



**CITY OF NEWPORT BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION

FROM: Kimberly Brandt, Community Development Director  
Brenda Wisneski, Deputy Community Development Director

SUBJECT: Report of actions taken by the Zoning Administrator, and/or Planning Division staff for the week ending May 29, 2015

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**ZONING ADMINISTRATOR ACTIONS  
MAY 28, 2015**

- Item 1: Langson Lot Line Adjustment No. LM2015-001 (PA2015-017)  
2616 and 2636 Bay Shore Drive  
Action: Approved by Resolution No. ZA2015-027 Council District 3
- Item 2: Drewry Deck Modification Permit No. MD2015-006 (PA2015-093)  
917 W. Bay Avenue  
Action: Approved by Resolution No. ZA2015-028 Council District 1
- Item 3: 422 Heliotrope Avenue Tentative Parcel Map No. NP2015-006 (PA2015-071)  
422 Heliotrope Avenue  
Action: Approved by Resolution No. ZA2015-029 Council District 6
- Item 4: Forever Young Day Spa Minor Use Permit No. UP2015-017 (PA2015-062)  
2300 SE Bristol Street, #B  
Action: Approved by Resolution No. ZA2015-030 Council District 3
- Item 5: Annual Review of Development Agreement for North Newport Center (PA2009-023)  
North Newport Center  
Action: Receive and File Council District 6 & 7

**COMMUNITY DEVELOPMENT DIRECTOR  
OR PLANNING DIVISION STAFF ACTIONS**  
*(Non-Hearing Items)*

Item 1: Sprint Telecom Update – Staff Approval No. SA2015-005 (PA2015-060)  
3140 E. Coast Highway

Action: Approved

Council District 6

**APPEAL PERIOD:** An appeal may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

Lt. Dennis Birch, NBPD (*Telecom Permit*)  
Wendy Joe, Civilian Investigator, NBPD (*Massage Therapy*)  
Sgt. Brad Miller, NBPD (*Massage Therapy*)

## RESOLUTION NO. ZA2015-027

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT LINE ADJUSTMENT NO. LA2015-001 TO ADJUST THE BOUNDARIES OF PARCELS LOCATED AT 2616 AND 2636 BAY SHORE DRIVE (PA2015-017)**

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by the Jack and Shanaz Langson Trust, Property Owner, with respect to property located at 2616 and 2636 Bay Shore Drive, and legally described as Lot 4 in Tract 2095, in the City of Newport Beach, County of Orange, State of California, as shown on a map recorded in Book 58, Page 19 of Miscellaneous Maps, Records of Orange County, California excepting the southwesterly 22.3 feet and, Lot 5 in Tract 2095, in the City of Newport Beach, County of Orange, State of California, as shown on a map recorded in Book 58, Page 19 of Miscellaneous Maps Records of Orange County, California excepting the southwesterly 22.3 feet respectively, requesting approval of a lot line adjustment.
2. The applicant proposes to shift the interior lot line between contiguous parcels of land, to the east. The boundary adjustment will take land from 2636 Bay Shore Drive (Parcel 2), and add it to 2616 Bay Shore Drive (Parcel 1). The lot line adjustment will increase the area of Parcel 1 from 7,602 square feet to 9,804 square feet. It will reduce the area of Parcel 2 from 7,602 square feet to 5,400 square feet. The minor boundary adjustment will have no impact on access to or use of the affected properties.
3. The subject properties are located within the Single-Unit Residential (R-1) Zoning District and the General Plan Land Use Element category is Single-Unit Residential Detached (RS-D).
4. The subject properties are located within the Coastal Zone. The Coastal Land Use Plan category is Single-Unit Residential Detached (RSD-B).
5. A public hearing was held on May 28, 2015, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. The project has been reviewed, and qualifies for a Class 5 (Minor Alterations in Land Use Limitations) categorical exemption pursuant to Title 14 of the California Code of Regulations (Section 15315, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act).

2. The Class 5 exemption consists of minor alterations in land use limitations in areas with an average slope of less than 20 percent, which do not result in any changes in land use or density, including but not limited to minor lot line adjustments not resulting in the creation of any new parcel. The proposed lot line adjustment will not change the number of existing parcels, will not result in any change in use or density, and is consistent with all of the requirements of the Class 5 exemption.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 19.76.020 (Procedures for Lot Line Adjustments) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

#### Finding:

- A. *Approval of the lot line adjustment will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City, and further that the proposed lot line adjustment is consistent with the legislative intent of this title.*

#### Facts in Support of Finding:

1. The proposed lot line adjustment will not change the single-unit residential use of the lots affected, and will maintain consistency with the General Plan Land Use Designation, Single-Unit Residential Detached (RS-D), which is intended for detached single-family residential dwelling units on a single lot.
2. The proposed lot line adjustment is consistent with the purpose identified in Chapter 19.76 (Lot Line Adjustments) of the Newport Beach Municipal Code. The lot line adjustment constitutes a minor boundary adjustment involving two (2) adjacent lots where the land taken from one (1) lot is added to an adjacent lot. The original number of lots will remain unchanged after the adjustment.
3. The subdivision does not affect open space areas in the City, does not negatively impact surrounding land owners in as much as it affects an interior lot line between two (2) adjacent lots, and will not in itself be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood.
4. Public improvements and infrastructure currently exist within the neighborhood and the lot line adjustment will not result in the need for additional improvements and/or facilities.

#### Finding:

- B. *The number of parcels resulting from the lot line adjustment remains the same as before the lot line adjustment.*

Facts in Support of Finding:

1. The proposed lot line adjustment will shift the interior lot line between two (2) adjacent legal lots, taking land from Parcel 2 and adding to Parcel 1. No additional lots will result from the adjustment and the number remains the same as before the lot line adjustment.

Finding:

- C. *The lot line adjustment is consistent with applicable zoning regulations except that nothing herein shall prohibit the approval of a lot line adjustment as long as none of the resultant parcels is more nonconforming as to lot width, depth and area than the parcels that existed prior to the lot line adjustment.*

Facts in Support of Finding:

1. The proposed parcels conform with the development pattern in the area which consists of lots with varying widths. The original subdivision of the subject parcels (Tract Map 2095 dated May 7, 1954) and those within the vicinity across Bay Shore Drive (Tract Map 1102 dated October 2, 1945) created lots ranging between 40 feet and 63 feet wide. The width of proposed Parcel 1 (2616 Bay Shore Drive) will be 81.70 feet and proposed Parcel 2 (2636 Bay Shore Drive) will be 45 feet wide.
2. The depth of the resultant parcels will remain the same as the parcels that existed prior to the lot line adjustment.
3. Setbacks applicable to properties in the R-1 Zoning District shall continue to apply to the adjusted parcels in the same way that they applied to the previous parcel configuration.
4. The proposed parcels will comply with all applicable regulations of the Zoning Code and there will be no change in allowed land uses, density, or intensity on the properties.

Finding:

- D. *Neither the lots as adjusted nor adjoining parcels will be deprived of legal access as a result of the lot line adjustment.*

Facts in Support of Finding:

1. Legal access to the subject properties from Bay Shore Drive will not be affected by the lot line adjustment.

Finding:

- E. *That the final configuration of the parcels involved will not result in the loss of direct vehicular access from an adjacent alley for any of the parcels that are included in the lot line adjustment.*

Facts in Support of Finding:

1. The final configuration of the parcels involved will not result in the loss of direct vehicular access from any street for either parcel. Vehicular access to both parcels is taken from Bay Shore Drive and the final configuration will not change this.
2. There are no alleys located within or near the subject parcels.

Finding:

- F. That the final configuration of a reoriented lot does not result in any reduction of the street side setbacks as currently exist adjacent to a front yard of any adjacent key, unless such reduction is accomplished through a zone change to establish appropriate street side setbacks for the reoriented lot. The Planning Commission and City Council in approving the zone change application shall determine that the street side setbacks are appropriate, and are consistent and compatible with the surrounding pattern of development and existing adjacent setbacks.*

Facts in Support of Finding:

1. The final configuration of the parcels will not result in a requirement for revised setbacks since the lots are not proposed to be reoriented. Therefore, the lot line adjustment does not result in the reduction of any existing setbacks.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Lot Line Adjustment No. LA2015-001 (PA2015-017), subject to the conditions set forth in "Exhibit A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective ten (10) days after the adoption of this Resolution unless within such time an appeal is filed with the Director of Community Development in accordance with the provisions of Title 19 Subdivisions, of the Newport Beach Municipal Code.

**PASSED, APPROVED AND ADOPTED THIS 28<sup>th</sup> DAY OF MAY, 2015.**

  
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Brenda Wisneski, AICP, Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. Prior to release for recordation of the lot line adjustment, the applicant shall obtain a building permit to demolish or alter the residential structure on proposed Parcel 2 (2616 Bay Shore Drive). If the building is altered, the structure is required to comply with all applicable Zoning Code Development standards including but not limited to setbacks, floor area limits and building height. In either case, the building permit is required to be finalized prior to recordation of the lot line adjustment.
3. 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 Langson Lot Line Adjustment including, but not limited to, Lot Line Adjustment No. LA2015-001 (PA2015-017). 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.
4. This approval shall expire and become void unless exercised within twenty-four (24) months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.

## RESOLUTION NO. ZA2015-028

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING MODIFICATION PERMIT NO. MD2015-006 TO ALLOW A SECOND FLOOR DECK TO ENCROACH 1 FOOT INTO THE REQUIRED 10-FOOT FRONT YARD SETBACK FOR PROPERTY LOCATED AT 917 WEST BAY AVENUE (PA2015-093)

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Theresa Drewry, property owner, with respect to property located at 917 West Bay Avenue, and legally described as Lot 6 of Tract 1061 in the County of Orange, State of California, as shown on a map recorded in Book 34, Page 26 of Miscellaneous Maps, in the Office of the County Recorder of said County requesting approval of a modification permit.
2. The applicant requests approval of modification permit to allow the construction of a new cantilevered second floor deck at an existing residence that will encroach 1-foot into the required 10-foot front yard setback along West Bay Avenue.
3. The subject property is located within the Two-Unit Residential (R-2) Zoning District and the General Plan Land Use Element category is Two-Unit Residential (RT).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Two-Unit Residential – (20.0 – 29.99 DU/AC) (RT-E).
5. A public hearing was held on May 28, 2015, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Section 15301, Article 19 of Chapter 3, Guidelines for Implementation of the California environmental Quality Act) under Class 1 (Existing Facilities). This exemption includes minor additions and alterations to existing residences.

#### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.050 (Modification Permits) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The neighborhood is comprised primarily of a development pattern of two-story single family homes and duplexes.
2. The subject property and surrounding residential properties are zoned R-2 (Two-Unit Residential), which allows single and two unit residential uses.
3. The proposed remodel including the second floor deck encroachment will result in a home design similar to other homes along this block of West Bay Avenue in bulk and scale. Additionally, several homes on the same block have second floor decks or balconies that encroach into the front yard setback.
4. The overall design, based upon the proposed plans, meets residential design criteria provided within Section 20.48.180.B.2 (Design Criteria) by avoiding long unarticulated walls, providing architectural treatment of all elevations, and emphasizing the entry and window elements at the front façade.

Finding:

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

Facts in Support of Finding:

1. The existing home is built at the 10-foot front setback. The proposed project would move the second floor wall back 3 feet to provide area for the second floor deck. The requested one-foot encroachment for the cantilevered portion of the deck would provide more useable outdoor living area.
2. Increasing the scope of work by creating a 4-foot deck that complies with the 10-foot setbacks would likely require substantial upgrades to the existing foundation or a new foundation, which would increase the cost of the project and the time to complete the project.

Finding:

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

Facts in Support of Finding:

1. The principal purpose of setback standards is to provide adequate separation of buildings for light, access and ventilation. Approval of the modification permit will not significantly diminish this setback area due to the open design of the deck. Additionally the second floor deck would maintain a 9-foot setback to the front property line and the first floor would maintain the required 10-foot setback. These distances will provide separation from the public right-of-way and will achieve the intent of the zoning code.
2. Providing the additional 1-foot setback for a deck with a 4-foot depth would require an increase to the scope of the interior alterations and foundation upgrades or replacement could be required. This increase in required structural alterations presents a physical hardship that outweighs any tangible benefits to neighboring properties, particularly since the neighborhood maintains variable front setbacks and several nearby homes have legal non-conforming decks and balconies with similar front yard setback encroachments.

Finding:

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

Facts in Support of Finding:

1. The encroachment is for a second floor deck with an open railing into the front yard (street side) setback, therefore no impact to the light, air and ventilation to the neighboring properties is anticipated. Without this approval the applicant would be required to increase the scope of work to potentially include significant alteration or reconstruction of the foundation.
2. The overall design, based upon the proposed plans, meets residential design criteria provided within Section 20.48.180.B.2 (Design Criteria) by avoiding long unarticulated walls, providing architectural treatment of all elevations, and emphasizing the entry and window elements at the front façade. The architectural improvements associated with the building will result in an upgraded more architecturally attractive home.
3. The existing and proposed development will comply with all other applicable development standards including height, open volume and setbacks.

Finding:

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

Facts in Support of Finding:

1. The location and design of the deck would not significantly affect air and solar access to any adjoining property or affect public views.
2. The existing development on the property is a single-family dwelling. As such, there is no change to the density or intensity as a result of the addition.
3. The approval of this Modification Permit is conditioned such that the applicant is required to obtain all necessary permits in accordance with the Building Code and other applicable Codes. The construction will then be inspected prior to final of building permits.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Modification Permit No. MD2015-006, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen (14) days following the date this Resolution was adopted unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.

**PASSED, APPROVED AND ADOPTED THIS 28th DAY OF MAY, 2015.**



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Brenda Wisneski, AICP, Zoning Administrator

**EXHIBIT "A"**  
**CONDITIONS OF APPROVAL**

**Planning Division**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. A copy of the Resolution, including conditions of approval (Exhibit "A") shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
4. Prior to issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Modification file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Modification and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
5. The cantilevered second story deck shall maintain a minimum front setback of 9 feet. The deck rail is allowed to encroach an additional 6-inches in accordance with the standard zoning code allowance. Additionally, the deck (roof) overhang is allowed to encroach 6-inches beyond the deck rail encroachment in accordance with the standard zoning code allowance.
6. 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 Drewry Deck Modification including, but not limited to Modification No. MD2015-006 (PA2015-093). 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.

## RESOLUTION NO. ZA2015-029

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING TENTATIVE PARCEL MAP NO. NP2015-006 FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 422 HELIOTROPE AVENUE (PA2015-071)**

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Targhee Capital Advisors, LLC, an Arizona Limited Liability Company, property owner, with respect to property located at 422 Heliotrope Avenue, and legally described as Lot 8 in Block 435, of Corona del Mar, requesting approval of a tentative parcel map.
2. The applicant proposes a tentative parcel map application for two-unit condominium purposes. No exceptions to Title 19 (Subdivision Code) development standards are proposed with this application. A single-family dwelling was demolished and a new two-unit duplex is under construction. The Tentative Parcel Map would allow each unit to be sold individually.
3. The subject property is located within the Two-Unit Residential (R-2) Zoning District and the General Plan Land Use Element category is Two-Unit Residential (RT).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Two-Unit Residential (RT-D).
5. A public hearing was held on May 28, 2015, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt pursuant to the State CEQA (California Environmental Quality Act) Guidelines under Class 15 (Minor Land Divisions).
2. The Class 15 exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four (4) or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels are available, the parcel was not involved in a division of a larger parcel within the previous two (2) years, and the parcel does not have an average slope greater than 20 percent. The

Tentative Parcel Map is for condominium purposes and is consistent with all of the requirements of the Class 15 exemption.

### SECTION 3.REQUIRED FINDINGS.

The Zoning Administrator determined in this case that the Tentative Parcel Map is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code and is approved based on the following findings per Section 19.12.070 (Required Findings for Action on Tentative Maps) of Title 19:

#### Finding:

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

#### Facts in Support of Finding:

1. The Tentative Parcel Map is for two-unit residential condominium purposes. A single-family dwelling was demolished and a new two-unit duplex is under construction. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the current General Plan Land Use Designation "Two-Unit Residential."
2. The Tentative Parcel Map does not apply to any specific plan area.
3. The project has been conditioned to require public improvements, including the reconstruction of existing broken or otherwise damaged sidewalks, curbs, and gutters along the Heliotrope Avenue frontage consistent with the Subdivision Code (Title 19).

#### Finding:

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

#### Facts in Support of Finding:

1. The lot is physically suitable for two-unit development because it is regular in shape and is relatively flat.
2. The subject property is accessible from Heliotrope Avenue and the alley at the rear, and is adequately served by existing utilities.

#### Finding:

- C. *That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat. However, notwithstanding the foregoing, the decision-making*

*body may nevertheless approve such a subdivision if an environmental impact report was prepared for the project and a finding was made pursuant to Section 21081 of the California Environmental Quality Act that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.*

Facts in Support of Finding:

1. The site was developed with a single-family dwelling which was demolished, and will be replaced with a new two-unit dwelling.
2. The property is located in an urbanized area that does not contain any sensitive vegetation or habitat.
3. The project is categorically exempt under Section 15315 (Article 19 of Chapter 3), of the California Environmental Quality Act (CEQA) Guidelines – Class 15 (Minor Land Alterations).

Finding:

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

Facts in Support of Finding:

1. The Tentative Parcel Map is for residential condominium purposes. All improvements associated with the project will comply with all Building, Public Works, and Fire Codes, which are in place to prevent serious public health problems. Public improvements will be required of the developer per Section 19.28.010 (General Improvement Requirements) of the Municipal Code and Section 66411 (Local agencies to regulate and control design of subdivisions) of the Subdivision Map Act. All ordinances of the City and all Conditions of Approval will be complied with.

Finding:

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

Facts in Support of Finding:

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

Finding:

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

Facts in Support of Finding:

1. The property is not subject to the Williamson Act because the subject property is not designated as an agricultural preserve and is less than 100 acres in area.
2. The site, developed for residential use, lies in a Zoning District that permits residential uses.

Finding:

- G. That, in the case of a "land project" as defined in Section 11000.5 of the California Business and Professions Code: (1) there is an adopted specific plan for the area to be included within the land project; and (2) the decision-making body finds that the proposed land project is consistent with the specific plan for the area.*

Facts in Support of Finding:

1. The property is not a "land project" as defined in Section 11000.5 of the California Business and Professions Code because the existing subdivision does not contain 50 or more parcels.
2. The project is not located within a specific plan area.

Finding:

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

Facts in Support of Finding:

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

Finding:

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

Facts in Support of Finding:

1. The proposed two-unit dwelling is consistent with the R-2 Zoning District which allows two residential units on the property. Therefore, the Tentative Parcel Map for condominium purposes will not affect the City in meeting its regional housing need.

Finding:

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

Facts in Support of Finding:

1. The new two-unit dwelling will be designed so that wastewater discharge into the existing sewer system complies with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

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

Facts in Support of Finding:

1. The Tentative Parcel Map is for a two-unit dwelling. The proposed subdivision and improvements are consistent with the Coastal Land Use Plan designation RT-D (Two-Unit Residential).

2. The subject property conforms to public access policies of Chapter Three of the Coastal Act because the development does not impede public access from the nearest public roadway to the shoreline and along the coast.
3. Recreation policies contained within Chapter Three of the Coastal Act are not applicable to the subject property.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2015-006, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective ten (10) days after the adoption of this Resolution unless within such time an appeal is filed with the Director of Community Development in accordance with the provisions of Title 19 Subdivisions, of the Newport Beach Municipal Code.

