

***Back Bay Landing***  
**PLANNED COMMUNITY**  
**DEVELOPMENT PLAN (PC-9)**

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## LIST OF ACRONYMS

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ABC	California State Department of Alcoholic Beverage Control
CDP	Coastal Development Permit
CLUP	Coastal Land Use Plan
CM	Recreational and Marine Commercial
CUP	Conditional Use Permit
ESA	Environmental Study Area
ESHA	Environmentally Sensitive Habitat Area
LID	Low Impact Development
HHW	Highest High Water
MLLW	Mean Lower Low Water
MU-H1	Mixed-Use Horizontal 1
NAVD 88	North American Vertical Datum of 1988
OCSD	Orange County Sanitation District
OCTA	Orange County Transportation Authority
PC-9	Back Bay Landing Planned Community
PCDP	Planned Community Development Plan
WQMP	Water Quality Management Plan

# **I. Introduction and Purpose of the Planned Community Development Plan (PCDP)**

## **A. Introduction**

The Back Bay Landing site is envisioned to be developed as an integrated, mixed-use waterfront on an approximately 7-acre portion of a 31.4-acre parcel located adjacent to the Upper Newport Bay in the City of Newport Beach. The City of Newport Beach Municipal Code allows a Planned Community Development Plan (PCDP) to address land use designations and regulations in Planned Communities. The Back Bay Landing PCDP serves as the controlling zoning ordinance for the site and is authorized and intended to implement the provisions of the Newport Beach General Plan and Coastal Land Use Plan.

The Back Bay Landing Design Guidelines provide a comprehensive vision of the physical implementation of the project and have been drafted to assist the City and community to visualize the architectural theme and desired character of the development.

## **B. Project Location**

The Back Bay Landing Planned Community (PC-9) is located within the City of Newport Beach, in Orange County, California. The approximately 7-acre primary project area is generally located north of East Coast Highway and northwest of Bayside Drive in the western portion of the City, as shown on Exhibit 1, Location Map. The project area is bounded by the Upper Newport Back Bay to the north and west, the Newport Dunes Waterfront Resort and the Bayside Village Mobile Home Park to the east, East Coast Highway and various marina commercial and restaurant uses south of the Highway to the southeast. As shown on Exhibit 2, Planning Areas, the Back Bay Landing Planned Community is comprised of five distinct Planning Areas: Mixed-Use Area (PA 1), Recreational and Marine Commercial (PA 2), Existing Private Marina Access and Beach (PA 3), Marina and Bayside Village Mobile Home Park Storage and Guest Parking (PA 4), and Submerged Fee-Owned Lands (PA 5).

## **C. Purpose and Objectives**

The purpose of the PCDP is to establish appropriate zoning regulations governing land use and development of the site consistent with the City of Newport Beach General Plan and Coastal Land Use Plan. The PCDP provides a vision for the land uses on the site, sets the development standards and design guidelines for specific project approvals at the Site Development Review and Coastal Development Permit (CDP) approval stage, and regulates the long term operation of the developed site.

Implementation of the PCDP will:

- Provide a high quality mixed-use, marine-related, visitor-serving commercial development with integrated residential units and a unified architectural and landscape theme.
- Implement the MU-H1 (Mixed-Use Horizontal 1) General Plan and MU-H (Mixed-Use Horizontal) Coastal Land Use Plan categories on an underutilized bayfront location in a manner that provides for a horizontally distributed mix of uses, which includes general or neighborhood commercial, offices, multi-family residential, visitor-serving and marine-related uses, and buildings that vertically integrate residential with commercial uses, adjacent to Coast Highway, and on or near the waterfront locations.
- Maintain and expand core coastal dependent and coastal-related land uses, including the development of marina parking and an enclosed dry stack boat storage and launching facility.
- Provide new housing opportunities in response to demand for housing, reduce vehicle trips and encourage active lifestyles by increasing the opportunity for residents to live in proximity to jobs, services, entertainment, and recreation.
- Protect and enhance significant visual resources from identified public vantage points, such as Coast Highway, Castaways Park, and Coast Highway-Bay Bridge, to the bay and the cliffs of upper Newport Beach through view corridors designed into the project. New public view opportunities will be created on-site.
- Expand bayfront access to and along the bay where it does not exist at the present time, in a manner that protects environmental study areas (ESA) and/or environmentally sensitive habitat areas (ESHA) and does not adversely impact existing private residences adjacent to the site.
- Provide public coastal access with a new 12-foot-wide bayfront access promenade along the bayfront edge of Planning Areas 1 and 2. This new, public bayfront promenade will link the public docks and marina property south of the Coast Highway-Bay Bridge along the bayfront, to the existing Newport Dunes pedestrian/bicycle trail off of Bayside Drive, and ultimately to the Newport Dunes recreational areas, as well as to an existing Class 1 Regional Trail.

#### **D. Relationship to the Newport Beach Municipal Code**

Whenever the development regulations contained in this PCDP conflict with the regulations of the Newport Beach Municipal Code, the regulations contained in this PCDP shall take precedence. The Municipal Code shall regulate all

development within the PCDP when such regulations are not provided within the PCDP. All construction within the Back Bay Landing PCDP (PC-9) shall be in compliance with the California Building Code, California Fire Code, and all other ordinances adopted by the City pertaining to construction and safety features. All words and phrases used in this Back Bay Landing PCDP shall have the same meaning and definition as used in the City of Newport Beach Zoning Code unless defined differently in Section VIII, Definitions.

## **E. Relationship to Design Guidelines**

Development within the site shall be regulated by both the Development Plan and the Design Guidelines.

## II. Development Limits and Land Use Plan

The development limits in this Development Plan are consistent with those established by the General Plan and are identified in the following Table 1, Development Limits by Planning Area. Parking structures, carts, kiosks, temporary and support uses are permitted and are not counted towards square footage development limits. In addition, the OCSD wastewater pump station shall not be counted towards square footage development limits.

Table 1 Development Limits by Planning Area <sup>1,2</sup>						
Land Use	Planning Area 1	Planning Area 2	Planning Area 3	Planning Area 4	Planning Area 5	Total Per Land Use
<b>Commercial</b>	49,144 sf	8,390 sf	0	4,000 sf	0	<b>61,534 sf</b>
<b>Residential</b>	49 du (85,644 sf)	0	0	0	0	<b>49 du (85,644 sf)</b>
<b>Marina</b>	0	0	0	0	220 wet slips	<b>220 wet slips</b>
<b>Dry Stack Boat Storage</b>	32,500 sf (140 spaces)	0	0	0	0	<b>32,500 sf (140 spaces)</b>
<b>TOTAL</b>						<b>179,679 SF</b>
<i>Notes:</i> (1) All limits expressed as "sf" are gross square feet as defined in the Newport Beach Zoning Code. (2) Development limits are subject to General Plan Land Use Plan and Table LU2, Anomaly Caps.						

### A. Planning Area 1 – Mixed-Use Area

The primary land-side parcel immediately north of East Coast Highway to the northwest is intended to allow for integration of a mixed-use waterfront project with marine-related and visitor-serving commercial and recreational uses, while allowing for residential uses. Priority uses include retail, restaurants, marine and boat sales, boat rentals, boat service/repair, and recreational commercial uses such as kayak and paddle board rentals.

The total gross floor area of Planning Area 1 shall be limited to 49,144 square feet of marine-related and visitor-serving commercial and recreational uses; a new 32,500-square foot full-service and fully enclosed dry stack boat storage (up

to a maximum of 140 boat spaces) and launching facility; and a maximum of 49 residential units within a maximum of 85,644 square feet of residential floor area.

Development shall incorporate amenities that assure bayfront access for coastal visitors, including the development of a 12-foot-wide public pedestrian and bicyclist promenade along the waterfront with connections to existing regional trails and paths, an enclosed dry stack boat storage facility, public plazas and open spaces that provide public views and view corridors, and construction of a coastal public view tower.

