
Urban Trip Length (miles)	12.7	7.0	9.5	13.3	7.4	8.9
Rural Trip Length (miles)	17.6	12.1	14.9	15.4	9.6	12.6
Trip speeds (mph)	30.0	30.0	30.0	30.0	30.0	30.0
% of Trips - Residential	32.9	18.0	49.1			

% of Trips - Commercial (by land use)

Operational Changes to Defaults

CO2

4,171.01

4,171.01

2,725.05

2,725.05

CO2

4,171.01

4,171.01

0.00

700.30

3,346.17

124.55

2,371.86

2,371.86

0.00

2,247.32

0.00

124.55

1,839.18

1,839.18

1,714.64

124.55

1,329.07

1,329.07

893.39

112.86

322.82

1,328.91

1,328.91

893.39

112.86

322.66

2,725.05

1,342.70

0.00

979.23

145.62

217.85

1,328.91

893.39

112.86

322.66

53.44

0.00

53.44

1,382.35

1,328.91

893.39

112.86

322.66

53.44

0.00

53.44

CO2

4,171.01

4,171.01

0.00

700.30

3,346.17

124.55

2,371.86

2,371.86

0.00

2,247.32

0.00

124.55

1,839.18

1,839.18

1,714.64

124.55

1,329.07

1,329.07

893.39

112.86

322.82

1,328.91

1,328.91

893.39

112.86

322.66

2,725.05

1,342.70

0.00

979.23

145.62

217.85

1,328.91

893.39

112.86

322.66

53.44

0.00

53.44

1,382.35

1,328.91

893.39

112.86

322.66

53.44

0.00

Urbemis 2007 Version 9.2.4

Combined Winter Emissions Reports (Pounds/Day)

File Name: C:\Seashore Village\SeashoreVillage.urb9

Project Name: Seashore Village

Project Location: Orange County

On-Road Vehicle Emissions Based on: Version : Emfac2007 V2.3 Nov 1 2006

Off-Road Vehicle Emissions Based on: OFFROAD2007

Summary Report:

CONSTRUCTION EMISSION ESTIMATES

	<u>ROG</u>	<u>NOx</u>	<u>CO</u>	<u>SO2</u>	<u>PM10 Dust</u>	<u>PM10 Exhaust</u>	<u>PM10</u>	<u>PM2.5 Dust</u>	<u>PM2.5 Exhaust</u>	<u>PM2.5</u>
2008 TOTALS (lbs/day unmitigated)	3.37	36.97	16.55	0.03	23.99	1.87	25.86	5.00	1.72	6.72
2008 TOTALS (lbs/day mitigated)	3.37	36.97	16.55	0.03	23.99	1.87	25.86	5.00	1.72	6.72
2009 TOTALS (lbs/day unmitigated)	13.27	24.45	17.93	0.01	0.04	1.81	1.85	0.01	1.66	1.68
2009 TOTALS (lbs/day mitigated)	13.27	24.45	17.93	0.01	0.04	1.81	1.85	0.01	1.66	1.68

AREA SOURCE EMISSION ESTIMATES

	<u>ROG</u>	<u>NOx</u>	<u>CO</u>	<u>SO2</u>	<u>PM10</u>	<u>PM2.5</u>	<u>CO2</u>
TOTALS (lbs/day, unmitigated)	5.07	0.62	10.56	0.03	1.62	1.56	820.42

OPERATIONAL (VEHICLE) EMISSION ESTIMATES

	<u>ROG</u>	<u>NOx</u>	<u>CO</u>	<u>SO2</u>	<u>PM10</u>	<u>PM2.5</u>	<u>CO2</u>
TOTALS (lbs/day, unmitigated)	2.18	3.21	22.48	0.02	3.24	0.64	1,781.37

SUM OF AREA SOURCE AND OPERATIONAL EMISSION ESTIMATES

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	<u>ROG</u>	<u>NOx</u>	<u>CO</u>	<u>SO2</u>	<u>PM10</u>	<u>PM2.5</u>	<u>CO2</u>
TOTALS (lbs/day, unmitigated)	7.25	3.83	33.04	0.05	4.86	2.20	2,601.79