**PASSED, APPROVED AND ADOPTED THIS 28<sup>TH</sup> DAY OF MAY, 2015**



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Brenda Wisneski, AICP, Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

1. A Parcel Map shall be recorded. The Map shall be prepared on the California coordinate system (NAD88). Prior to recordation of the Map, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach a digital-graphic file of said map in a manner described in Section 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. **The map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.**
2. Prior to recordation of the Parcel Map, the surveyor/engineer preparing the Map shall tie the boundary of the Map into the Horizontal Control System established by the County Surveyor in a manner described in 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.
3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. Prior to the recordation of the Parcel Map, park dedication fees for one (1) additional dwelling unit shall be paid consistent with the fee amount in effect at the time of payment as established by the City of Newport Beach Municipal Code.
5. No aboveground improvements shall be located within the 5-foot rear alley setback.
6. The applicant shall reconstruct the existing broken and/or otherwise damaged concrete sidewalk panels, curb and gutter along the Heliotrope Avenue frontage.
7. Heliotrope Avenue is part of the City's Moratorium List. Work performed on said roadway will require additional surfacing requirements pursuant to City Standard 105-L-F.
8. All existing private, non-standard improvements within the public right-of-way and/or extensions of private, non-standard improvements into the public right-of-way fronting the development site shall be removed.
9. Each unit shall be served by its individual water meter and sewer lateral and cleanout. Each water meter and sewer cleanout shall be installed with a traffic grade box and cover. The water meter and sewer cleanout shall be located within the public-right-of-way.
10. An encroachment permit is required for all work activities within the public right-of-way.

11. All improvements shall comply with the City's sight distance requirement pursuant to City Standard 110-L and Municipal Code Section 20.30.130.
12. 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.
13. All on-site drainage shall comply with the latest City water quality requirements.
14. All unused water services to be abandoned shall be capped at the main (corporation stop) and all unused sewer laterals to be abandoned shall be capped at the property line. If the sewer lateral to be abandoned has an existing cleanout, abandonment shall include removal of the cleanout riser, the 4TT box and the wye. Sewer lateral shall then be capped where the wye was previously.
15. Pursuant to Chapter 13 of the Municipal Code, one (1) 36-inch box Magnolia Grandiflora ('Little Gem' Magnolia) street tree shall be planted along the Heliotrope Avenue frontage.
16. Subsequent to the recordation of the Parcel Map, the applicant shall apply for a building permit for description change of the subject project development from "duplex" to "condominium." **The development will not be condominiums until this permit is finalized.** The building permit for the new construction shall not be finalized until after recordation of the Parcel Map.
17. This approval shall expire and become void unless exercised within twenty-four (24) months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.
18. 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 422 Heliotrope Avenue Tentative Parcel Map, including, but not limited to, NP2015-006 (PA2015-071). 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.

## RESOLUTION NO. ZA2015-030

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2015-017 FOR A DAY SPA (PERSONAL SERVICES, RESTRICTED) LOCATED AT 2300 BRISTOL STREET, SUITE B (PA2015-062)**

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Teresa Woodard, with respect to property located at 2300 Bristol Street, and legally described as Parcel 2, in the City of Newport Beach, County of Orange, State of California, as shown on a map filed in Book 62, Page 2 of Parcel Maps, in the office of the county recorder of said County requesting approval of a minor use permit.
2. The applicant proposes a minor use permit to allow the operation of a day spa (Personal Services, Restricted) within an existing commercial building. The spa will offer various spa services including ancillary massage. The tenant space is 1,100 square feet and includes a waiting room, reception area, office, treatment rooms and a restroom.
3. The subject property is located within the Santa Ana Heights Specific Plan (SP-7) Zoning District and the General Plan Land Use Element category is General Commercial (GC).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on May 28, 2015 in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt pursuant to Title 14 of the California Code of Regulations (Section 15301, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act) under Class 1 (Existing Facilities).
2. This Class 1 exemption authorizes minor alterations to existing structures involving negligible or no expansion of use. The proposed project involves the conversion of a vacant office space to a day spa and does not involve any alterations to the existing floor plan.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020 (Conditional Use Permits and Minor Use Permits) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The property is designated General Commercial (CG) within the Land Use Element of the General Plan which is intended to provide for a wide variety of commercial activities oriented primarily to serve citywide or regional needs.
2. The proposed day spa is consistent with the CG designation as it will provide services that support the surrounding neighborhood as well as visitors to the area.
3. The property is located in the Santa Ana Heights Specific Plan, specifically in the General Commercial area, which allows personal service uses such as the day spa use.

Finding:

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

Facts in Support of Finding:

1. The property is located within the Santa Ana Heights Specific Plan (SP-7) and is located within the SP-7 General Commercial (GC) District which provides regulations for the commercial areas along Bristol Street and is intended to ensure the continuation of commercial uses that offer a wide range of goods and services to the surrounding residential and business communities.
2. The principal use of the tenant space will be for a day spa offering facials, airbrush tanning, eyelash extensions, body wraps, chemical peels, microdermabrasion, an infrared sauna and waxing services with ancillary massage and ancillary medical day spa services of laser hair removal and Botox. Pursuant to Zoning Code Chapter 20.70 (Definitions), a day spa is classified as a Personal Services, Restricted land use which may be permitted within the SP-7 GC Zoning District subject to the approval of a minor use permit.
3. A medical use is not permitted within the SP-7 GC Zoning District; however, the medical services are only day spa related (laser hair removal and Botox) and are ancillary to the day spa use.

4. The parking requirement for a Personal Services, Restricted use is the same standard required of a general commercial/retail use (1 space per 250 square feet). Therefore, the proposed conversion of the commercial space into a day spa does not result in an intensification of use and no additional parking is required.
5. As conditioned, the proposed use will comply with all other applicable provisions of the Zoning Code and Municipal Code.

Finding:

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

Facts in Support of Finding:

1. The proposed day spa will occupy a 1,100-square-foot tenant space in an existing one-story commercial building. The operation will consist of four (4) treatment rooms, a lobby, reception, an office, laundry room and restroom, all of which are included in the existing commercial space.
2. The project site and surrounding area consist of a mixture of general commercial uses including personal services general, retail, and eating and drinking establishments which serve residents in and visitors to the City of Newport Beach. The proposed day spa will provide a service that supports residents and visitors, consistent with existing and permitted uses in the area.
3. The proposed day spa will not require additional parking on-site.
4. As conditioned, the allowed hours of operation are 8:00 a.m. to 9:00 p.m., daily, limiting any potential late night/early morning land use conflicts with nearby land uses.

Finding:

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

Facts in Support of Finding:

1. The existing one-story commercial building and surface parking lot were constructed around 1975 and have since demonstrated that the current configuration with access taken from Bristol Street is physically suitable to accommodate the multiple commercial uses.
2. Adequate public and emergency vehicle access, public services, and utilities are provided on the property and the proposed day spa will not change this.

Finding:

- E. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding:

1. The use is intended to serve residents and visitors to the City of Newport Beach.
2. The day spa has been conditioned with hours of operation that will minimize any potential detriment to the area.
3. The proposal has been reviewed by the Building and Code Enforcement Divisions, Public Works, Fire, and Police Departments, and recommended conditions of approval have been included to limit any detriment to the City or general welfare of persons visiting or working in the surrounding neighborhood.

In accordance with Section 20.48.120.B (Massage Establishments and Services – Waiver of Location Restrictions) of the Newport Beach Municipal Code, the following findings and facts in support of such findings for a Minor Use Permit are set forth:

Finding:

- F. The proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this section will be observed.*

Facts in Supporting of Finding:

1. The intent of the section is to promote the operation of legitimate massage services and to prevent problems of blight and deterioration, which accompany and are brought about by large numbers of massage establishments that may act as fronts for prostitution and other illegal activity.
2. The proposed day spa with ancillary massage services is not located within 500 feet of another establishment offering massage. Permit records indicate that the closest massage establishment is more than 1,500 feet away on Birch Street.
3. A condition of approval is included to ensure the applicant will obtain an Operator's License from the Newport Beach Police Department in compliance with Chapter 5.50 (Massage Establishments) of the Newport Beach Municipal Code prior to continuation of the business.

Finding:

- G. *The proposed use will not enlarge or encourage the development of an urban blight area.*

Facts in Supporting of Finding:

1. The proposed use is located in a single tenant space within a managed, multi-tenant commercial building which will prevent problems and discourage the development of blight. The subject property is not located within a blighted area, is well maintained, and is intended to provide a service that supports the surrounding residents and visitors to Newport Beach.

Finding:

- H. *The proposed use will not adversely affect a religious institution, school, park, or playground.*

Facts in Supporting of Finding:

1. The proposed use is located adjacent to nonresidential and residential uses. There are no public or private schools, parks, playgrounds, or religious institutions within 500 feet of the subject property.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2015-017, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen (14) days following the date this Resolution was adopted unless within such time an appeal is filed with the Community Development Director in accordance with the provisions of Title 20 (Planning and Zoning), of the Newport Beach Municipal Code.

**PASSED, APPROVED, AND ADOPTED THIS 28<sup>th</sup> DAY OF MAY, 2015.**

  
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Brenda Wisneski, AICP, Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. The hours of operation shall be limited to between 8:00 a.m. and 9:00 p.m., daily.
3. The applicant is required to obtain an Operator's Permit from the Newport Beach Police Department in compliance with Chapter 5.50 (Massage Establishments) of the Newport Beach Municipal Code prior to the continuation of their business.
4. All employees of the business performing massage must be certified by the California Massage Therapy Council (CMTC).
5. The applicant is required to obtain a valid business license from the City's Revenue Division prior to the start of business.
6. The operation of an independent massage business is not permitted unless an amendment to this Minor Use Permit or a new Use Permit is first approved.
7. Only medical day spa related uses as ancillary to the day spa are permitted such as the laser hair removal and the Botox. Expansion of the medical day spa uses beyond ancillary or the addition of any medical uses are not permitted as medical is not a permitted use within the SP-7 GC Zoning District.
8. All proposed signs shall be in conformance with provisions of Chapter 20.42 (Signs) of the Newport Beach Municipal Code.
9. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Minor Use Permit.
10. This Minor Use Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
11. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Minor Use Permit or the processing of a new Use Permit.