Any mixed-use development that includes integration of residential units shall be subject to the following additional development limitations:

1. A minimum of 50 percent of the total proposed gross floor area located within Planning Area 1 shall be limited to non-residential uses. This non-residential use may consist of any combination of visitor-serving retail, restaurants, marine boat sales, office, and/or enclosed dry stack boat storage.
2. At minimum, a total of 68,955 square feet of non-residential gross floor area shall be developed within Planning Area 1 and 4.
3. A minimum of 50 percent of the total proposed residential units shall be developed within mixed-use buildings with non-residential use located on the ground floor level.

## **B. Planning Area 2 - Recreational and Marine Commercial**

Planning Area 2 is located immediately south of the Coast Highway-Bay Bridge and is intended to be developed with recreational and marine-related commercial uses. The total gross floor area of Planning Area 2 shall be limited to 8,390 square feet.

Development shall incorporate a 12-foot-wide public pedestrian and bicyclist promenade along the waterfront with connections to existing and/or planned regional trails and paths, and open spaces that provide public views and view corridors. An integrated connection to the planned public/private marina, pier, and trail to the south shall be developed.

## **C. Planning Area 3 – Existing Private Marina Access and Beach**

Planning Area 3 consists of an existing narrow strip of private marina access walkway and non-publicly accessible beach area located between the Bayside Village Mobile Home Park and Bayside Marina, which provides marina lessee access to private boat slips and docks. Allowed improvements shall be limited to access walkways, guardrails, bulkhead replacement, landscaping, and lighting.

The non-publicly accessible beach area is currently utilized by the existing Bayside Village Mobile Home Park. No other development shall occur within this walkway and the beach area, which shall remain as private open space.

#### **D. Planning Area 4 – Marina and Bayside Village Mobile Home Park Storage and Guest Parking**

Planning Area 4 is a narrow strip of land located on the eastern project boundary and development shall be limited to a gross floor area of 4,000 square feet. This area is intended to be re-used primarily as standard sized parking for residents and guests of the Bayside Village Mobile Home Park. Additional standard sized parking will be provided for the Bayside Village Marina tenants. New replacement storage, replacement restrooms, laundry facilities and lockers will be built for the Bayside Village Mobile Home Park and Marina tenants. A new replacement gate entry for this area is allowed. No other uses shall be allowed in this storage/parking/facilities area.

#### **E. Planning Area 5 - Submerged Fee-Owned Lands**

This fee-owned submerged land area consists of an existing 220-slip marina and is bordered by the earthen De Anza Bayside Marsh Peninsula. The De Anza Bayside Marsh Peninsula was originally constructed with dredging spoils and rip-rap as fill to provide a protected harbor and overflow parking for the Bayside Marina. No new development shall occur within the De Anza Bayside Marsh Peninsula. A small gravel parking and access road currently exists on the eastern portion of the peninsula and is used for overflow parking for the marina. The existing gravel parking lot shall not be expanded in area or paved; however, maintenance activities shall be permitted. The marina shall be regulated by Title 17 of the Newport Beach Municipal Code.

### III. Permitted Uses

Permitted uses are those uses set forth in this Section for each Planning Area as shown on Table 2, Permitted Uses. The uses identified within the table are not comprehensive but rather major use categories. Specific uses are permitted consistent with the definitions provided in Section VIII of this PCDP. Uses determined to be accessory or ancillary to permitted uses, or uses that support permitted uses are also permitted. The Community Development Director may determine other uses not specifically listed herein are allowed, provided they are consistent with the purpose of this PCDP, Planning Areas, and are compatible with surrounding uses. The initial construction of any new structure, or the significant reconstruction or major addition, shall be subject to Site Development Review pursuant to Section VII of this PCDP.

<b>Table 2 Permitted Uses</b>					
<b>Uses</b>	<b>Planning Areas</b>				
	<b>Planning Area 1</b>	<b>Planning Area 2</b>	<b>Planning Area 3</b>	<b>Planning Area 4</b>	<b>Planning Area 5</b>
<b>Commercial Recreation and Entertainment</b>	CUP	-	-	-	-
<b>Cultural Institution</b>	P	P	-	-	-
<b>Eating and Drinking Establishments</b>					
Bar, Lounge, and Nightclubs	-	-	-	-	-
Fast Food (No Drive Thru)	P*	-	-	-	-
Food Service, No Late Hours	P*	-	-	-	-
Food Service, Late Hours	CUP	-	-	-	-
Take-Out Service, Limited	P	P	-	-	-
Take-Out Service, Only	P	P	-	-	-
<b>Marina</b>	-	-	-	-	MC Title 17
<b>Marina Support Facilities</b>	P	P	-	P	-
<b>Marine Rentals and Sales</b>					
Marine Retail Sales	P	P	-	-	-
Boat Rentals and Sales	MUP	MUP	-	-	-
<b>Marine Services</b>	MUP	MUP	-	-	-
Entertainment and Excursion Vessels	CUP	-	-	-	-
<b>Office</b>	P	P	-	-	-
<b>Personal Services</b>					
General	P	-	-	-	-
Restricted	MUP	-	-	-	-
<b>Residential</b>	P	-	-	-	-
<b>Visitor-Serving Retail</b>	P*	P*	-	-	-
<b>Utilities</b>					
Wastewater Pump Station	P	-	-	-	-
P=Permitted CUP=Conditional Use Permit MUP=Minor Use Permit *=A Minor Use Permit is required for the sale of alcohol -= Not Permitted					

## IV. Development Standards

The following site development standards shall apply:

### A. Setback Requirements

Setbacks are the minimum distance from the property line to building or structure, unless otherwise specified.

#### 1. Street Setback

- a) East Coast Highway - 0 feet (provided a minimum 10-foot landscape buffer is provided to the back of sidewalk)
- b) Coast Highway-Bay Bridge - 20 feet to edge of bridge (kayak/paddleboard rentals, storage, and launch uses may be permitted within this setback and beneath the bridge, subject to Site Development Review).
- c) Bayside Drive - 5 feet

#### 2. Perimeter Setback

- a) Abutting Non-residential - 0 feet
- b) Abutting Existing Residential - 25 feet, except:
  - i. In Planning Area 1, public restrooms and marina lockers may provide a minimum 5-foot setback.
  - ii. In Planning Area 4, a minimum 5-foot setback may be provided.

#### 3. Bayfront Setback

- a) Bulkhead - 15 feet from constructed bulkhead wall to allow for a minimum 12-foot-wide public bayfront promenade and a minimum 3-foot-wide landscape area.
- b) No Bulkhead
  - i. In Planning Area 1, 15 feet from the Highest High Water contour elevation noted as 7.86' above Mean Lower low Water (0.0') or 7.48'/NAVD 88 to allow for a minimum 12-foot-wide public bayfront promenade and a minimum 3-foot-wide landscape area.

- ii. In Planning Area 2, 15 feet from contour elevation 10 (NAVD 88) to allow for a minimum 12-foot-wide public bayfront promenade and a minimum 3-foot-wide landscape area.

#### **4. Setback Encroachments**

##### a) Fences, Walls, and Hedges

- i. Permitted within the Perimeter Setback Abutting Existing Residential up to a maximum height of 8 feet.
- ii. Within Bayfront Setback, see subsection c. below.
- iii. Permitted in all other setback areas up to a maximum height of 42 inches.

##### b) Architectural Features

- i. Roof overhangs, brackets, cornices and eaves may encroach 30 inches into a required Perimeter Setback area, provided a minimum vertical clearance above grade of 8 feet is maintained.
- ii. Decorative architectural features (e.g., belt courses, ornamental moldings, pilasters, and similar features) may encroach up to 6 inches into any required Perimeter Setback.

##### c) Bayfront Setback

- i. Benches, sculptures, light standards, hedges, open guardrails and safety features, and other similar features that enhance the public bayfront promenade may encroach into the bayfront setback, provided a 12-foot-wide clear path is maintained.

- d) Other- Other encroachments may be permitted through the Site Development Review.