Construction Unmitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Winter Pounds Per Day, Unmitigated

	<u>ROG</u>	<u>NOx</u>	<u>CO</u>	<u>SO2</u>	<u>PM10 Dust</u>	<u>PM10 Exhaust</u>	<u>PM10</u>	<u>PM2.5 Dust</u>	<u>PM2.5 Exhaust</u>	<u>PM2.5</u>
Time Slice 3/3/2008-4/4/2008 Active Days: 25	<u>3.37</u>	<u>36.97</u>	<u>16.55</u>	<u>0.03</u>	<u>23.99</u>	<u>1.87</u>	<u>25.86</u>	<u>5.00</u>	<u>1.72</u>	<u>6.72</u>
Demolition 03/03/2008-04/04/2008	3.37	36.97	16.55	0.03	23.99	1.87	25.86	5.00	1.72	6.72
Fugitive Dust	0.00	0.00	0.00	0.00	23.87	0.00	23.87	4.97	0.00	4.97
Demo Off Road Diesel	1.31	8.68	4.91	0.00	0.00	0.68	0.68	0.00	0.62	0.62
Demo On Road Diesel	2.02	28.22	10.51	0.03	0.11	1.19	1.30	0.04	1.09	1.13
Demo Worker Trips	0.04	0.07	1.13	0.00	0.01	0.00	0.01	0.00	0.00	0.00
Time Slice 4/7/2008-5/14/2008 Active Days: 28	3.35	28.07	14.69	0.00	3.61	1.41	5.02	0.75	1.30	2.06
Fine Grading 04/05/2008-05/14/2008	3.35	28.07	14.69	0.00	3.61	1.41	5.02	0.75	1.30	2.06
Fine Grading Dust	0.00	0.00	0.00	0.00	3.60	0.00	3.60	0.75	0.00	0.75
Fine Grading Off Road Diesel	3.31	28.00	13.56	0.00	0.00	1.41	1.41	0.00	1.30	1.30
Fine Grading On Road Diesel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Fine Grading Worker Trips	0.04	0.07	1.13	0.00	0.01	0.00	0.01	0.00	0.00	0.00
Time Slice 5/15/2008-5/30/2008 Active Days: 12	2.36	20.19	9.60	0.00	0.01	1.00	1.01	0.00	0.92	0.92
Trenching 05/15/2008-05/30/2008	2.36	20.19	9.60	0.00	0.01	1.00	1.01	0.00	0.92	0.92
Trenching Off Road Diesel	2.33	20.12	8.46	0.00	0.00	1.00	1.00	0.00	0.92	0.92
Trenching Worker Trips	0.04	0.07	1.13	0.00	0.01	0.00	0.01	0.00	0.00	0.00
Time Slice 6/2/2008-12/31/2008 Active Days: 153	1.54	11.35	8.54	0.00	0.02	0.70	0.72	0.01	0.65	0.65
Building 06/02/2008-08/07/2009	1.54	11.35	8.54	0.00	0.02	0.70	0.72	0.01	0.65	0.65