12. A copy of the Resolution, including conditions of approval (Exhibit "A") shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
13. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department.
14. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
15. Trash receptacles for patrons shall be conveniently located both inside and outside the establishment, however, not located on or within any public property or right-of-way.
16. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
17. Storage outside the building, in the front or at the rear of the property, shall be prohibited, with the exception of the required trash container enclosure.
18. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
19. This approval shall expire and become void unless exercised within twenty-four (24) months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code.
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 Forever Young Day Spa including, but not limited to, UP2015-017 (PA2015-062). 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.



COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION

3300 Newport Boulevard, Building C, Newport Beach, CA 92663

(949) 644-3200 Fax: (949) 644-3229

[www.newportbeachca.gov](http://www.newportbeachca.gov)

**VIA EMAIL**

May 28, 2015

Irvine Company  
Dan Miller  
550 Newport Center Drive  
Newport Beach, CA 92660  
DMiller@irvinecompany.com

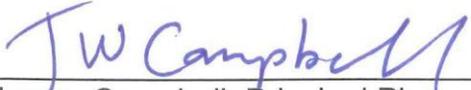
RE: Development Agreement Annual Review 2014 (PA2009-023)

Dear Mr. Miller,

On May 28, 2015, the Zoning Administrator held a noticed public hearing on the required annual review of the Development Agreement between the City of Newport Beach and Irvine Company. The Zoning Administrator found that Irvine Company was in good faith compliance with the terms of the Development Agreement. The approved minutes of the May 28, 2015 meeting will be available online after June 11, 2015 at the following link: <http://newportbeachca.gov/ZoningAdministrator>. Given this determination, the Development Agreement remains in effect and Irvine Company is not presently in default.

Should you have any questions regarding the Annual Review 2014 or this letter, please contact me at 949-644-3227 or [fnueno@newportbeachca.gov](mailto:fnueno@newportbeachca.gov).

Sincerely,

  
James Campbell, Principal Planner

JC/fn

c: CAA Planning, Inc.  
Shawna Schaffner  
65 Enterprise, Suite 130  
Aliso Viejo, CA 92656  
SSchaffner@caaplanning.com



## COMMUNITY DEVELOPMENT DEPARTMENT

### PLANNING DIVISION

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## **WIRELESS TELECOMMUNICATIONS FACILITIES** **ZONING CLEARANCE**

**APPLICATION:** Staff Approval No. SA2015-005 (PA2015-060)  
**APPLICANT:** Sprint Nextel  
**CARRIER:** Sprint Nextel  
**LOCATION:** 3140 E. Coast Highway  
**LEGAL DESCRIPTION** Parcel 1 of Resubdivision No. 582

### **DIRECTOR'S ACTION**

On **May 29, 2015**, the Community Development Director approved Staff Approval No. SA2015-005 for a wireless telecommunications facility. Pursuant to Section 20.49.060 of the Newport Beach Municipal Code (NBMC), the Community Development Director may authorize construction of a Class 1 (Stealth/Screened) telecommunications facility through an administrative review. This approval is based on the findings and subject to standard requirements attached (Attachment No. CD 1).

In approving this application, the Community Development Director analyzed issues regarding compliance with NBMC Chapter 20.49 and determined that, in this case, the proposed wireless telecommunications facility ("telecom facility") meets the provisions of Chapter 20.49.

### **PROJECT SUMMARY**

Sprint Nextel has submitted an application requesting to modify an existing telecom facility located on the roof of a single-story commercial building currently occupied by Hobie Surf Shop. The existing telecom facility consists of eight antennas in an existing roof sign and two antennas mounted to the exterior façade of the building. The existing support equipment is located on the roof behind a parapet wall and within an existing equipment shelter at the ground level. Surrounding land uses include retail and a health/fitness facility to the north, residential dwellings to the east and south, and a retail hardware store to the south across East Coast Highway.

The proposal is to remove the roof sign and relocate the existing telecom facility behind a new roof mounted screen wall constructed with fiber reinforced plastic (FRP), a transparent material painted and textured to match the color and material of the existing building façade. The screen wall would extend to a height of 37 feet and will not exceed the maximum height allowed by the Zoning Code within the Commercial Corridor (CC)

Zoning District. The relocated telecom facility will contain three sectors, each consisting of two antennas and three remote radio units (RRU's). The existing ground level equipment shelter would remain unchanged. Photographic visual simulations depicting the existing and proposed conditions of the site are provided (Attachment No. CD 4).

### **ZONING DISTRICT/GENERAL PLAN**

- **Zone:** CC (Commercial Corridor)
- **General Plan:** CC (Corridor Commercial)

### **BACKGROUND**

On January 10, 2013, Telecommunications Permit No. TP2012-013 (PA2012-128) was approved by the Community Development Director to modify an existing roof mounted telecom facility. The approval permitted the replacement of three antennas and one GPS antenna, upgrades to three equipment cabinets, the addition of three Remote Radio Heads (RRH), and the addition of fiber backhaul equipment and associated cables. At the time of approval Sprint Nextel collocated with Metro PCS.

On July 19, 2013, modifications to the telecom facility were completed with a total of eight antennas in the roof sign, two antennas mounted to the façade of the building, and three RRH's on the roof behind the parapet wall.

On March 4, 2015, demolition of the Metro PCS telecom facility and all associated equipment was completed.

### **ENVIRONMENTAL REVIEW**

This project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15303 Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment. Class 3 allows construction of new, small facilities or structures and installation of small new equipment and facilities in small structures. An example of this exemption includes up to four commercial buildings totaling 10,000 square feet and accessory structures. In this case, the proposed project involves the removal and relocation of an existing telecom facility behind a new screen wall on the roof of an existing commercial building.

### **APPEAL PERIOD**

Telecommunications Facility applications do not become effective until 14 days after the date of action, during which time the applicant or any interested party may appeal the decision of the Community Development Director and division staff to the City Council by submitting a written appeal application to the City Clerk. For additional information on filing an appeal, contact the City Clerk at 949-644-3005.

On behalf of Kimberly Brandt, Community Development Director

By:



---

Jason Van Patten, Assistant Planner

JM/jvp

Attachments: CD 1 Findings and Conditions of Approval  
CD 2 Vicinity Map  
CD 3 Applicant's Project Description  
CD 4 Photographic Simulations  
CD 5 Project Plans

# **Attachment No. CD 1**

Findings and Conditions of Approval

**FINDINGS AND CONDITIONS OF APPROVAL  
STAFF APPROVAL NO. SA2015-005 (PA2015-060)**

**REQUIRED FINDINGS**

In accordance with Section 20.49.060.H.1 (Permit Review Procedures – Required Findings for Telecom Facilities) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for telecommunication facilities are set forth:

Finding:

- A. *The proposed telecom facility is visually compatible with the surrounding neighborhood.*

Facts in Support of Findings:

1. The existing telecom facility will be relocated and concealed behind a new roof mounted screen wall that will match the existing architectural style, color and materials of the building on which it is mounted.
2. The proposed facility will complement the existing building and will not appear out of scale with surrounding developments. The proposed screen wall will be set back from the roof edge to lessen the visual massing from the street and adjacent properties.

Finding:

- B. *The proposed telecom facility complies with height, location and design standards, as provided in Chapter 20.49.*

Facts in Support of Findings:

1. As proposed, the telecom facility is a Class 1 (Stealth/Screened) installation as defined in the Zoning Code. The telecom facility is fully screened behind new screen walls that will be painted and textured to match the existing architectural style, color, and materials of the building façade.
2. The proposed telecom facility is in harmony and is consistent in scale with the surrounding area and will not obstruct public views or have a negative visual impact on nearby property owners, residents, and businesses.
3. All proposed antennas, support equipment, and associated screening will comply with the maximum height limit applicable to the property and will peak at a lower height than the existing telecom facility. The maximum height proposed is 37 feet, which is below the 50-foot maximum height limit allowed in the Commercial Corridor (CC) Zoning District.

Finding:

- C. *An alternative site(s) located further from a residential district, public park or public facility cannot feasibly fulfill the coverage needs fulfilled by the installation at the proposed site.*

Facts in Support of Findings:

1. The proposal is to relocate the existing telecom facility behind a new screen wall on the same property. Alternative sites located further away from nearby residential uses and public facilities would limit the coverage objectives and not fulfill the needs addressed by the telecom facility.
2. Selecting an alternative site would require the elimination of the existing facility and relocation off site, which limits Sprint Nextel from providing uninterrupted service to residential and business customers in the area.

Finding:

- D. *An alternative plan that would result in a higher preference facility class category for the proposed facility is not available or reasonably feasible and desirable under the circumstances.*

Facts in Support of Findings:

1. Section 20.49.040 of the Municipal Code lists four preferred telecom locations from the most preferred to the least. Co-location of a new facility at an existing facility is the first preference for facilities. This proposal is not a new facility, but a modification to an existing telecom facility.
2. As proposed, the telecom facility is considered a Class 1 (Stealth/Screened) installation, which is the second preferred location. The antennas will be stealth, concealed behind screening that will match the existing architectural style, color, and materials of the building façade on which it is mounted. All other support equipment will be screened behind an existing parapet wall and within a ground level equipment shelter and will not be visible.

**CONDITIONS**

1. The development shall be in substantial conformance with the approved plot plan, antenna and equipment plans, elevations, and photographic visual simulations, except as noted in the following conditions.
2. Telecommunications Permit No. TP2012-013 shall become null and void upon vesting of the rights authorized by Staff Approval No. SA2015-005.