### **B. Permitted Height of Structures**

#### **1. Building Height**

The maximum allowable building height shall be 35 feet for structures with flat roofs and 40 feet for structures with sloped roofs (minimum 3:12 pitch), except as follows:

- a) As illustrated on Exhibit 3, Building Heights, 100 feet from back of curb along Bayside Drive within the eastern portion of Planning Area 1, maximum allowable building height shall not exceed 26 feet for flat roofs and 31 feet for sloped roofs.
- b) Within Planning Area 1, a single coastal public view tower, or similar structure, that includes public access to a functioning public viewing platform may be developed at a maximum height of 65 feet.
- c) Within Planning Area 1, maximum allowable height for any parking structure shall not exceed 30 feet for flat roofs and 35 feet for sloped roofs.
- d) Maximum allowable building height within Planning Area 2 shall not exceed 26 feet for flat roofs and 31 feet for sloped roofs.
- e) Within Planning Area 4, maximum allowable building height shall not exceed 20 feet for flat roofs and 25 feet for sloped roofs.
- f) All other exceptions to height shall be regulated pursuant to Section 20.30.060.D of the Newport Beach Municipal Code.

## **2. Grade for the Purposes of Measuring Height**

- a) Within Planning Area 1, height shall be measured from the established baseline elevation of either 11 feet or 14 feet (NAVD 88) as illustrated on Exhibit 3, Building Heights.
- b) Within Planning Area 2, height shall be measured from the established baseline elevation of 12 feet (NAVD 88)
- c) Within Planning Area 4, height shall be measured from the established baseline elevation of 12 feet (NAVD 88)

## **C. Residential Units**

### **1. Open Space**

- a) Common Open Space - A minimum of 75 square feet per dwelling shall be provided for common open space (e.g., pool, patio, decking, and barbecue areas, common meeting rooms, etc.). The minimum dimension (length and width) shall be 15 feet. The common open space areas shall be separated from non-residential uses on the site and shall be sited and designed to limit intrusion by non-residents and customers of non-residential uses. However, sharing of common open space may be allowed, subject to Site Development

Review, when it is clear that the open space will provide a direct benefit to project residents. Common open space uses may be provided on rooftops for use only by project residents.

- b) Private Open Space - Five percent of the gross floor area for each unit. The minimum dimension (length and width) shall be 6 feet. The private open space shall be designed and located to be used by individual units (e.g., patios, balconies, etc.).
2. **Non-residential Use Required on Ground Floor** - All of the ground floor frontage of a mixed-use structure shall be occupied by retail and other compatible non-residential uses, with the exception of common/shared building entrances for residences on upper floors.
3. **Sound Mitigation** - An acoustical analysis report, prepared by an acoustical engineer, shall be submitted describing the acoustical design features of the structure that will satisfy the exterior and interior noise standards. The residential units shall be attenuated in compliance with the report.
4. **Buffering and screening** - Buffering and screening shall be provided in compliance with Municipal Code Section 20.30.020 (Buffering and Screening). Mixed-use projects shall locate loading areas, parking lots, driveways, trash enclosures, mechanical equipment, and other noise sources away from the residential portion of the development to the greatest extent feasible.
5. **Notification to owners and tenants** - A written disclosure statement shall be prepared prior to sale, lease, or rental of a residential unit within the development. The disclosure statement shall indicate that the occupants will be living in an urban type of environment and that the noise, odor, and outdoor activity levels may be higher than a typical suburban residential area. The disclosure statement shall include a written description of the potential impacts to residents of both the existing environment (e.g., noise from boats, planes, commercial activity on the site and vehicles on Coast Highway) and potential nuisances based upon the allowed uses in the zoning district. Each and every buyer, lessee, or renter shall sign the statement acknowledging that they have received, read, and understand the disclosure statement. A covenant shall also be included within all deeds, leases or contracts conveying any interest in a residential unit within the development that requires: (1) the disclosure and notification requirement stated herein; (2) an acknowledgment by all grantees or lessees that the property is located within an urban type of environment and that the noise, odor, and outdoor activity levels may be higher than a typical suburban residential area; and (3) acknowledgment that the

covenant is binding for the benefit and in favor of the City of Newport Beach.

6. **Deed notification** - A deed notification shall be recorded with the County Recorder's Office, the form and content of which shall be satisfactory to the City Attorney. The deed notification document shall state that the residential unit is located in a mixed-use development and that an owner may be subject to impacts, including inconvenience and discomfort, from lawful activities occurring in the project or zoning district (e.g., noise, lighting, odors, high pedestrian activity levels, etc.).

## **D. Parking Requirements**

### **1. General Standards**

Parking requirements are shown in the following Table 3, Parking Requirements, per land use. Kiosks for retail sales shall not be included in the calculation of parking.

<b>Table 3 Parking Requirements</b>	
<b>Land Use</b>	<b>Parking Ratio</b>
Boat Rentals and Sales	As established per MUP
Eating and Drinking Establishments	1 space per 30 to 50 SF of Net Public Area*
Take-Out Service, Limited	1 space per 250 square feet
Marina Support Facilities	0.5 spaces per 1,000 SF
Marina Wet Slips	0.6 spaces per slip
Marine Services	
Enclosed Dry Stack Boat Storage	0.33 spaces per slip
Entertainment and Excursion Services	1 per each 3 passengers and crew members or as required by MUP
Other	As established per MUP
Office	1 space per 250 square feet
Medical Office	1 space per 200 square feet
Residential Units (Attached)	2 spaces per unit, plus 0.5 resident guest spaces per unit
Retail Sales	1 space per 250 square feet
Other	Municipal Code
* Including outdoor dining, but excluding first 25% or 1,000 SF of outdoor dining per restaurant, whichever is less.	

## **2. Parking Management Plan**

Off-street parking requirements may be reduced with the approval of a Conditional Use Permit based upon complementary peak hour parking demand of uses within the development. The Planning Commission may grant a joint-use of parking spaces between uses that result in a reduction in the total number of required parking spaces in compliance with the following conditions:

- a) The most remote space is located within a convenient distance to the use it is intended to serve.
- b) The probable long-term occupancy of the structures, based on their design, will not generate additional parking demand.

- c) The applicant has provided sufficient data, including a parking study if required by the Director, to indicate that there is no conflict in peak parking demand for the uses proposing to make joint-use of parking facilities.
  - d) The property owners, if more than one, involved in the joint-use of parking facilities shall record a parking agreement approved by the Director and City Attorney. The agreement shall be recorded with the County Recorder, and a copy shall be filed with the Department.
  - e) A parking management plan shall be prepared to address potential impacts associated with a reduction in the number of required parking spaces.
3. **Access, location, and improvements.** Access, location, parking space and lot dimensions, and parking lot improvements shall be in compliance with the Development Standards for Parking Areas Section of the Municipal Code.

## **E. Landscaping**

A detailed landscape and irrigation plan shall be prepared by a licensed landscape architect and submitted with the Site Development Review application. All landscaping shall comply with the applicable landscaping requirements specified in the Municipal Code, including the Landscaping Standards and Water-Efficient Landscaping Sections. In addition, vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants, which are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low water use plants as identified by California Department of Water Resources.

## **F. Seawall/Bulkhead Standards**

As shown on Exhibit 4, Seawall/Bulkhead Section, a new bayfront seawall/bulkhead may be constructed along the bayfront to protect existing and future development, subject to the following:

**1. Planning Area 1**

- a) Any new bulkhead structure shall not extend bayward beyond the Highest High Water contour elevation of 7.86' relative to MLLW (0.0') or 7.48'/NAVD 88 (see also applicable *General Requirements* below) to preserve the shoreline profile.

**2. Planning Area 2**

- a) Any new bulkhead structure shall not extend bayward beyond the 10' contour elevation (NAVD 88) to preserve the shoreline profile.

**3. Planning Area 3**

- a) Maintenance, repair, and replacement of the existing bulkhead wall shall be permitted to protect existing development.

**4. Planning Area 4 and 5**

- a) No bulkheads shall be permitted.