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Building Off Road Diesel	1.39	10.47	5.09	0.00	0.00	0.67	0.67	0.00	0.61	0.61
Building Vendor Trips	0.06	0.70	0.51	0.00	0.00	0.03	0.03	0.00	0.03	0.03
Building Worker Trips	0.09	0.18	2.94	0.00	0.02	0.01	0.02	0.01	0.01	0.01
Time Slice 1/1/2009-7/3/2009 Active	1.44	10.61	8.16	0.00	0.02	0.67	0.69	0.01	0.61	0.62
Davs: 132										
Building 06/02/2008-08/07/2009	1.44	10.61	8.16	0.00	0.02	0.67	0.69	0.01	0.61	0.62
Building Off Road Diesel	1.30	9.79	4.94	0.00	0.00	0.63	0.63	0.00	0.58	0.58
Building Vendor Trips	0.05	0.66	0.48	0.00	0.00	0.03	0.03	0.00	0.02	0.03
Building Worker Trips	0.09	0.16	2.74	0.00	0.02	0.01	0.02	0.01	0.01	0.01
Time Slice 7/6/2009-7/14/2009 Active	13.27	24.45	17.93	0.01	0.04	1.81	1.85	0.01	1.66	1.68
Davs: 7										
Asphalt 07/06/2009-07/14/2009	2.47	13.81	9.32	0.00	0.02	1.14	1.15	0.01	1.05	1.05
Paving Off-Gas	0.25	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Paving Off Road Diesel	2.08	12.55	7.05	0.00	0.00	1.09	1.09	0.00	1.00	1.00
Paving On Road Diesel	0.08	1.15	0.42	0.00	0.00	0.05	0.05	0.00	0.04	0.04
Paving Worker Trips	0.06	0.11	1.85	0.00	0.01	0.01	0.02	0.00	0.00	0.01
Building 06/02/2008-08/07/2009	1.44	10.61	8.16	0.00	0.02	0.67	0.69	0.01	0.61	0.62
Building Off Road Diesel	1.30	9.79	4.94	0.00	0.00	0.63	0.63	0.00	0.58	0.58
Building Vendor Trips	0.05	0.66	0.48	0.00	0.00	0.03	0.03	0.00	0.02	0.03
Building Worker Trips	0.09	0.16	2.74	0.00	0.02	0.01	0.02	0.01	0.01	0.01
Coating 07/06/2009-08/07/2009	9.36	0.03	0.45	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Architectural Coating	9.35	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Coating Worker Trips	0.01	0.03	0.45	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Time Slice 7/15/2009-8/7/2009 Active	10.80	10.63	8.61	0.01	0.02	0.67	0.69	0.01	0.62	0.62
Davs: 18										
Building 06/02/2008-08/07/2009	1.44	10.61	8.16	0.00	0.02	0.67	0.69	0.01	0.61	0.62
Building Off Road Diesel	1.30	9.79	4.94	0.00	0.00	0.63	0.63	0.00	0.58	0.58

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Building Vendor Trips	0.05	0.66	0.48	0.00	0.00	0.03	0.03	0.00	0.02	0.03
Building Worker Trips	0.09	0.16	2.74	0.00	0.02	0.01	0.02	0.01	0.01	0.01
Coating 07/06/2009-08/07/2009	9.36	0.03	0.45	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Architectural Coating	9.35	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Coating Worker Trips	0.01	0.03	0.45	0.00	0.00	0.00	0.00	0.00	0.00	0.00

Phase Assumptions

Phase: Demolition 3/3/2008 - 4/4/2008 - Default Demolition Description

Building Volume Total (cubic feet): 1706342

Building Volume Daily (cubic feet): 56843.15

On Road Truck Travel (VMT): 789.49

Off-Road Equipment:

- 1 Concrete/Industrial Saws (10 hp) operating at a 0.73 load factor for 8 hours per day
- 1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 1 hours per day
- 2 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 6 hours per day

Phase: Fine Grading 4/5/2008 - 5/14/2008 - Default Fine Site Grading/Excavation Description

Total Acres Disturbed: 1.45

Maximum Daily Acreage Disturbed: 0.36

Fugitive Dust Level of Detail: Default

10 lbs per acre-day

On Road Truck Travel (VMT): 0

Off-Road Equipment:

- 1 Graders (174 hp) operating at a 0.61 load factor for 6 hours per day
- 1 Rubber Tired Dozers (357 hp) operating at a 0.59 load factor for 6 hours per day
- 1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day
- 1 Water Trucks (189 hp) operating at a 0.5 load factor for 8 hours per day

Phase: Trenching 5/15/2008 - 5/30/2008 - Type Your Description Here

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Off-Road Equipment:

- 2 Excavators (168 hp) operating at a 0.57 load factor for 8 hours per day
- 1 Other General Industrial Equipment (238 hp) operating at a 0.51 load factor for 8 hours per day
- 1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 0 hours per day

Phase: Paving 7/6/2009 - 7/14/2009 - Default Paving Description

Acres to be Paved: 0.67

Off-Road Equipment:

- 4 Cement and Mortar Mixers (10 hp) operating at a 0.56 load factor for 6 hours per day
- 1 Pavers (100 hp) operating at a 0.62 load factor for 7 hours per day
- 1 Rollers (95 hp) operating at a 0.56 load factor for 7 hours per day
- 1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 7 hours per day

Phase: Building Construction 6/2/2008 - 8/7/2009 - Default Building Construction Description

Off-Road Equipment:

- 1 Cranes (399 hp) operating at a 0.43 load factor for 4 hours per day
- 2 Forklifts (145 hp) operating at a 0.3 load factor for 6 hours per day
- 1 Tractors/Loaders/Backhoes (108 hp) operating at a 0.55 load factor for 8 hours per day

Phase: Architectural Coating 7/6/2009 - 8/7/2009 - Default Architectural Coating Description

Rule: Residential Interior Coatings begins 1/1/2005 ends 6/30/2008 specifies a VOC of 100

Rule: Residential Interior Coatings begins 7/1/2008 ends 12/31/2040 specifies a VOC of 50

Rule: Residential Exterior Coatings begins 1/1/2005 ends 6/30/2008 specifies a VOC of 250

Rule: Residential Exterior Coatings begins 7/1/2008 ends 12/31/2040 specifies a VOC of 100

Rule: Nonresidential Interior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 250

Rule: Nonresidential Exterior Coatings begins 1/1/2005 ends 12/31/2040 specifies a VOC of 250

Construction Mitigated Detail Report:

CONSTRUCTION EMISSION ESTIMATES Winter Pounds Per Day, Mitigated

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	<u>ROG</u>	<u>NOx</u>	<u>CO</u>	<u>SO2</u>	<u>PM10 Dust</u>	<u>PM10 Exhaust</u>	<u>PM10</u>	<u>PM2.5 Dust</u>	<u>PM2.5 Exhaust</u>	<u>PM2.5</u>
Time Slice 3/3/2008-4/4/2008 Active	<u>3.37</u>	<u>36.97</u>	<u>16.55</u>	<u>0.03</u>	<u>23.99</u>	<u>1.87</u>	<u>25.86</u>	<u>5.00</u>	<u>1.72</u>	<u>6.72</u>
Davs: 25 Demolition 03/03/2008-04/04/2008	3.37	36.97	16.55	0.03	23.99	1.87	25.86	5.00	1.72	6.72
Fugitive Dust	0.00	0.00	0.00	0.00	23.87	0.00	23.87	4.97	0.00	4.97
Demo Off Road Diesel	1.31	8.68	4.91	0.00	0.00	0.68	0.68	0.00	0.62	0.62
Demo On Road Diesel	2.02	28.22	10.51	0.03	0.11	1.19	1.30	0.04	1.09	1.13
Demo Worker Trips	0.04	0.07	1.13	0.00	0.01	0.00	0.01	0.00	0.00	0.00
Time Slice 4/7/2008-5/14/2008 Active	3.35	28.07	14.69	0.00	0.57	1.41	1.99	0.12	1.30	1.42
Davs: 28 Fine Grading 04/05/2008-05/14/2008	3.35	28.07	14.69	0.00	0.57	1.41	1.99	0.12	1.30	1.42
Fine Grading Dust	0.00	0.00	0.00	0.00	0.57	0.00	0.57	0.12	0.00	0.12
Fine Grading Off Road Diesel	3.31	28.00	13.56	0.00	0.00	1.41	1.41	0.00	1.30	1.30
Fine Grading On Road Diesel	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Fine Grading Worker Trips	0.04	0.07	1.13	0.00	0.01	0.00	0.01	0.00	0.00	0.00
Time Slice 5/15/2008-5/30/2008	2.36	20.19	9.60	0.00	0.01	1.00	1.01	0.00	0.92	0.92
Active Davs: 12 Trenching 05/15/2008-05/30/2008	2.36	20.19	9.60	0.00	0.01	1.00	1.01	0.00	0.92	0.92
Trenching Off Road Diesel	2.33	20.12	8.46	0.00	0.00	1.00	1.00	0.00	0.92	0.92
Trenching Worker Trips	0.04	0.07	1.13	0.00	0.01	0.00	0.01	0.00	0.00	0.00
Time Slice 6/2/2008-12/31/2008	1.54	11.35	8.54	0.00	0.02	0.70	0.72	0.01	0.65	0.65
Active Davs: 153 Building 06/02/2008-08/07/2009	1.54	11.35	8.54	0.00	0.02	0.70	0.72	0.01	0.65	0.65
Building Off Road Diesel	1.39	10.47	5.09	0.00	0.00	0.67	0.67	0.00	0.61	0.61
Building Vendor Trips	0.06	0.70	0.51	0.00	0.00	0.03	0.03	0.00	0.03	0.03
Building Worker Trips	0.09	0.18	2.94	0.00	0.02	0.01	0.02	0.01	0.01	0.01
Time Slice 1/1/2009-7/3/2009 Active	1.44	10.61	8.16	0.00	0.02	0.67	0.69	0.01	0.61	0.62
Davs: 132 Building 06/02/2008-08/07/2009	1.44	10.61	8.16	0.00	0.02	0.67	0.69	0.01	0.61	0.62