3. The telecom facility approved by the Staff Approval shall comply with all applicable rules, regulations, and standards of the Federal Communications Commission (FCC) and the California Public Utilities Commission (CPUC).
4. The applicant is required to obtain all applicable permits from the City Building Division and Fire Department. Prior to the issuance of any building, mechanical, and/or electrical permits, architectural drawings and structural design plans shall be submitted to the City of Newport Beach for review and approval by the applicable departments. A copy of these conditions of approval shall be incorporated into the drawings approved for the issuance of permits.
5. The telecom facility shall comply with all regulations and requirements of the California Building Code, California Fire Code, California Mechanical Code, and California Electrical Code. All required permits shall be obtained prior to commencement of the construction.
6. The telecom facility approved by the Staff Approval shall comply with any easements, covenants, conditions, or restrictions on the underlying real property upon which the facility is located.
7. Anything not specifically approved by this Staff Approval is not permitted and must be addressed in a separate and subsequent review.
8. If any of the existing public improvements surrounding the site are damaged by the private work, new concrete sidewalk, curb and gutter, alley/street pavement, and other public improvements will be required by the City at the time of private construction completion. Said determination and the extent of the repair work shall be made at the discretion of the Public Works Inspector.
9. The storage of all project related equipment during construction shall be on-site and outside the public right-of-way.
10. An approved encroachment permit is required for all work activities within the public right-of-way.
11. All work in the public right-of-way shall follow City's Municipal Code Chapter 13.20 (Public Right-of-Way).
12. Battery electrolyte capacity and the number of proposed batteries for each cabinet shall be disclosed at plan review. Storage of batteries must comply with California Fire Code Section 608, Stationary Storage Battery Systems.
13. Emergency access to the equipment area shall be provided and shall be disclosed at plan review.

14. A fire extinguisher with a minimum size of 2A20 BC shall be required within 50 feet of the equipment storage area.
15. The applicant shall not prevent the City of Newport Beach from having adequate spectrum capacity on the City's 800 MHz radio frequencies at any time.
16. The facility shall transmit at the approved frequency ranges established by the FCC. The applicant shall inform the City in writing of any proposed changes to the frequency range in order to prevent interference with the City's Public Safety radio equipment.
17. Should interference with the City's Public Safety radio equipment occur, use of the telecom facility authorized by this permit may be suspended until the radio frequency interference is corrected and verification of the compliance is reported.
18. The applicant recognizes that the frequencies used by the cellular facility located at 3140 E. Coast Highway are extremely close to the frequencies used by the City of Newport Beach for public safety. This proximity will require extraordinary "comprehensive advanced planning and frequency coordination" engineering measures to prevent interference, especially in the choice of frequencies and radio ancillary hardware. This is encouraged in the "Best Practices Guide" published by the Association of Public-safety Communications Officials-International, Inc. (APCO), and as endorsed by the Federal Communications Commission (FCC).
19. The applicant shall provide a "single point of contact" for Sprint Nextel in its Engineering and Maintenance Departments that is monitored twenty (24) hours per day to ensure continuity on all interference issues, and to which interference problems may be reported. The name, telephone number, fax number, and e-mail address of that person shall be provided to the Community Development Department and Newport Beach Police Department's Support Services Commander prior to activation of the facility.
20. Appropriate information warning signs or plates shall be posted at the access locations and each transmitting antenna. In addition, contact information (e.g., a telephone number) shall be provided on the warning signs or plates. The location of the information warning signs or plates shall be depicted on the plans submitted for construction permits.
21. No advertising signage or identifying logos shall be displayed on the telecom facility except for small identification, address, warning, and similar information plates. A detail of the information plates depicting the language on the plate shall be included in the plans submitted for issuance of building permits.
22. The telecom facility shall not be lighted except as deemed necessary by the Newport Beach Police Department for security lighting or proper maintenance of light on a United States flag in accordance with the U.S Flag Code (4 U.S.C. § 1,

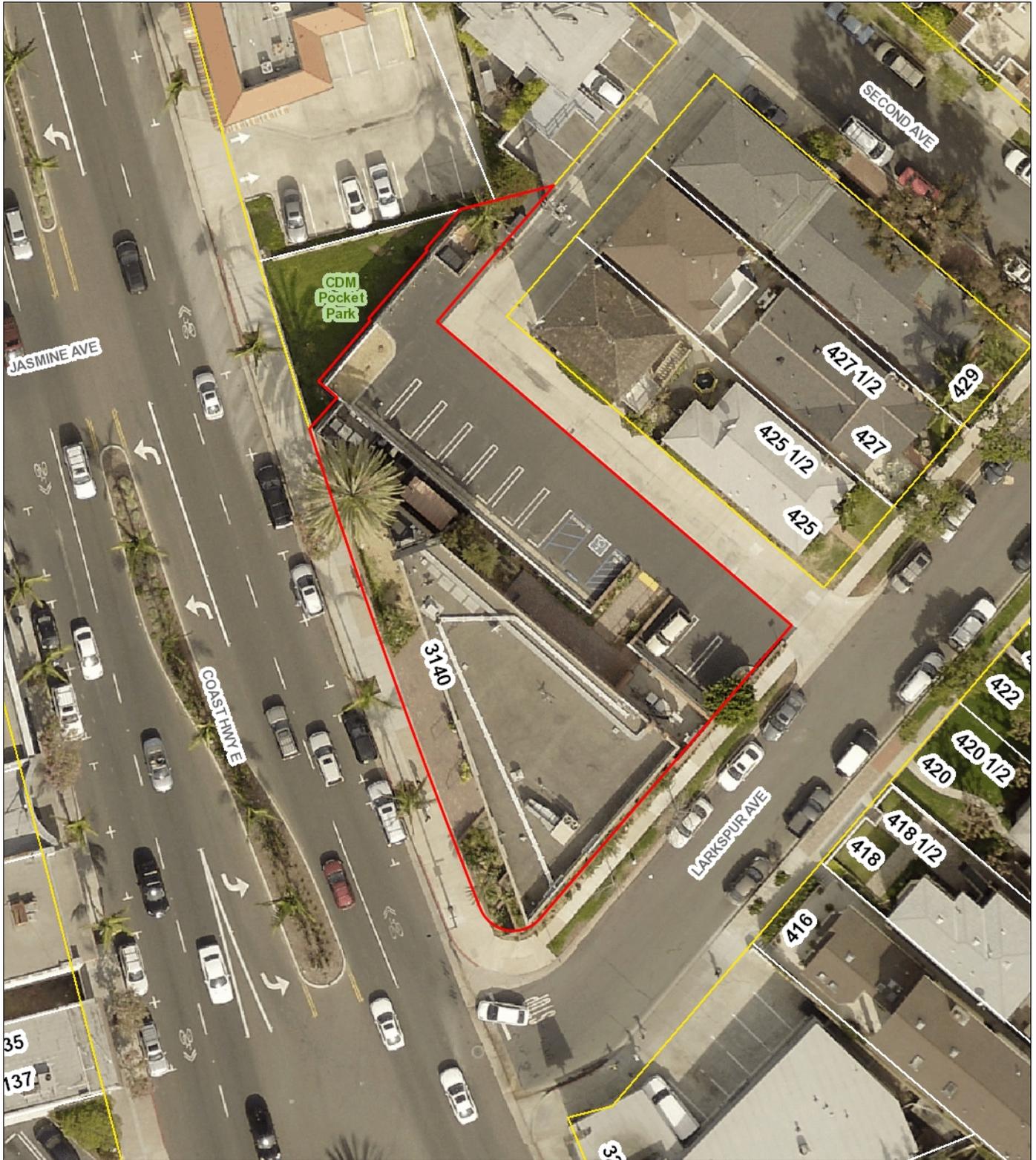
*et seq.*). The night lighting shall be at the lowest intensity necessary for that purpose and such lighting shall be shielded so that direct rays do not shine on nearby properties. Prior to the final of building permits, the applicant shall schedule an evening inspection with the Code Enforcement Division to confirm compliance with this condition.

23. The operator of the telecom facility shall maintain the facility in a manner consistent with the original approval of the facility.
24. At all times, the operator for Sprint Nextel shall ensure that its telecom facilities comply with the most current regulatory, operations standards, and radio frequency emissions standards adopted by the FCC. The operator shall be responsible for obtaining and maintaining the most current information from the FCC regarding allowable radio frequency emissions and all other applicable regulations and standards. Said information shall be made available by the operator upon request at the discretion of the Community Development Director.
25. Prior to final of building permits, the applicant shall schedule an inspection with the Planning Division to ensure materials and colors match existing architecture as illustrated in the approved photographic simulations and in conformance with Municipal Code Section 20.49.050, to the satisfaction of the Planning Division.
26. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the applicant, current property owner, or leasing agent.
27. The applicant shall ensure that lessee or other user(s) shall comply with the terms and conditions of this permit, and shall be responsible for the failure of any lessee or other users under the control of the applicant to comply.
28. Any operator who intends to abandon or discontinue use of a telecom facility must notify the Planning Division by certified mail no less than thirty (30) days prior to such action. The operator or property owner shall have ninety (90) days from the date of abandonment or discontinuance to reactivate use of the facility, transfer the rights to use the facility to another operator, or remove the telecom facility and restore the site.
29. The City reserves the right and jurisdiction to review and modify any telecom facility approved pursuant to Chapter 20.49 of the Newport Beach Municipal Code, including the conditions of approval, based on changed circumstances. The operator shall notify the Planning Division of any proposal to change the height or size of the facility; increase the size, shape, or number of antennas; change the facility's color or materials or location on the site; or increase the signal output above the maximum permissible exposure (MPE) limits imposed by the radio frequency emissions guidelines of the FCC. Any changed circumstance shall require a separate review and approval by the Planning Division.

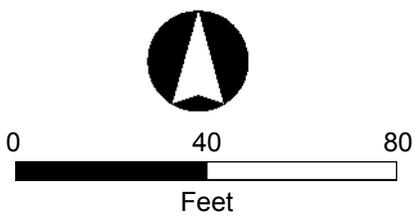
30. This Staff Approval may be modified or revoked by the Community Development Director upon determination that the facility or operator has violated any law regulating the telecom facility or has failed to comply with the requirements of Chapter 20.49 of the NBMC, or this Telecom Permit.
31. This approval shall expire unless exercised within twenty-four (24) months from the date of approval.
32. 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 Sprint Nextel Telecom Update including, but not limited to Staff Approval No. SA2015-005 (PA2015-060). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

# **Attachment No. CD 2**

Vicinity Map



Newport  
Beach  
GIS



Disclaimer: Every reasonable effort has been made to assure the accuracy of the data provided, however, The City of Newport Beach and its employees and agents disclaim any and all responsibility from or relating to any results obtained in its use.