**5. General Requirements**

- a) The minimum top of bulkhead elevation shall be 10 feet (NAVD 88).
- b) Seawalls, bulkheads, revetments and other such construction that alters the existing shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing principal structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. In addition, such improvements shall only be permitted when found consistent with applicable sections of the Coastal Act and City's Coastal Land Use Plan policies.
- c) Bulkheads shall be designed to provide access points to the shoreline.

**G. Diking, Filling, and Dredging Standards**

The diking, filling, or dredging of open coastal waters, wetlands and estuaries shall be permitted in accordance with applicable provisions of the Coastal Act and City's Coastal Land Use Plan policies.

## **H. Public Bayfront Promenade and Trail**

A 12-foot-wide public bayfront promenade shall be constructed, as illustrated in Exhibit 5, Public Spaces, along the length of the seawall/bulkhead to the boundary with the Bayside Village Mobile Home Park, and continuing along the project entrance to Bayside Drive. The design details of the public bayfront promenade shall be submitted with Site Development Review. The public bayfront promenade shall comply with the following requirements:

1. An easement for public access shall be provided to the City along the entire length of the proposed public bayfront promenade. The easement area shall be maintained in good condition and repaired at no cost to the City.
2. The public bayfront promenade shall be accessible to pedestrians and bicyclists, and shall extend along the waterfront under the Coast Highway-Bay Bridge and shall connect to an existing trail system on the south side of East Coast Highway.
3. The bayfront promenade shall interface with restaurants and outdoor dining areas, the coastal public view tower, the enclosed dry stack boat storage, residential and marine boat service areas to the maximum extent feasible. Amenities such as seating, trash enclosures, lighting, and other pedestrian-oriented improvements shall be provided along its length where appropriate, provided a 12-foot-wide clear path is maintained.
4. Bayside Drive shall be improved on both sides with a new Class 2 (on-street) bike lane up to Bayside Way and a new Class 3 (shared-use) bikeway east of Bayside Way. A Class 1 (off-street) bikeway and pedestrian trail will also be provided on the east side of Bayside Drive that originates at the Bayside Drive / East Coast Highway intersection and runs northerly to the terminus of Bayside Drive, as shown on Exhibit 6, Coastal Access and Regional Trail Connections, to accommodate both cyclists and pedestrians. This improvement shall serve as an enhanced link between the new public bayfront promenade and the existing City and County trail systems and the Newport Dunes recreation area.
5. Trails shall be located and designed consistent with Coastal Land Use Plan (CLUP) Policy 3.1.1-1 and the Coastal Act, with appropriate routing to protect the privacy of existing Bayside Village Mobile Home Park residents, consistent with Public Resources Code section 30214 (Coastal Act).

## **I. Vehicular Circulation**

1. Primary vehicular and pedestrian access to the site shall be set back from its current location on Bayside Drive to approximately 200 feet north of the East Coast Highway intersection, as shown on Exhibit 7, Vehicular Circulation, and

Exhibit 8, Revised Vehicular Circulation and Parking. This project driveway will service both inbound and outbound movements, improve the existing driveway connection further into the site, and will be relocated approximately 45 feet north of its current location. Any guest parking that is displaced in the adjacent mobile home park complex as a result of this new driveway alignment shall be replaced within the mobile home park complex or within Planning Area 4 on the east side of Bayside Village Mobile Home Park.

2. Intersection improvements at Bayside Drive shall maintain the existing left-turn lane, add a shared left-turn/through lane, and add an exclusive right-turn lane on the southbound approach of the signalized intersection with East Coast Highway. Project access enhancements shall include an exclusive left-turn lane on the northbound approach of the Bayside Drive and project driveway intersection.
3. Primary circulation within the development shall accommodate adequate fire truck turn-around. Emergency vehicle access to and from Bayside Village Mobile Home Park to the site shall be provided consistent with Exhibit 8, Revised Vehicular Circulation and Parking.
4. An optional secondary access may be constructed, subject to the review and approval of the Public Works Department, California Department of Transportation, Orange County Transportation Authority (OCTA), and the Orange County Sanitation District (OCSD) that would add an exclusive right-turn lane along westbound East Coast Highway, as shown on Exhibit 7, Vehicular Circulation. This connection would be located approximately 430 feet west of the Bayside Drive intersection with East Coast Highway, and would allow for inbound right-turn movements only. Outbound movements at this connection point would be prohibited.

## **J. Lighting**

A detailed lighting plan with lighting fixtures and standard designs shall be submitted with the Site Development Review application. The lighting plan shall illustrate how all exterior lighting is designed to reduce unnecessary illumination of adjacent properties, conserve energy, minimize detrimental effects on sensitive environmental areas, and provide minimum standards for safety. At minimum, exterior lighting shall comply with the following:

1. **Protection from glare.**
  - a. **Shielding required.** Exterior lighting shall be shielded and light rays confined within boundaries of the site.
  - b. **Light spill prohibited.** Direct rays or glare shall not create a public nuisance by shining onto public streets, adjacent sites, or beyond the perimeter of the bayfront promenade.

- c. **Maximum light at property line.** No more than one candlefoot of illumination shall be present at the property line.
  - d. **Maximum light beyond bayfront.** No more than 0.25 candlefoot of illumination shall be present beyond the perimeter of the bayfront promenade.
2. **Photometric study.** A photometric study plan shall be incorporated into the lighting plan to ensure lighting will not negatively impact surrounding land uses and adjacent sensitive coastal resource areas.
3. **Lighting fixtures.** Exterior lights shall consist of a light source, reflector, and shielding devices so that, acting together, the light beam is controlled and not directed across a property line or beyond the bayfront promenade.
4. **Parking lot light standards.** Light standards within parking lots shall be the minimum height required to effectively illuminate the parking area and eliminate spillover of light and glare onto adjoining properties. To accomplish this, a greater number of shorter light standards may be required as opposed to a lesser number of taller standards.
5. **Tower illumination.** Illumination of the public view tower shall consist of soft accent lighting so as not to become a visual disturbance to the nighttime view in the area.

## **K. Signs**

A comprehensive sign program with sign materials and lighting details shall be submitted with the Site Development Review application. All signage shall comply with the Sign Standards Section of the Municipal Code, with the following exceptions:

1. Temporary Signs- Temporary signs that are visible from public right-of-ways and identify new construction or remodeling may be displayed for the duration of the construction period beyond the 60-day limit. Signs mounted on construction fences are allowed during construction and may be rigid or fabric.
2. Directional signs oriented to vehicular or pedestrian traffic within internal drives or walkways, such as electronic display signs, kiosk signs, internal banners, and three-dimensional sculptural advertising associated with individual businesses are allowed, or similar, and are not regulated as to size, content, or color; however, signs shall require permits and shall be subject to the review of the City Traffic Engineer to ensure adequate sight distance in accordance with the provisions of the Municipal Code.

## **L. Utilities**

Existing and proposed water and sewer locations are shown on Exhibit 9, Utilities Plan, and existing and proposed storm drain locations are shown on Exhibit 10, Drainage Plan. A Final Utilities Plan shall be submitted with the Site Development Review application. The final alignment and location of utilities shall be reviewed and approved by the Public Works Department. Adequate access for maintenance vehicles shall be provided. A 30-foot-wide accessible easement shall be provided for the relocated water transmission line. Buildings shall maintain a minimum distance of 15 feet from the water line, unless otherwise approved by the Public Works Department.

## **M. Sustainability**

The development shall be designed as a sustainable community which will allow residents, tenants and visitors to enjoy a high quality of life while minimizing their impact on the environment. A Sustainability Plan that addresses topics such as water and energy efficiency, indoor environmental quality and waste reduction shall be submitted with the Site Development Review application.

Sustainable programming shall be used to maximize efficiency by conserving water, minimizing construction impacts, minimizing energy use and reducing construction and post-construction waste. California-friendly landscaping shall be utilized in public areas and reclaimed water use (if available) on-site or off-site will further reduce water demand. Appropriate best management practices shall be incorporated into landscape design. Energy reduction, recycling, and the smart use of existing resources shall be implemented. The development shall incorporate a walkable community design to promote walking and bicycling, and thus reduce reliance on automotive transport.