Construction Related Mitigation Measures

The following mitigation measures apply to Phase: Fine Grading 4/5/2008 - 5/14/2008 - Default Fine Site Grading/Excavation Description

For Soil Stabilizing Measures, the Replace ground cover in disturbed areas quickly mitigation reduces emissions by:

PM10: 5% PM25: 5%

For Soil Stabilizing Measures, the Water exposed surfaces 2x daily watering mitigation reduces emissions by:

PM10: 55% PM25: 55%

For Soil Stabilizing Measures, the Equipment loading/unloading mitigation reduces emissions by:

PM10: 69% PM25: 69%

For Unpaved Roads Measures, the Reduce speed on unpaved roads to less than 15 mph mitigation reduces emissions by:

PM10: 44% PM25: 44%

For Unpaved Roads Measures, the Manage haul road dust 2x daily watering mitigation reduces emissions by:

PM10: 55% PM25: 55%

Area Source Unmitigated Detail Report:

AREA SOURCE EMISSION ESTIMATES Winter Pounds Per Day, Unmitigated

<u>Source</u>	<u>ROG</u>	<u>NOx</u>	<u>CO</u>	<u>SO2</u>	<u>PM10</u>	<u>PM2.5</u>	<u>CO2</u>
Natural Gas	0.02	0.31	0.13	0.00	0.00	0.00	399.73
Hearth	3.76	0.31	10.43	0.03	1.62	1.56	420.69
Landscaping - No Winter Emissions							
Consumer Products	1.23						
Architectural Coatings	0.06						
TOTALS (lbs/day, unmitigated)	5.07	0.62	10.56	0.03	1.62	1.56	820.42

Area Source Changes to Defaults

Operational Unmitigated Detail Report:

OPERATIONAL EMISSION ESTIMATES Winter Pounds Per Day, Unmitigated

Source	ROG	NOX	CO	SO2	PM10	PM25	CO2
Single family housing	1.34	1.99	13.94	0.01	2.01	0.40	1,104.84
Condo/townhouse general	0.84	1.22	8.54	0.01	1.23	0.24	676.53
TOTALS (lbs/day, unmitigated)	2.18	3.21	22.48	0.02	3.24	0.64	1,781.37

Operational Settings:

- Does not include correction for passby trips
- Does not include double counting adjustment for internal trips
- Analysis Year: 2009 Temperature (F): 60 Season: Winter
- Emfac: Version : Emfac2007 V2.3 Nov 1 2006

Summary of Land Uses

Land Use Type	Acreage	Trip Rate	Unit Type	No. Units	Total Trips	Total VMT
Single family housing	1.00	9.57	dwelling units	12.00	114.84	1,160.21
Condo/townhouse general	0.45	5.86	dwelling units	12.00	70.32	710.43
					185.16	1,870.64