Imagery: 2009-2013 photos provided by Eagle Imaging [www.eagleaerial.com](http://www.eagleaerial.com)

# **Attachment No. CD 3**

Applicant's Project Description

## Sprint Nextel antenna relocation

3140 East Coast Highway, Corona Del Mar / City of Newport Beach

Sprint Nextel proposes the existing antenna panels to be relocated behind a proposed roof top screen wall at the building located at 3140 East Coast Highway, in the City of Newport Beach. The existing facility consists of 10 panel antennas; 8 mounted within an existing building roof top sign and 2 panels located on the façade of the existing building. In light of the Sign Ordinance and abatement of building roof signage along this portion of the corridor, the antenna panels contained within the building sign need to be relocated. Therefore, Sprint proposes to construct a roof top screen wall to hide all antenna panels and screen the installation from public view.

The proposed antenna removal and relocation consists of removing all existing antenna panels contained within the building roof top sign as well as existing building façade mounted panels. All Sprint panels will be relocated behind the proposed roof top screen wall. The proposed roof mounted screening is set back from the building edge to lessen the addition of the screen wall material. The screen wall is so designed to match the existing buildings color, material and appearance. Once installed, all relocated panels will be virtually unnoticeable to surrounding properties.

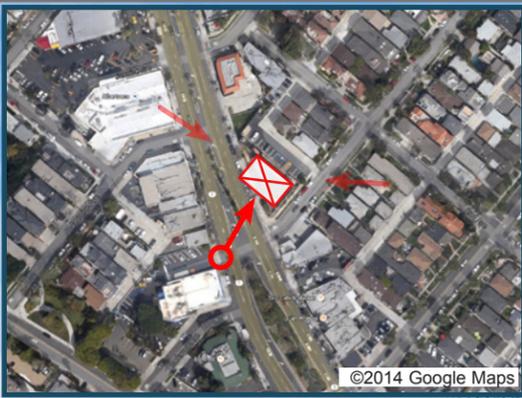
The existing facility has been in operation since 2000 and is located at the northeast corner of Pacific Coast Highway and Larkspur Avenue. The site is surrounded by commercial property to the north, west and south across Pacific Coast Highway. Residential property lies to the east of the building across the property parking lot. Given the location and screening of the wireless facility within the new building's roof top screen wall and distance to neighboring properties, the antenna relocation will be virtually unnoticeable to the general public and will not visually impact the surrounding community.

The related support ground mounted equipment is located within an equipment enclosure. The equipment will remain unchanged with this proposal and the lease area will remain unchanged.

The existing facility has been operating at the current location for the past several years and provides much needed wireless service to the surrounding community, businesses and the general public traveling through the area. The existing facility is adapted to the commercial retail setting with the installation located behind the roof top screen wall parapet along with the related antennas screened from view.

# **Attachment No. CD 4**

Photographic Simulations



©2014 Google Maps

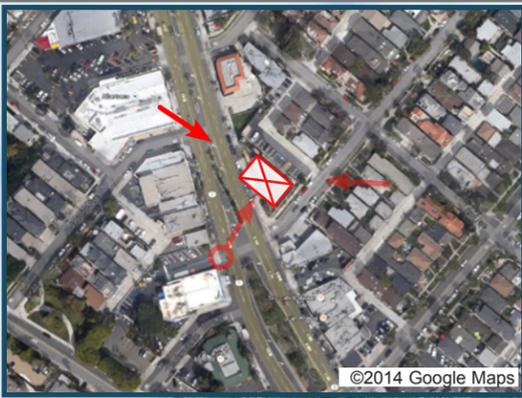


EXISTING



PROPOSED

LOOKING NORTHEAST FROM PACIFIC COAST HIGHWAY

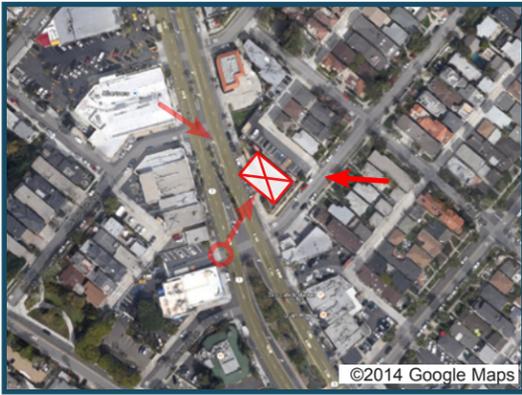


EXISTING



PROPOSED

LOOKING SOUTHEAST FROM PACIFIC COAST HIGHWAY



EXISTING



PROPOSED LOOKING WEST FROM LARKSPUR AVENUE

# **Attachment No. CD 5**

Project Plans



**DCI PACIFIC**

A|E|C WORKS

ARCHITECTURE | ENGINEERING | CONSULTING  
32 EXECUTIVE PARK | SUITE 110  
IRVINE | CA 92614



330 COMMERCE, SUITE 100, IRVINE, CA 92602  
PHONE: (714) 368-3500 FAX: (714) 368-3501

PROJECT IDENTIFICATION:

**CORONA DEL MAR**  
**OG03XC167**

3140 EAST COAST HWY.  
CORONA DEL MAR, CA 92625

CURRENT ISSUE DATE:

**02/17/15**

ISSUED FOR:

**ZD**

**APPROVALS:**

APPROVED BY:	INITIALS:	DATE:
LANDLORD		
LEASING		
ZONING		
RF		
CM		

DRAWN BY:	CHK:	APV:
HH	BOK	DKD

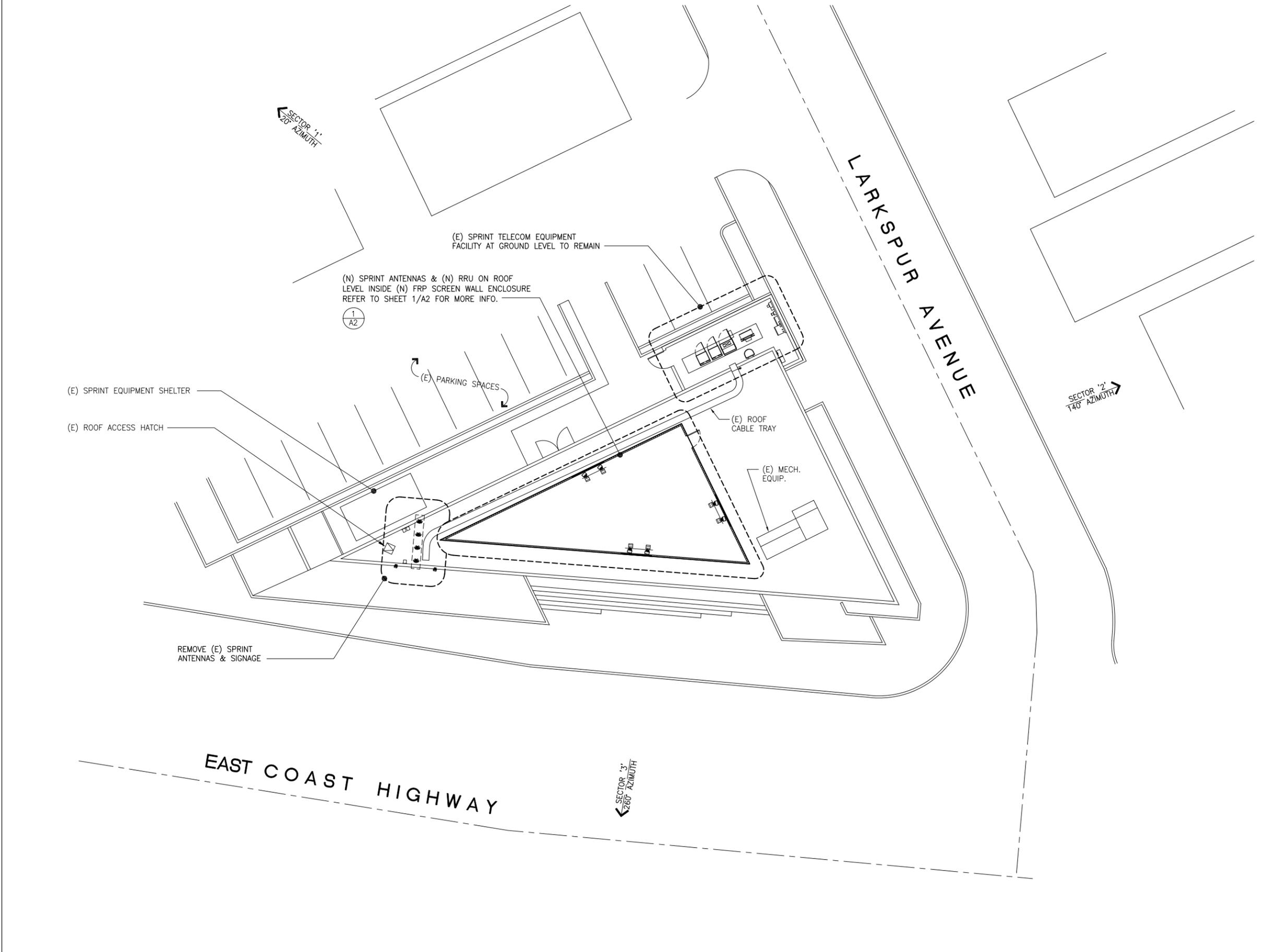
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02/17/15	90% ZD	HH
03/06/15	100% ZD	HH
04/06/15	CITY COMMENTS	HH
04/20/15	CITY COMMENTS	HH

SHEET TITLE:  
**SITE PLAN / ROOF PLAN**

SHEET NUMBER:  
**A1**

ISSUE LEVEL:  
CORONA DEL MAR  
OG03XC167



**SITE PLAN / ROOF PLAN**

SCALE: 1"=10'  
0 2' 5' 10'

NOTE: THIS BORDER AND TITLE BLOCK HAS BEEN REVIEWED AND APPROVED FOR USE ON ALL NEXTEL JOBS BY D.K. EFFECTIVE 02/24/00 (DKD/pd).