The development shall include Low Impact Development (LID) features for storm water quality improvement where none exist today. Potential LID features may include storm water planters, permeable pavement and proprietary bioretention systems. Through the development of a project-specific Water Quality Management Plan (WQMP), the appropriate site design, source control and LID control features shall be implemented to improve water quality in the Bay, including weekly street sweeping of all drive aisles and parking areas.

## **N. Public Improvements**

A public improvements plan shall be submitted with the Site Development Review application specifying the public improvements to be constructed in conjunction with the development of the site and phasing of such improvements. At minimum, the plan shall discuss and illustrate utility improvements, the bayfront promenade, Bayside Drive street and bikeway improvements, and improvements to the OCSD facility.

## **V. Design Guidelines**

The Back Bay Landing Design Guidelines are intended to express the desired character of the future mixed-use waterfront village. These guidelines set parameters for future design efforts and help achieve overall consistency and quality of architectural design and landscape features at build-out. They also explore the aesthetic quality and functionality of the upper limit of acceptable development intensity, and are structured to allow the City considerable flexibility in review of future project submittals and subsequent approvals. All development within the Planned Community shall be in conformance with these Design Guidelines.

The purpose of the Design Guidelines is:

- To provide the City of Newport Beach, the California Coastal Commission, and future residents and visitors with the necessary assurances that, when completed, the development will be built in accordance with the design character proposed herein;
- To provide guidance to developers, builders, engineers, architects, landscape architects and other professionals in order to maintain the desired design character and appearance of the project, as well as expand upon these concepts in order to maximize the success of the development consistent with market needs, aesthetic satisfaction, and community goals;
- To provide guidance to the City Staff, Planning Commission, City Council members and the California Coastal Commission in the review of future development submissions; and
- To encourage building plans that allow flexibility for innovative and creative design solutions that respond to contemporary market trends.

### **A. Architectural Theme**

The development shall be designed with a Coastal Mediterranean architectural theme. This architectural theme is influenced by the climate of the countries it comes from, emulating palettes of the landscape and architecture in the North Mediterranean Sea. The project will follow principles of quality design and be constructed with quality materials and applications. Thick and textured walls, bull-nose borders, terracotta colors with rustic metal and stone details produce the style that has been adopted worldwide. The style is marked by the use of smooth plaster, low-pitched clay tile, and cast concrete or stone ornaments. Other characteristics typically include small porches or balconies, arcades, wood casement windows and doors, canvas awnings, and decorative

iron trim. The intent is not to select a historically specific or rigid architectural style for the project, but to help shape the character of the area and reflect its setting within the City.

The project should be configured as a village, which accommodates marine-oriented and visitor-serving retail, restaurants, enclosed dry stack boat storage, residential units, public space and a coastal public view tower. The “village look” may be expressed through several techniques. Visual interest may be created by multiple one-, two- and three-level buildings, with varied roof heights and planes. Light and shadows may be created through the use of trellises, decks, and canopies. The planes of the buildings should include recesses and vertical elements to create the village feeling. Varied roof heights should communicate the break-up of architectural forms.

The parking structure shall be designed to add to the public and visitor-serving retail experience and be easily accessible. The project’s architectural style, with the recommended use of stone, tile and glass materials, should blend in color and form with existing similarly themed facilities within Newport Beach, and provide a high standard of quality for future neighboring development. Sample imagery is provided on Exhibit 11, Architectural Theme.

## **B. Site Planning**

1. As illustrated in Exhibit 12, Conceptual Site and Landscape Plan, the development shall be designed as an integrated, mixed-use waterfront village that encourages public access to and along the bayfront.
2. A public bayfront promenade shall be developed between the Balboa Marina development to the south and the Newport Dunes and the regional trail system to the east. Special features of this public bayfront promenade shall include coastal plazas, vista points and connections with City/County trails and Newport Dunes as shown on Exhibit 5, Public Spaces.
3. Back Bay Landing restaurants, visitor-serving commercial and plaza areas shall be accessible to the community by public and private vehicular transportation, pedestrian and bike paths, and public dock space.
4. Scenic view corridors should be incorporated throughout the project to maintain existing coastal views from East Coast Highway as shown on Exhibit 13, East Coast Highway View Corridors.
5. Outdoor dining and plaza areas shall be designed to interface with the street and bayfront. Siting of outdoor dining facilities shall minimize potential impacts on occupants of adjacent residential units.
6. The development shall include a coastal public view tower that serves to identify the entry location and promote the activity of the site. The coastal

public view tower shall be public and ADA-accessible and designed to provide expansive coastal view opportunities.

7. The development shall create a strong pedestrian interface with the waterfront, maximizing accessibility and providing visual corridors enhancing the public/visitor experience.
8. Buildings should be arranged to create opportunities for public gathering spaces, encourage outdoor living and invite patronage. Mixed-use areas should emphasize pedestrian orientation by utilizing features such as plazas, courtyards, interior walkways, trellises, seating, fountains, and other similar elements.
9. The development shall promote connectivity throughout the village and to adjacent developments and trails systems through the use of shared facilities such as driveways, parking areas, pedestrian plazas and walkways.
10. Ground level equipment, refuse collection areas, storage tanks, infrastructure equipment and utility vaults should be screened from public right-of-way views with dense landscaping and/or walls of materials and finishes compatible with adjacent buildings.
11. Site-specific analyses (wind patterns, noise assessments, etc.) and special design features shall be incorporated into the proposed buildings surrounding the OCSD pump station facility to offset potential noise and odor control issues associated with the existing operations of the facility. Indoor air conditioned spaces within the development shall include the installation of odor filters, such as activated carbon filters or similar, to filter indoor air.

### **C. Building Massing**

1. Avoid long, continuous blank walls, by incorporating a variety of materials, design treatments and/or modulating and articulating elevations to promote visual interest and reduce massing.
2. Layering of wall planes and volumes are encouraged to provide rhythm, dynamic building forms, and shadows.
3. Building massing should consist of a mix of heights to add visual interest and enhance views to the bay above or between buildings.
4. Taller buildings should use articulation to create visual interest. Articulation should include vertical and horizontal offsets, use of multiple materials and finishes, and the entry/corner elements.

5. Towers or other vertical/prominent building features should be used to accentuate key elements such as building entries, pedestrian nodes, plazas, and courtyards.
6. To maintain a low profile at the corner of East Coast Highway and Bayside Drive, the development should consist of reduced height commercial retail buildings closest to the intersection and may step up in height further away from the intersection, as shown on Exhibit 3, Building Heights.

#### **D. Facade Treatments**

1. Ground floors of commercial buildings should have storefront design with large windows and entries encouraging indoor and outdoor retailing.
2. Architectural elements that create sheltered pedestrian areas are encouraged.
3. The quality of the pedestrian environment should be activated by architecturally vibrant storefronts with features such as planter walls, outdoor seating and dining spaces, enhanced trellises, accent or festive lighting, awnings or canopies, large transparent windows, recessed openings and entry ways.
4. Create a unified and consistent alignment of building facades that define and address the street and waterfront.
5. Horizontal definition between uses, generally between the first and second floor is strongly encouraged.
6. For residential uses, balconies and sill treatments are encouraged on upper stories to articulate the facade.
7. Building facades should respect the public realm edge by controlling and limiting encroachments that could impede pedestrian connectivity and retail exposure. Building designs will be encouraged to support and activate the public realm and plazas, and encourage accessibility.
8. "Back of House Areas" and service corridors shall be avoided along primary street and waterfront elevations.
9. Roof-mounted mechanical equipment shall not be visible in any direction from a public right-of-way, as may be seen from a point 6 feet above ground level, including from the Coast Highway-Bay Bridge curb elevation. In addition, screening of the top of the roof-mounted mechanical equipment may be required if necessary to protect views.