Vehicle Fleet Mix

Vehicle Type	Percent Type	Non-Catalyst	Catalyst	Diesel
Light Auto	49.0	2.0	97.6	0.4
Light Truck < 3750 lbs	10.9	3.7	90.8	5.5
Light Truck 3751-5750 lbs	21.7	0.9	98.6	0.5
Med Truck 5751-8500 lbs	9.5	1.1	98.9	0.0
Lite-Heavy Truck 8501-10,000 lbs	1.6	0.0	75.0	25.0

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Lite-Heavy Truck 10,001-14,000 lbs	0.6	0.0	50.0	50.0
Med-Heavy Truck 14,001-33,000 lbs	1.0	0.0	20.0	80.0
Heavy-Heavy Truck 33,001-60,000 lbs	0.9	0.0	0.0	100.0
Other Bus	0.1	0.0	0.0	100.0
Urban Bus	0.1	0.0	0.0	100.0
Motorcycle	3.5	77.1	22.9	0.0
School Bus	0.1	0.0	0.0	100.0
Motor Home	1.0	10.0	80.0	10.0

Travel Conditions

	Residential			Commuter	Commercial	
	Home-Work	Home-Shop	Home-Other		Non-Work	Customer
Urban Trip Length (miles)	12.7	7.0	9.5	13.3	7.4	8.9
Rural Trip Length (miles)	17.6	12.1	14.9	15.4	9.6	12.6
Trip speeds (mph)	30.0	30.0	30.0	30.0	30.0	30.0
% of Trips - Residential	32.9	18.0	49.1			

% of Trips - Commercial (by land use)

Operational Changes to Defaults

CO2

4,171.01

4,171.01

2,725.05

2,725.05

CO2

4,171.01

4,171.01

0.00

700.30

3,346.17

124.55

2,371.86

2,371.86

0.00

2,247.32

0.00

124.55

1,839.18

1,839.18

1,714.64

124.55

1,329.07

1,329.07

893.39

112.86

322.82

1,328.91

1,328.91

893.39

112.86

322.66

2,725.05

1,342.70

0.00

979.23

145.62

217.85

1,328.91

893.39

112.86

322.66

53.44

0.00

53.44

1,382.35

1,328.91

893.39

112.86

322.66

53.44

0.00

53.44

CO2

4,171.01

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0.00

700.30

3,346.17

124.55

2,371.86

2,371.86

0.00

2,247.32

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124.55

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1,839.18

1,714.64

124.55

1,329.07

1,329.07

893.39

112.86

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112.86

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2,725.05

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0.00

979.23

145.62

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Appendix B
Draft Conditions of Approval



Appendices

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Draft Conditions of Approval
Tentative Tract Map No. 2007-001, Modification Permit No. 2007-044, Use Permit No.
2007-011 & Coastal Residential Development Permit No. 2007-001
(Project-specific conditions are in italics)

Planning Department

1. *The development shall be in substantial conformance with the plans stamped with the date of this approval, except as modified by other conditions.*
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
4. Project approvals shall expire unless exercised within 24 months from the effective date of approval as specified in Section 20.91.050A of the Newport Beach Municipal Code. Reasonable extensions may be granted by the Planning Director in accordance with applicable regulations.
5. The applicant shall obtain a Coastal Development Permit from the California Coastal Commission prior to the issuance of any building or grading permit for the project.
6. *With the exception of the height modifications required per Condition No. 7, the floor plans and building envelopes for each unit are approved as precise plans and 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 open space areas proposed throughout the development site shall be preserved.*
7. *The two structures that encroach into the side yard setback area immediately adjacent to the east property line shall be modified in height to conform to the 24-foot base height limit.*
8. *The applicant shall replace 6 affordable units within 3 years of the date of issuance of a demolition permit. The units may be provided off-site at an approved location, or locations, within the City. An amount not to exceed \$1.35 million shall be provided by the applicant and the applicant shall use such funds to replace the 6 affordable units and to achieve a mix of income levels and bedroom counts, as determined appropriate by the Planning Director. The applicant shall enter into an agreement with the City to provide said units. The agreement shall be reviewed and approved by the City Attorney and shall be executed and recorded prior to the issuance of a demolition permit for the project.*
9. *Any very-low and low-income units provided in accordance with Condition No. 8*

shall be maintained as rental units for a minimum period of 30 years. Any moderate income units should be provided as "for-sale" units with a covenant maintaining the affordability for a minimum period of 30 years.