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A|E|C WORKS

ARCHITECTURE | ENGINEERING | CONSULTING  
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IRVINE | CA 92614

**Sprint**

330 COMMERCE, SUITE 100, IRVINE, CA 92602  
PHONE: (714) 368-3500 FAX: (714) 368-3501

PROJECT IDENTIFICATION:

**CORONA DEL MAR**  
**OG03XC167**

3140 EAST COAST HWY.,  
CORONA DEL MAR, CA 92625

CURRENT ISSUE DATE:

**02/17/15**

ISSUED FOR:

**ZD**

**APPROVALS:**

APPROVED BY:	INITIALS:	DATE:
LANDLORD		
LEASING		
ZONING		
RF		
CM		

DRAWN BY:	CHK:	APV:
HH	BOK	DKD

**ISSUE STATUS:**

DATE:	DESCRIPTION:	BY:
02/17/15	90% ZD	HH
03/06/15	100% ZD	HH
04/06/15	CITY COMMENTS	HH
04/20/15	CITY COMMENTS	HH

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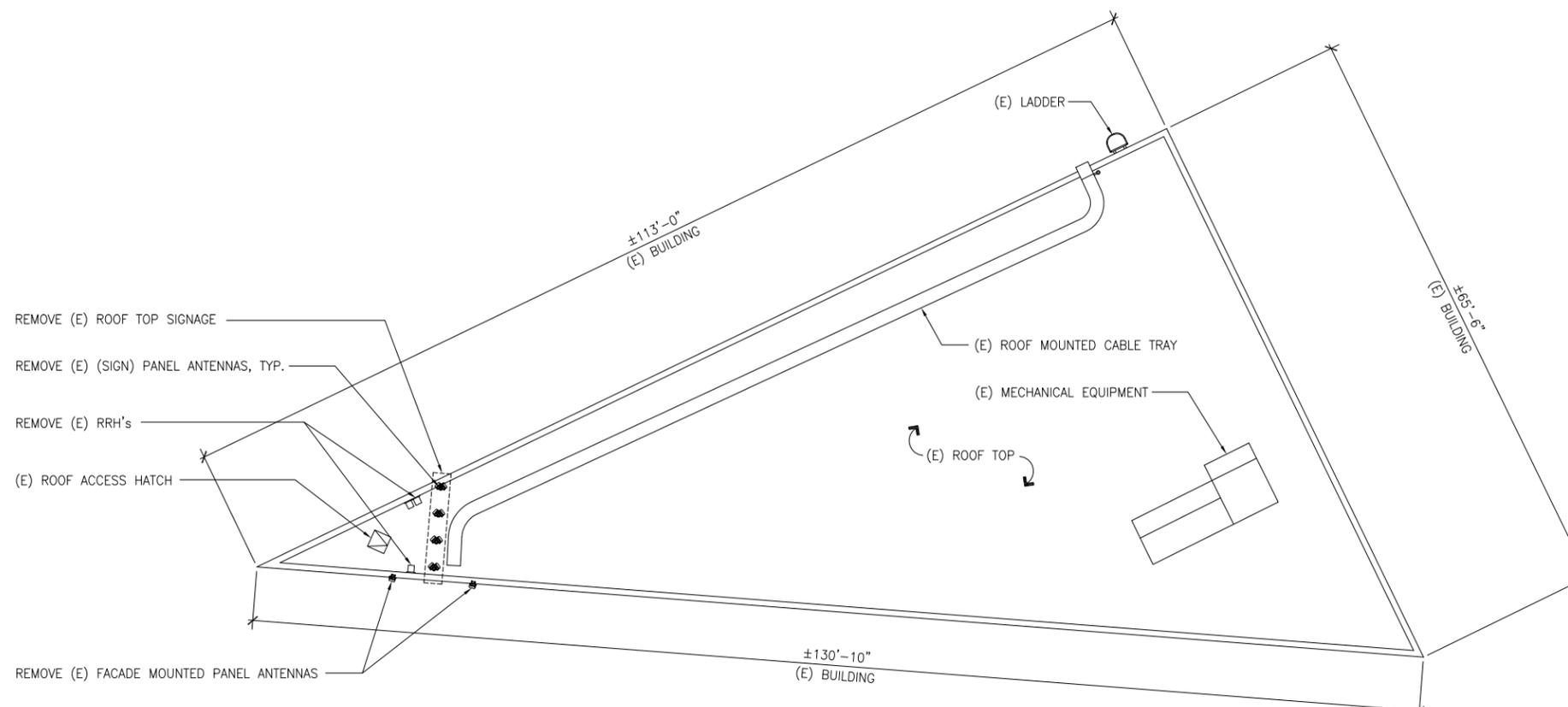
**ANTENNA LAYOUT PLANS**

SHEET NUMBER:

**A2**

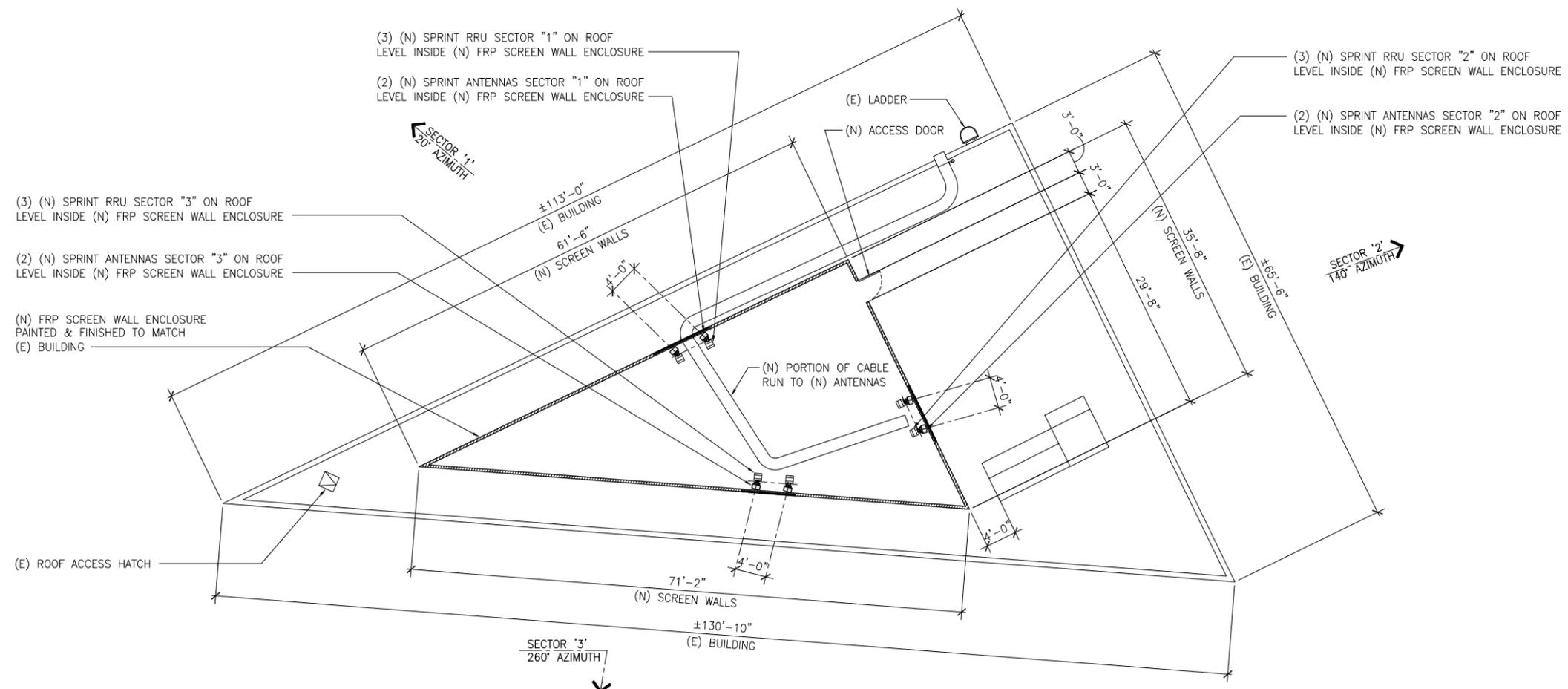
ISSUE LEVEL:

CORONA DEL MAR  
OG03XC167



**(E) ANTENNA LAYOUT PLAN**

SCALE: 1/8"=1'-0" 0 4' 8' **2**



**(N) ANTENNA LAYOUT PLAN**

SCALE: 1/8"=1'-0" 0 4' 8' **1**

NOTE: THIS BORDER AND TITLE BLOCK HAS BEEN REVIEWED AND APPROVED FOR USE ON ALL NEXTEL JOBS BY D.K. EFFECTIVE 02/24/00 (DKD/pd).