10. Subject to the approval of the OCSD, the existing building exterior of the OCSD facility located adjacent to East Coast Highway and at the property's southwestern boundary shall undergo aesthetic improvements (refacing, reroofing, etc.) to reflect the architectural design standards contained in this PCDP. Should the OCSD facility be reconstructed, the architectural design of the structure shall be compatible with the architectural design of the Back Bay Landing development and design standards contained in this PCDP.

## **E. Public Views**

1. As illustrated on Exhibit 13, East Coast Highway View Corridors, buildings should be oriented to maximize view opportunities while minimizing the visual impact of the building on existing view sheds.
2. Buildings proposed adjacent to the Coast Highway-Bay Bridge shall preserve coastal views that are afforded due to the differential in height between the elevation of the bridge and the elevation of the site. Buildings located within View Corridors 5, 6, and 7, as shown in Exhibit 13, East Coast Highway View Corridors, shall maintain a low profile against East Coast Highway, allowing coastal views over the development. The public coastal views shall be consistent with Section 4.4.1-8 of the Newport Beach Coastal Land Use Plan policies.
3. A pedestrian view corridor shall be designed at the southeast corner of Bayside Drive and East Coast Highway, shown as View Corridor 2 on Exhibit 13, East Coast Highway View Corridors, allowing northbound pedestrians and motorists to see into the project and the coastal view beyond.
4. The enclosed dry stack boat storage building shall be designed with multiple heights to create a distinct view corridor from East Coast Highway to the Bay, illustrated as View Corridor 4 on Exhibit 13, East Coast Highway View Corridors. This corridor shall be visible to north and south bound pedestrians, bicyclists and motorists.
5. The development shall be designed to frame existing bay views and should create new bay views where they are currently blocked by fencing and outdoor vehicle/boat storage.
6. The coastal public view tower shall be publicly accessible and designed to provide panoramic coastal views and include interpretive elements.

## **F. Parking and Parking Structure**

1. Parking areas and structures shall promote efficient circulation for vehicles and pedestrians.

2. Convenient, well-marked and attractive pedestrian access shall be provided from parking areas and structures to buildings.
3. Parking facilities should be physically separated for non-residential uses and residential uses, except for residential guest parking. If enclosed parking is provided for an entire mixed-use complex, separate areas/levels shall be provided for non-residential and residential uses with separate building entrances, whenever possible.
4. A semi-subterranean level should be incorporated, if feasible, to minimize height and bulk of parking structure.
5. Parking structures shall be screened from the public right-of-way to the maximum extent feasible. Portions of the structure that cannot be screened shall incorporate decorative screening, landscape walls, artistic murals, or application of stylized facades.
6. Commercial retail and residential uses should wrap and mask the parking structure.
7. The parking structure shall complement the design vocabulary of the attached or adjacent buildings, and incorporate form, materials, color, and details from the attached or adjacent buildings.
8. Adequate parking that is located within a convenient distance from the use it is intended to serve shall be provided for all uses proposed on-site, as well as marina users, displaced Bayside Village Mobile Home Park guest parking, and for public access. General parking locations are shown on Exhibit 14, Parking Plan.
9. The upper level of the parking structure shall be designed to eliminate vehicle headlight and rooftop lighting spill-over.
10. To encourage alternative means of transportation, the parking structure shall incorporate bicycle parking storage accommodations, and electric vehicle charging stations.

## **G. Public Spaces**

The development shall provide extensive outdoor public spaces, as shown on Exhibit 5, Public Spaces, and described below.

1. A coastal public view tower that includes public access to a functioning public viewing platform at the top is strongly encouraged. This elevated platform can provide exceptional public coastal view opportunities of Newport Harbor and Upper Newport Bay. In the evening business hours, it may be lit from within and may have exterior up-lighting.

2. A pedestrian and automobile plaza should be incorporated into the design that seamlessly and safely blends pedestrian, bicycle and vehicular movement. This plaza may provide an opportunity for valet parking, provided a valet operation plan is reviewed and approved by the City. Bollards and potted plants should define the plaza edge in a park-like setting and should visually connect the east and west ends of the mixed-use project area as the center point of the project, while still allowing unhindered pedestrian movement to the retail areas and public bayfront promenade.
3. Restaurants shall be designed to be accessible from the public bayfront promenade and should provide both indoor and outdoor dining areas with scenic coastal views of the bay and coastal public view tower.
4. Vendor carts selling specialty items are encouraged in the outside plazas and along retail walkways to enhance the shopping or dining experience by activating the plaza areas. However, vendor carts shall not be permitted within the 12-foot-wide public bayfront promenade.
5. Passive recreation opportunities and waterfront viewing shall be provided along the public bayfront promenade.
6. A public launching area and parking for kayak and paddleboard users shall be incorporated into the development.
7. New marina boat-slip tenant lockers shall be provided near the entry to the Bayside Village Marina.
8. Public restrooms for visitors to the site shall be provided along the public bayfront promenade.

## **H. Landscaping**

1. The landscaping should reflect the project's coastal marine location and provide visual ties to the coastal bluffs, sand beaches, tidelands and wetlands, tide pools, local marinas and sea life.
2. Creativity in combining plant materials to emulate natural features is encouraged. Some examples of possible design strategies are using swaying grasses to emulate water movement, using water fountains to emulate the sound and rhythm of waves, and emulating sea colors in plant selection.
3. The use of water fountains, waterfalls, water sculptures, or water features are encouraged.
4. Marine murals and other forms of public art are encouraged throughout the project.

5. Landscaping should include tree plantings around buildings to enhance architectural character and provide shade in the summer and sun in the winter.
6. California-friendly plant species with low watering requirements and characteristics that are compatible with the climate, soils, and setting should compose the majority of the plant palate.
7. The irrigation system shall be designed, constructed, managed, and maintained to achieve a high level of water efficiency.
8. Landscaping in the view corridors should not block these views but rather frame and enhance them.
9. Green walls, water features and selective placement of potted plants and trees can improve and soften the appearance of the buildings while preserving and enhancing desired views.

## **I. Hardscaping**

1. An enhanced permeable paving should be used at the project entry to create rich texture and color while also helping to mitigate urban runoff.
2. Pedestrian spaces should be developed with specialty paving to provide interest and definition and compliment architectural and landscape features.
3. Selection of hardscape material should reflect the coastal marine theme of the project, for example: sand stone, sea glass, pebbles, drift wood, ocean/beach inspired colors or textures, etc.
4. Private streets, driveways, and drive aisles should be multi-purpose and accommodate pedestrian, bike, emergency vehicles, and slow automobile movements. Generous use of planters, large pots and bollards are encouraged with raised curbs only where necessary.

## **J. Signs**

1. The preferred approach to signing is through creating a strong architectural statement that announces development, rather than large distracting signs.
2. Monument signs identifying the development may be permitted at the primary entrance off Bayside Drive and possibly the optional secondary entrance off East Coast Highway, if approved.

3. Signage should be appropriately scaled to the building or surface onto which it is placed, should not obscure important architectural features, and should be readable by both pedestrians and drivers approaching the site.
4. Signage shall be integrated with the design and scale of the architecture.
5. A coordinated approach to signage throughout the development is particularly important due to the multiple storefronts that are envisioned. Signs of similar size, proportion, and materials should be used on each store.

## VI. Phasing

The Back Bay Landing mixed-use development is anticipated to be developed as one phase during an 18- to 24-month construction period. The integrated mixed-use and parking structure combined with the relatively small site necessitates construction in a single phase. The Back Bay Landing development will necessitate the construction of a seawall/bulkhead, but does not include reconstruction of the existing Bayside Village Marina.

The general sequence of construction is provided below although certain activities will overlap thereby reducing the total duration of the project.