10. *Gated vehicular access through the site shall be prohibited.*
11. Lighting shall be in compliance with applicable standards of the Zoning Code. Exterior on-site lighting shall be shielded and confined within site boundaries. No direct rays or glare are permitted to shine onto public streets or adjacent sites or create a public nuisance. "Walpak" type fixtures are not permitted. Parking area lighting shall have zero cut-off fixtures and light standards shall not exceed 24 feet in height.
12. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, if in the opinion of the Planning Director, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Planning Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
13. Prior to the issuance of a building permits, the applicant shall prepare photometric study in conjunction with a final lighting plan for approval by the Planning Department.
14. 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 specified in conditions of approval Nos. 12 & 13.
15. All proposed signs shall be in conformance with the provision of Chapter 20.67 of the Newport Beach Municipal Code and shall be approved by the City Traffic Engineer if located adjacent to the vehicular ingress and egress.
16. *Trash container storage for the individual units shall be screened from view of neighboring properties and public places, except when placed for pick-up by refuse collection agencies. Trash containers shall not be located within the required parking areas.*
17. All landscape materials and landscaped areas shall be installed and 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.
18. 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 Department and the General Services 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.

19. Reclaimed water shall be used whenever available, assuming it is economically feasible.
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 Seashore Village Residential Development Project including, but not limited to, the approval of Tentative Tract Map No. 2007-001, Modification Permit No. 2007-044, Use Permit No. 2007-011 & Coastal Residential Development Permit No. 2007-001; and/or the City's related California Environmental Quality Act determinations, the certification of the Mitigated Negative Declaration and/or the adoption of a Mitigation Monitoring Program for the project. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.*

Building Department

21. The applicant shall be responsible for the payment of all applicable City plan check and inspection fees.
22. The applicant is required to obtain all applicable permits from the City Building and Fire Departments. The construction plans must comply with the most recent, City-adopted version of the California Building Code.
23. Prior to the issuance of grading permits, a Storm Water Pollution Prevention Plan (SWPPP) and Notice of Intent (NOI) to comply with the General Permit for

Construction Activities shall be prepared, submitted to the State Water Quality Control Board for approval and made part of the construction program. The project applicant will provide the City with a copy of the NOI and their application check as proof of filing with the State Water Quality Control Board. This plan will detail measures and practices that will be in effect during construction to minimize the project's impact on water quality.

24. Prior to the issuance of the grading permit, the applicant shall obtain a NPDES permit. The applicant shall incorporate storm water pollutant control into erosion control plans using BMPs to the maximum extent possible. Evidence that proper clearances have been obtained through the State Water Resources Control Board shall be given to the Building Department prior to issuance of grading permits.
25. 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 Department 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.
26. 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.

Fire Department

27. *The internal roadway shall be marked as a fire lane, per the direction and approval of the Fire Department.*

Public Works Department

28. A Final Tract Map (Map) shall be filed with the Public Works Department.
29. The Map shall be prepared on the California coordinate system (NAD88). Prior to recordation of the Map, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach a digital-graphic file of said map in a manner described in Section 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. **The Map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.**