**DCI PACIFIC**  
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**APPROVALS:**

APPROVED BY:	INITIALS:	DATE:
LANDLORD		
LEASING		
ZONING		
RF		
CM		

DRAWN BY:	CHK:	APV:
HH	BOK	DKD

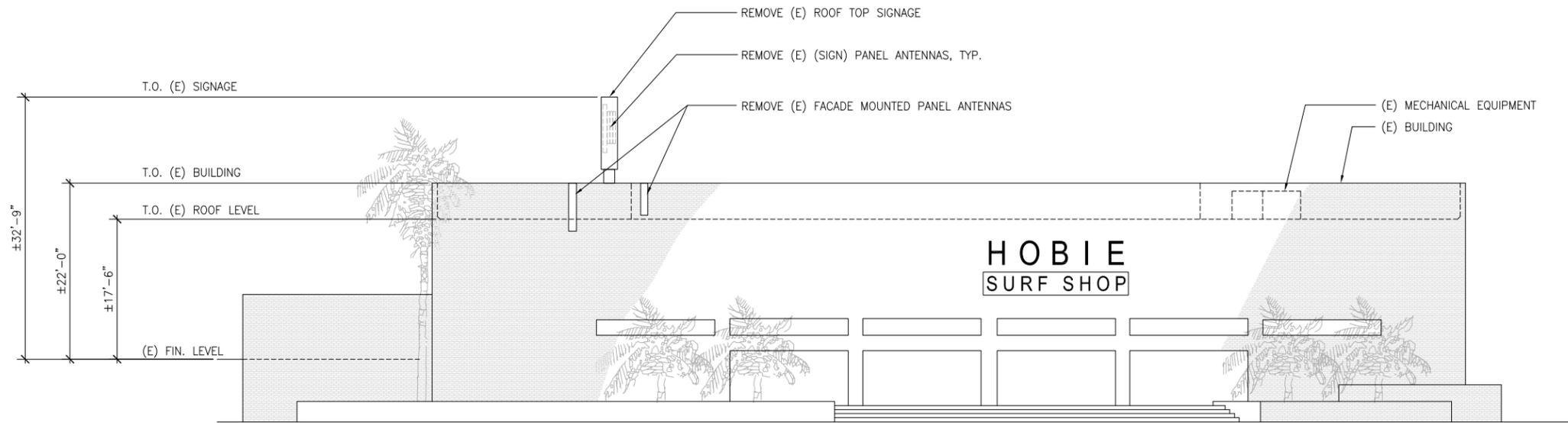
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03/06/15	100% ZD	HH
04/06/15	CITY COMMENTS	HH
04/20/15	CITY COMMENTS	HH

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**ELEVATIONS**

SHEET NUMBER:  
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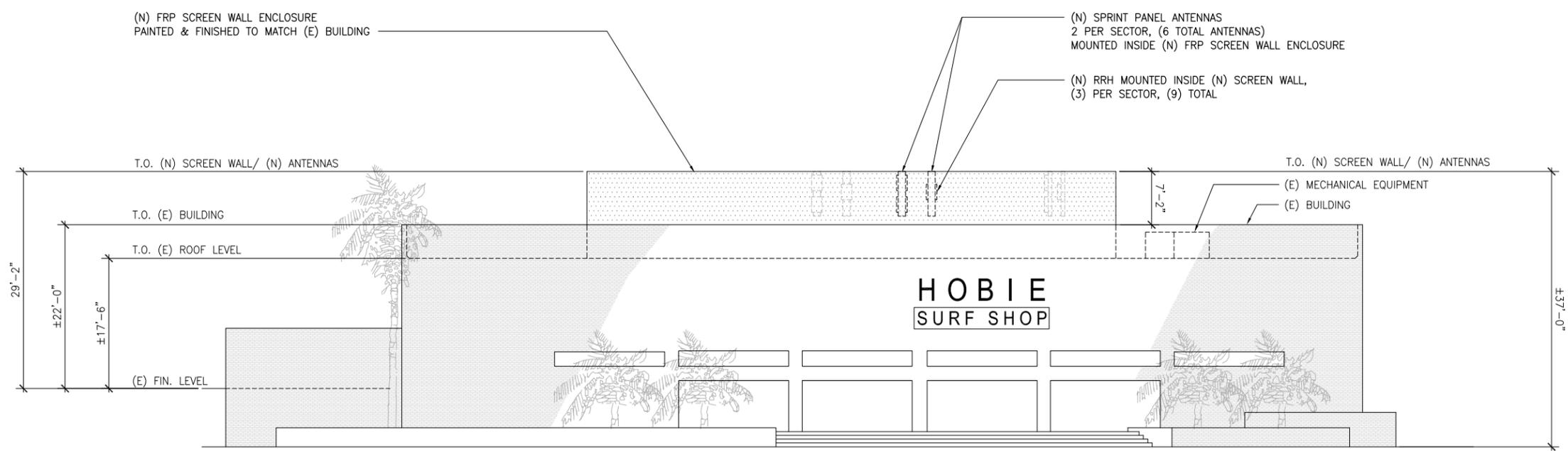
ISSUE LEVEL:  
CORONA DEL MAR  
OG03XC167



**(E) SOUTHWEST ELEVATION**

SCALE: 1/8"=1'-0"  
0 2' 4' 8'

**2**



**(N) SOUTHWEST ELEVATION**

SCALE: 1/8"=1'-0"  
0 2' 4' 8'

**1**

NOTE: THIS BORDER AND TITLE BLOCK HAS BEEN REVIEWED AND APPROVED FOR USE ON ALL NEXTEL JOBS BY D.K. EFFECTIVE 02/24/00 (DKD/pd).

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3140 EAST COAST HWY.,  
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**ZD**

**APPROVALS:**

APPROVED BY:	INITIALS:	DATE:
LANDLORD		
LEASING		
ZONING		
RF		
CM		

DRAWN BY:	CHK:	APV:
HH	BOK	DKD

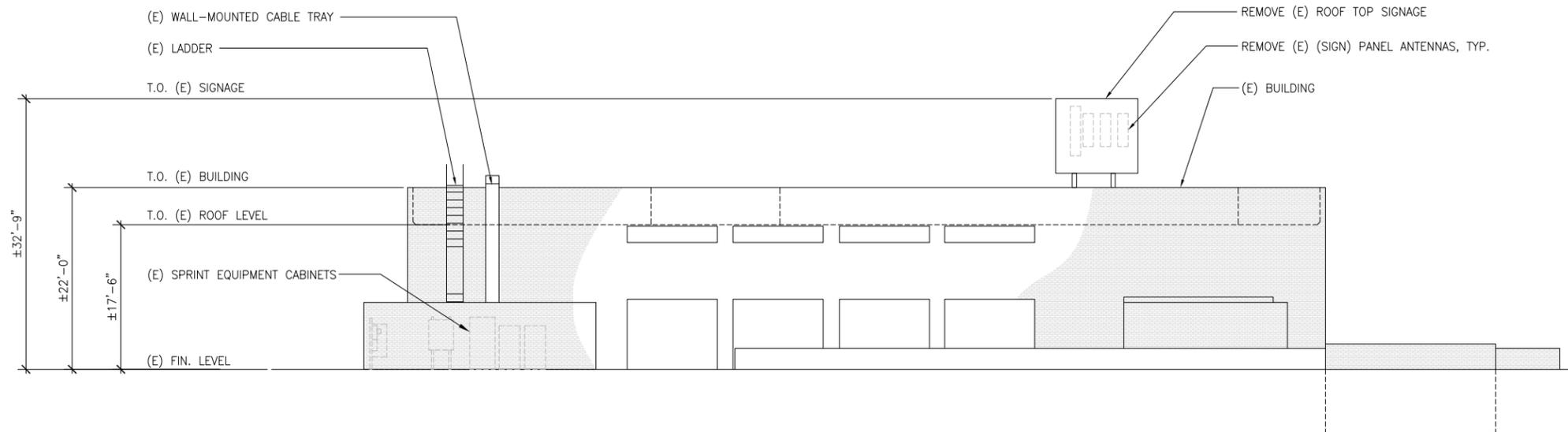
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---	04/20/15	CITY COMMENTS	HH

SHEET TITLE:  
**ELEVATIONS**

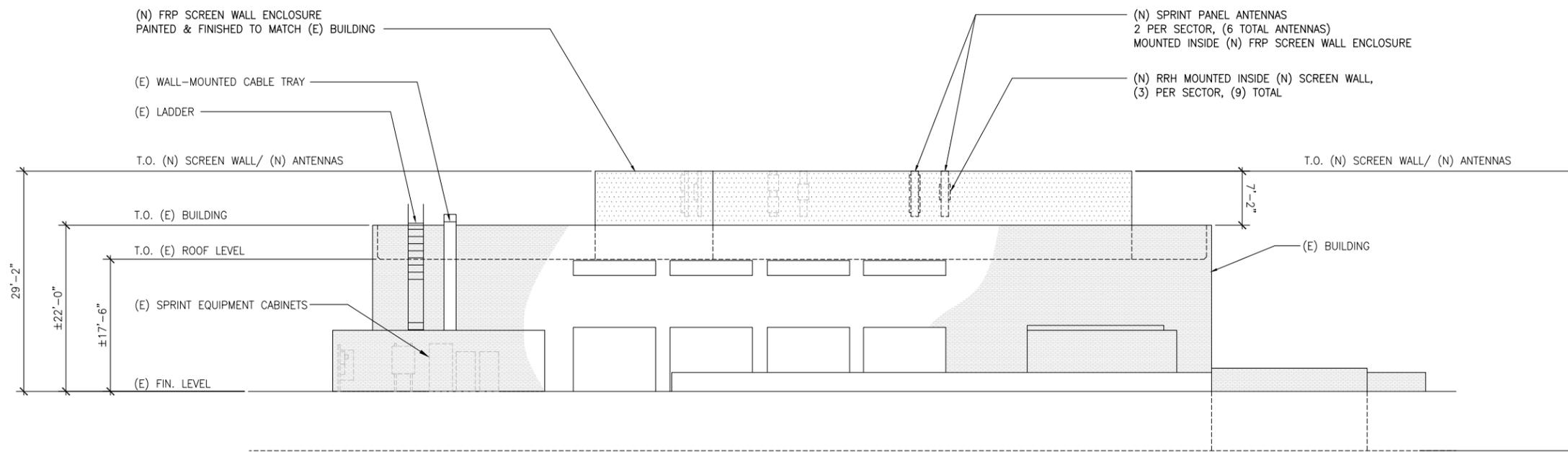
SHEET NUMBER:  
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ISSUE LEVEL:  
CORONA DEL MAR  
OG03XC167



**(E) NORTHEAST ELEVATION**

SCALE: 1/8"=1'-0" 0' 2' 4' 8' **2**



**(N) NORTHEAST ELEVATION**

SCALE: 1/8"=1'-0" 0' 2' 4' 8' **1**