- Demolition – 1 month
- Excavation and De-watering – 2 months
- Infrastructure / Foundations – 6 months
- Vertical Construction – 15 months
- Final Landscaping – 3 months
- Bayside Drive Roadway Improvements and Trail – 4 months
- Reconfiguration of Bayside Village Mobile Home Park – 6 months

## **VII. Back Bay Landing PCDP Implementation/ Site Development Review**

### **A. Purpose and Intent**

The purpose of the Site Development Review process is to ensure the development of the Back Bay Landing PCDP (PC-9) is consistent with the goals and policies of the General Plan, provisions of this PCDP, and the findings set forth below in Section VII.C. It is the intent of the Site Development Review process that all aspects of the design of the project will be reviewed and approved at one time. Conceptual architectural theme, site plan, landscape plan and other conceptual Exhibits attached to this PCDP are preliminary and may be modified through the Site Development Review process.

### **B. Application**

1. Approval of the Site Development Review application by the Planning Commission shall be required prior to the issuance of a grading or building permit for the construction of any new structure at the project. The Planning Commission's decision is final, unless appealed in accordance with the Newport Beach Municipal Code.
2. The following items are exempt from the Site Development Review Process and are subject to the City's applicable permits:
  - a) Tenant (interior) improvements to any existing buildings, kiosks, and temporary structures.
  - b) Repair and maintenance activities.
  - c) Replacement of existing structures found in substantial conformance with previously approved plans and/or permits.

### **C. Findings**

In addition to the general purposes set forth in Section VII.A and in order to carry out the purposes of the Back Bay Landing PCDP, the following findings must be made to approve or conditionally approve a Site Development Review application:

1. The development shall be in compliance with the General Plan, Coastal Land Use Plan, Back Bay Landing Planned Community Development Plan, including design guidelines, and any other applicable plan or criteria related to the development;

2. The development shall not be incompatible with the character of the neighboring uses and surrounding sites;
3. The development shall be sited and designed to maximize the aesthetic quality of the project as viewed from surrounding roadways, properties, and waterfront, with special consideration given to providing a variety of building heights, massing, and architectural treatments to provide public views through the site;
4. Site plan and layout of buildings, parking areas, pedestrian and vehicular access ways, landscaping and other site features shall give proper consideration to functional aspects of site development; and
5. The development shall not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed development.

#### **D. Submittal Contents**

The Site Development Review application shall include all of the information and materials specified by the Community Development Director and any additional information requested by the Planning Commission in order to conduct a thorough review of the application. The following plans/exhibits may include, but are not limited to the following:

1. Existing conditions including adjacent structures and proposed improvements.
2. Comprehensive site and grading plan.
3. Comprehensive elevation drawings, material boards and floor plans for new structures with coordinated and complementary architecture, design, materials and colors. The elevation drawings shall indicate the colors and materials that will be used on the exterior surfaces of the buildings, walls, fences and other visible structures.
4. Permitted and proposed floor area, and residential units.
5. A parking and circulation plan showing pedestrian paths, streets and fire lanes.
6. Landscaping, lighting, signage, utilities, sustainability, and public improvements plans as required by Section IV.
7. Parking management plan (if applicable).

8. A comprehensive, cohesive and coordinated preliminary landscape plan, illustrating general location of all plant materials, by common and botanical names (with pictures), size of plant materials, and irrigation concept.
9. A comprehensive, cohesive and coordinated lighting plan of exterior and parking structure lighting, including locations, fixture height, fixture product type and technical specifications.
10. Comprehensive text and graphics describing the design philosophy for the architecture, landscape architecture, material and textures, color palette, lighting, and signage.
11. Location and text describing drainage and water quality mitigation measures.
12. Open Space Plans (indoor and/or outdoor) for residential units.
13. A statement that the proposed new structure is consistent with the goals, policies, and actions of the General Plan and Planned Community Development Plan.
14. Any additional background and supporting information, studies, or materials that the Community Development Director deems necessary for a clear representation of the project.

## **E. Public Hearing**

A Planning Commission public hearing shall be held on all Site Development Review applications. Notice of the hearing shall be provided and the hearing shall be conducted in compliance with the Municipal Code Chapter 20.62 (Public Hearings).

## **F. Expiration and Revocation of Site Development Review Approvals**

1. Expiration. Any Site Development Review approved in accordance with the terms of this Planned Community Development Plan shall expire within twenty-four (24) months from the effective date of final approval as specified in the Time Limits and Extensions Section of the Newport Beach Municipal Code, unless at the time of approval the Planning Commission has specified a different period of time or an extension is otherwise granted.
2. Violation of Terms. Any Site Development Review approved in accordance with the terms of this Planned Community Development Plan may be modified or revoked if any of the conditions or terms of such Site Development Review are violated or if any law or ordinance is violated in connection therewith.

3. **Public Hearing.** The Planning Commission shall hold a public hearing on any proposed modification or revocation after giving written notice to the permittee at least ten (10) days prior to the hearing, and shall submit its recommendations to the City Council. The City Council shall act thereon within sixty (60) days after receipt of the recommendation of the Planning Commission.

## **G. Parcel or Tract Maps**

No parcel or tract map shall be recorded prior to the approval of the Site Development Review for the entire project. Covenant, Conditions and Restrictions shall be required in connection with any subdivisions at the project so that the responsibility for performance of, and payment for, maintenance are clear. Such CC&R's shall be subject to the approval of the City Attorney.

## **H. Fees**

The applicant shall pay a fee as established by Resolution of the Newport Beach City Council to the City with each application for Site Development Review under this planned community development plan.

## **I. Minor Changes by the Director**

1. The following minor changes to an approved site plan may be approved by the Director in compliance with Section 20.54.070 (Changes to an approved project) of the Newport Beach Municipal Code:
  - a) Minor relocation of any proposed structure.
  - b) Reconfiguration of the parking lot, including drive aisles and/or parking spaces, subject to review and approval of the City Traffic Engineer.
  - c) Reconfiguration of landscaping.
  - d) Any other minor change to the site plan provided it does not increase any structure area, height, number of units, and/or intensity of uses.
2. Any proposed changes that are not deemed minor shall be subject to review and approval by the Planning Commission.

## VIII. Definitions

All words, phrases, and terms used in this Back Bay Landing PCDP (PC-9) shall have the same meaning and definition as provided in the City of Newport Beach Zoning Code unless defined differently in this section.

**Architectural Features:** A visually prominent or formally significant element of a building which expresses its architectural language and style in a complementary fashion. Architectural features should be logical extensions of the massing, details, materials, and color of the building which complement and celebrate its overall aesthetic character.

**Backfill:** Material used to fill or refill an excavated or natural slope area.

**Building Elevation:** The drawing of the exterior wall surface formed by one (1) side of the building.

**Bulkhead:** A retaining wall/structural wall constructed along shorelines for the purpose of controlling beach erosion, supporting buildings and protecting areas of human habitation, conservation and leisure activities. Also referred to as a seawall. The depth of the bulkhead will be determined by a licensed structural engineer.

**Carts and Kiosks:** Carts and kiosks are small, freestanding structures used for retail sales and services. Generally mobile in terms of ease or relocation, the structures can be seasonal, temporary or for a more permanent use.

**Commercial Recreation and Entertainment:** Establishments providing participant or spectator recreation or entertainment, either indoors or outdoors, for a fee or admission charge. Commercial recreation and entertainment uses shall not include arcades or electronic games centers, billiard parlors, cinemas, and theaters, except as accessory to a permitted use.

**Cultural Institution:** A public or private institution that displays or preserves objects of community or cultural interest in one or more of the arts or sciences. Illustrative examples of these uses include libraries and museums.

### **Eating and Drinking Establishments:**

**Bar, Lounge, and Nightclub.** An establishment that sells or serves alcoholic beverages for consumption on the premises and is holding or applying for a public premise license from the California State Department of Alcoholic Beverage Control (ABC) (i.e., ABC License Type 42 [On Sale Beer & Wine-Public Premises], ABC License Type 48 [On Sale General-Public Premises], and ABC License Type 61 [On Sale Beer-Public Premises]). Persons under 21 years of age are not allowed to enter and

remain on the premises. The establishment shall include any immediately adjacent area that is owned, leased, rented, or controlled by the licensee.