30. Prior to recordation of the 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 Lot Corner unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.
31. All applicable City fees shall be paid prior to the processing of the Map.
32. Construction surety in a form acceptable to the City, guaranteeing the completion of the various required public improvements, shall be submitted to the Public Works Department prior to issuance of the Public Works Department approval of building plans.
33. *Easements for weekly trash pick-up by City crews shall be dedicated as part of the Map.*
34. *Easements for public emergency and security ingress/egress, and public utility purposes on private streets shall be provided to the City.*
35. All improvements shall be constructed as required by Ordinance and the Public Works Department.
36. *A new full-width sidewalk shall be constructed within the limits of the existing Utilities and Sidewalk easements along Seashore Drive fronting the project site. Existing City street trees shall be removed to accommodate the sidewalk construction.*
37. *New City-designated street trees shall be planted along the River Avenue frontage. All street trees shall be planted per City Standards and guidelines provided by the City General Services Department.*
38. *All existing drainage facilities in the public right-of-way shall be retrofitted to comply with the City's on-site non-storm runoff retention requirements.*
39. *On-site runoff shall be retained on-site.*
40. *Private storm drain piping shall not connect directly to the City's storm drain catch basin.*
41. *All on-site utilities shall be owned, operated, and maintained by the community/association.*

42. *Each unit shall be served by its individual water meter and sewer lateral and cleanout. Each water meter and sewer cleanout in the vehicular traveled-way shall be installed with a traffic-grade box and cover.*
43. *Individual water services per City Standards shall be provided in lieu of manifolds.*
44. All on-site parking, vehicular and pedestrian circulation systems shall be reviewed by the City Traffic Engineer.
45. The parking layout shall be in conformance with City Standard 805-L-A and 805-L-B.
46. *An ADA compliant public pedestrian pathway, from River Avenue to Seashore Drive, shall be provided through the development site.*
47. *The vehicular pathways shall be designed to support a fully loaded large trash truck.*
48. *Adequate turning radii and width shall be provided for large trash truck travel paths.*
49. All improvements (including, but not limited to, the landscaping in the parking lot area and ingress/egress points to the development site) shall comply with the City's sight distance requirement (City Standard 110-L).
50. All abandoned driveway approaches shall be removed per City Standard 165-L.
51. All new driveway approaches shall comply with Council Policy L-2 and constructed per City Standards.
52. *Reconstruct any existing broken/damaged sidewalk, curb and gutter fronting the development per City Standards.*
53. *No permanent structures can be built within the limits of the Utilities and Sidewalk easement.*
54. *The construction work cannot impact the free flow of pedestrian and vehicular traffic between Memorial Day and Labor Day. The staging and parking of all construction-related equipment and vehicles shall take place on-site, and NOT in the public right-of-way or City property.*
55. *All utility service connections serving this development shall be made underground.*
56. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way may be required at the discretion of the Public Works Inspector.

57. The streets surrounding the project site is on the City's street/alley-cut Moratorium List. Any damage done to said roadways by the project will require substantial pavement repair work to be fully paid for by the Developer.
58. An encroachment permit is required for all work activities within the public right-of-way.
59. An encroachment agreement shall be applied for and approved by the Public Works Department for all non-standard private improvements within the public right-of-way.
60. *The intersection of the internal roadways with River Avenue shall be designed to provide adequate sight distance per City of Newport Beach Standard Drawing STD-110-L. Slopes, landscaping, walls, signs and other obstructions shall be considered in the sight distance requirements. Landscaping within the sight lines (sight cone) shall not exceed 24-inches in height and the monument identification sign must be located outside the line of sight cone. The sight distance may be modified at non-critical locations, subject to approval by the Traffic Engineer.*
61. *The internal roadway shall be a minimum of 26 feet wide, unless otherwise approved by the Traffic Engineer. The internal roadway shall align with Neptune Avenue. The internal roadway curb cut on River Avenue shall be 26 feet wide minimum and modified to comply with current ADA standards.*
62. *Guest parking stalls shall be 8.5 feet by 17 feet minimum. Parking stalls adjacent to walls or other obstructions shall be 9-foot-wide minimum.*
63. On-site parking, vehicular circulation and pedestrian circulation system shall be subject to further review by the City Traffic Engineer.
64. *The California Vehicle Code shall be enforced on the private streets and drives, and that the delineation acceptable to the Police Department and Public Works Department be provided along the sidelines of the private streets and drives.*

Mitigation Measures

65. *The applicant shall comply with all mitigation measures and standard conditions contained within the approved Mitigation Monitoring and Reporting Program of the adopted Mitigated Negative Declaration (SCH No. 2008-021075) for the project.*