**Fast Food.** An establishment whose design or principal method of operation typically includes the following characteristics:

1. A permanent menu board is provided from which to select and order food;
2. A chain or franchise restaurant;
3. Customers pay for food before consuming it;
4. A self-service condiment bar and/or drink service is/are provided;
5. Trash receptacles are provided for self-service bussing; and
6. Furnishing plan indicates stationary seating arrangements.

A fast food establishment may or may not have late hour operations. Alcoholic beverages are not sold, served, or given away on the premises. If alcoholic beverages are sold, served, or given away on the premises, the use shall be considered a food service use. See "Food Service." Drive thru service shall not be allowed.

**Food Service, No Late Hours.** An establishment that sells food and beverages, including alcoholic beverages, prepared for primarily on-site consumption, and typically has the following characteristics:

1. Establishment does not have late hour operations;
2. Customers order food and beverages from individual menus;
3. Food and beverages are served to the customer at a fixed location (i.e., booth, counter, or table); and
4. Customers pay for food and beverages after service and/or consumption.

**Food Service, Late Hours.** An establishment that sells food and beverages, including alcoholic beverages, prepared for primarily on-site consumption, and typically has the following characteristics:

1. Establishment does have late hours;
2. Customers order food and beverages from individual menus;

3. Food and beverages are served to the customer at a fixed location (i.e., booth, counter, or table); and
4. Customers pay for food and beverages after service and/or consumption.

**Late Hour Operations.** Facilities that provide service after 11:00 p.m.

**Outdoor Dining, Accessory.** An outdoor dining area contiguous and accessory to a food service establishment.

**Take-Out Service, Limited.** An establishment that sells food or beverages and typically has the following characteristics:

1. Sales are primarily for off-site consumption;
2. Customers order and pay for food at either a counter or service window;
3. Incidental seating up to 6 seats may be provided for on-site consumption of food or beverages; and
4. Alcoholic beverages are not sold, served, or given away on the premises.

Typical uses include bakeries, candy, coffee, nut and confectionery stores, ice cream and frozen dessert stores, small delicatessens, and similar establishments.

**Take-Out Service Only.** An establishment that offers a limited variety of food or beverages and has all of the following characteristics:

1. Sales are for off-site consumption;
2. Seating is not provided for on-site consumption of food or beverages; and
3. Alcoholic beverages are not sold, served, or given away on the premises.

**Green Building:** The practice of increasing the efficiency of buildings and their use of energy, water, and materials, and reducing building impacts on human health and the environment through better siting, design, construction, operation, maintenance, and removal.

**High Tide:** The tide at its fullest, when the water reaches its highest level.

**Marina:** A commercial berthing facility (other than moorings or anchorage) in which five or more vessels are continuously wet-stored (in water) for more than 30 days. Marinas are regulated by Title 17. See Marina Support Facilities.

**Marina Support Facilities:** An on-shore facility (e.g., administrative offices, bathrooms, laundry facilities, storage lockers, picnic areas, snack bar, etc.) that directly supports a marina.

**Marine Rentals and Sales:** Establishments engaged in renting, selling or providing supplies and equipment for commercial fishing, pleasure boating, or related activities.

**Boat Rentals and Sales.** An establishment that rents or sells vessels, including storage and incidental maintenance. See “Vessel.” Does not include “Marine Services.”

**Marine Retail Sales.** An establishment that provides supplies and equipment for commercial fishing, pleasure boating, or related activities. Examples of goods sold include navigational instruments, marine hardware and paints, nautical publications, nautical clothing (e.g., foul-weather gear), and marine engines. Does not include uses in which fuel for boats and ships is the primary good sold (see “Marine Services.”).

#### **Marine Services:**

**Boat Storage.** Storage of operative or inoperative boats or ships on land or racks for more than 30 days. Unenclosed boat storage on racks are not permitted.

**Boat Yard.** Construction, maintenance, or repair of boats or ships, including the sale, installation, and servicing of related equipment and parts.

**Entertainment and Excursion Vessels.** A vessel engaged in carrying passengers for hire for the purposes of entertainment or excursions (e.g., fishing, whale watching, diving, educational activities, harbor and coastal tours, dining/drinking, business or social special events and entertainment, etc.). See “Vessel.”

**Marine Service Station.** A retail establishment that sells gasoline, diesel, and alternative fuels, lubricants, parts, and accessories for vessels and other convenience items. No fuel docks shall be allowed. See “Vessel.”

**Water Transportation Service.** An establishment that provides vessels to carry passengers for hire who are traveling to destinations within and outside of Newport Harbor. See “Vessel.”

**Highest High Water (HHW) Line:** The average of all the highest high tides occurring over a certain period of time, usually 18.6 years (one lunar epoch). Based on the 2004 Tide Planes & Tidal Datum Relationships for City of Newport Beach, HHW elevation is 7.86' relative to Mean Lower Low Water (0.00').

**Mean Lower Low Water (MLLW) Line:** The average of the lower low tides occurring over a certain period of time, usually 18.6 years (one lunar epoch). Based on the 2004 Tide Planes & Tidal Datum Relationships for City of Newport Beach, Mean Lower Low Water is elevation 0.00'.

**Multi-Family Residential Flat:** A condominium on a single level.

**North American Vertical Datum of 1988 (NAVD 88):** The vertical control datum of orthometric height established for vertical control surveying in the United States.

**Parking Structure:** Structures containing more than one story principally dedicated to parking. Parking structures may contain accessory, ancillary, and resident support uses such as solar panels and trellis structures.

**Perimeter Setback:** An established distance between a building/structure and the perimeter of the project site other than along East Coast Highway, Coast Highway-Bay Bridge, Bayside Drive, and the bayfront.

**Personal Services (Land Use):**

**General.** Establishments that provide recurrently needed services of a personal nature. Illustrative examples of these uses include:

- Barber and beauty shops
- Clothing rental shops
- Dry cleaning pick up stores with limited equipment
- Locksmiths
- Shoe repair shops
- Tailors and seamstresses
- Laundromats

These uses may also include accessory retail sales of products related to the services provided.

**Restricted.** Personal service establishments that may tend to have a blighting and/or deteriorating effect upon surrounding areas and that may need to be dispersed from other similar uses to minimize adverse impacts, including:

- Day spas
- Healing arts (acupuncture, aromatherapy, etc.) with no services qualifying under "Massage Establishments"

- Tanning salons
- Tattoo services and body piercing studios

These uses may also include accessory retail sales of products related to the services provided.

**Public Bayfront Promenade:** A pedestrian walkway that extends along the waterfront length of the Back Bay Landing project.

**Seawall:** See previous definition of “bulkhead” above.

**Setback:** Shall mean the space between an object, such as the face of a building or fence, and the perimeter property line.

**Sign:** Any media, including their structure and component parts which are used or intended to be used outdoor to communicate information to the public.

**Temporary Sign:** Any sign, banner, pennant, valance, or advertising display constructed of cloth, canvas, plywood, light fabric, cardboard, wallboard or other light materials, with or without frames, intended to be displayed for a limited period of time.

**Vehicle Entry:** Any intersection points along the public right-of-way that provide access for automobiles.

**Vessel:** Every type of watercraft that is used or capable of being used as a means of transportation on water. This includes all vessels of any size homeported, launched/retrieved, or visiting in Newport Harbor, arriving by water or land, and registered or unregistered under State or Federal requirements, except a seaplane on the water.

**Visitor-Serving Retail:** Retail establishments engaged in selling goods or merchandise to tourists and visitors. Examples of these establishments and lines of merchandise include:

- Antiques
- Appliances
- Art galleries
- Artists' supplies
- Bakeries (retail only)
- Bicycle sales and rentals
- Books
- Cameras and photographic supplies
- Clothing and accessories
- Convenience market
- Drug and discount stores
- Gift shops
- Handcrafted items
- Hobby materials
- Jewelry
- Luggage and leather goods
- Newsstands
- Pharmacies
- Specialty food and beverage
- Specialty shops
- Sporting goods and equipment
- Tobacco
- Toys and games
- Travel services

# **Appendix**

## ***Back Bay Landing Exhibits***